

September 16, 2011

To: Gary Bartlett, Executive Director

From: Don Wright, General Counsel

Inquiry.....May a paper VR form be signed remotely by an electronic device and later delivered to a county board of elections for processing?

Background.....A company has approached the State Board of Elections and demonstrated an electronic process that allows a citizen to view a NVRA national VR form online, fill it out electronically, and use a mobile digital device to sign the form remotely. The steps in the process would be as follows:

- (1) The eligible voter sees the start page on the computer screen and is informed that they are about to register to vote online using an electronic signature. The person clicks the "Continue" button on the screen;
- (2) The eligible voter views the National Voter Registration Act form – in the format dictated by the NVRA – and reads the instructions for their state;
- (3) The person fills out the blank lines on the form on the computer screen;
- (4) The eligible voter enters the telephone number or email address of his or her mobile device and instantly receives an email with a link that opens a browser on the mobile device;
- (5) The eligible voter is given instruction on how to sign the registration form, then Signs their name on the mobile device screen using their finger or stylus;
- (6) Before adding the signature to document, the person must agree to the affirmation on the form, and then click "Agree and Sign";
- (7) A remote mobile device prints the applicant's electronically scribed signature on a paper copy of the voter registration form that the applicant has completed; and
- (8) The signed paper registration form is delivered to a county board of elections for processing.

This would not be online Voter Registration, but a remote signing of a paper VR form to allow it to be delivered and processed as an original "wet signature" VR form.

It would appear that the North Carolina Electronic Transactions Act found in Article 40 (GS 66-311 through GS 66-330) of Chapter 66 of the General Statutes would control this inquiry. It appears to cover the scope of the VR application (GS 66-313). GS 66-317 appears to allow the use of an electronic signature to satisfy a legal requirement of a signature. I see no illegality in the use of the electronic signature as set out in the procedure above.

However, the paper VR form is the form that must be produced to a county board of elections for processing. Until the "wet signature" paper VR form is received, there is no processing of the voter registration. Processing of an electronic form even with a signature is currently not allowed by North Carolina law as it would be tantamount to online voter registration.

Special Deputy Attorney General Susan Nichols has reviewed and concurs in this opinion.

Cc: Johnnie McLean, Deputy Director

Veronica Degraffenreid, Elections Liaison

Marc Burris, IS Director