

Elections Have Consequences – Part I

By Therese Martin and Sherry Zachry

Introduction

How many times have you heard people say: “My vote won’t make a difference; I only vote in presidential elections; I don’t know who those people on the ballot are so I’m not going to vote” (especially in local elections)? To League members those excuses are intolerable. Our mantra of: “Democracy Is **Not** a Spectator Sport!” rings loudly in our ears and we redouble our efforts for “Making Democracy Work”® in our communities through voter education about candidates, the issues, and the voting process.

After all, we know voting **does** make a difference. Research shows that who and how many people vote in a particular election can bring about results that differ greatly from predicted outcomes. Think of the 2016 presidential election and the June 2017 gubernatorial primaries in Virginia (just to name two), which defied both conventional wisdom and prognosticators’ predictions.

Voting in state and local elections historically has lower voter turnout rates nationwide compared with presidential elections, and yet those elections are the ones that most affect our daily lives—and sometimes are decided by very close votes. Even in presidential elections, the U.S. ranks 28th globally among developed democracies.

In this two-part series on “Elections Have Consequences,” we will delve into some of the causes and effects of voter turnout, both nationally and locally, concentrating on Virginia’s elections—which occur every November and May (for most town and city elections). We will look at the Commonwealth’s voting traditions and practices, including changing electoral laws through the years, to explain how important it is to vote in local and statewide elections; and how these elections can determine long-term policies—which gives credence to the phrase: “All politics is local.” If only people would understand that and “vote local.”

In September, we explain the “why” and in October, we will concentrate on “how” this information applies to the upcoming election and “how” you can use League issues to query the candidates on their positions. We hope to do this in “real time” at the many candidate events that LWVFA is sponsoring in September and October. The Nov. 7, 2017, General Election will not only determine Virginia’s next governor, lieutenant governor, and attorney general; it will determine all 100 seats in the VA House of Delegates for the 2018 and 2019 General Assembly sessions.

Voter Turnout in the United States

In his May 15, 2017, article for the Pew Research Center, “U.S. Trails Most Developed Countries In Voter Turnout,”

Drew Desilver says:

About 55.7% of the U.S. voting-age population cast ballots in the 2016 presidential election, according

to newly released Census Bureau figures— a slight uptick compared with 2012, but less than the record year of 2008 and well below turnout levels typical in most other developed democracies.

The 55.7% VAP [voting age population] turnout in last year’s election puts the U.S. behind most of its peers in the Organization for Economic Cooperation and Development [OECD, <http://www.oecd.org/>], most of whose members are highly developed, democratic states. Looking at the most recent nationwide election in each of the 35 OECD member nations, the U.S. placed 28th. . . .

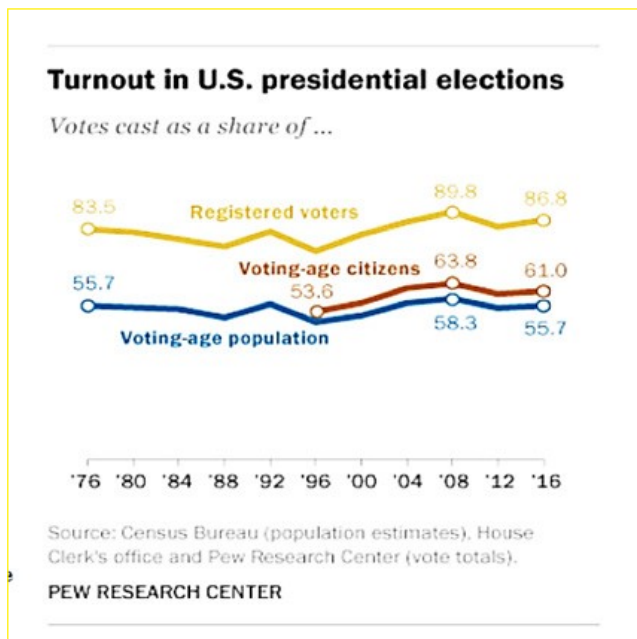
The highest turnout rates among OECD nations were in Belgium (87.2%), Sweden (82.6%) and Denmark (80.3%). . . On the other hand, Switzerland consistently has the lowest turnout in the OECD: In the 2015 Swiss legislative elections, less than 39% of the voting-age population cast ballots. ¹

Why the U.S. turnout trails other developed democracies is a topic for another article (although, among other things, there seems to be a relationship between countries that have government automatic voter registration—high



turnout—and countries like the U.S. where registration is voter initiated—lower turnout). According to Desilver, U.S. turnout rates have been consistent:

However measured, U.S. turnout rates have been fairly consistent over the past several decades, despite some election-to-election variation. Since 1976, voting-age turnout has remained within an 8.5-percentage-point range – from just under 50% in 1996, when Bill Clinton was re-elected, to just over 58% in 2008, when Barack Obama won the White House. However, turnout varies considerably among different racial, ethnic and age groups during those years.²



Desilver's statement about turnout varying among racial, ethnic, and age groups during the years cites research compiled by authors Jens Manuel Krogstad and Mark Hugo Lopez for the Pew FactTank [May 12, 2017]. They detail some of the differences that occurred in the 2016 election, in "Black Voter Turnout Fell in 2016 Even as a Record Number of Americans Cast Ballots." A very brief summary of their interesting findings follows:

A record 137.5 million Americans voted in the 2016 presidential election, according to the latest data from the U.S. Census Bureau. [Note: *Census Bureau uses a different metric for counting votes, see citation below*]

... Overall voter turnout – defined as the share of adult U.S. citizens who cast ballots [not VAP] – was 61.4% in 2016, a share similar to 2012 but

below the 63.6% who say they voted in 2008 ... A number of long-standing trends in presidential elections either reversed or stalled in 2016, as black voter turnout decreased, white turnout increased and the nonwhite share of the U.S. electorate remained flat since the 2012 election.

Some overall statistics that Krogstad and Lopez mention are:

- The black voter turnout rate declined for the first time in 20 years in a presidential election, falling to 59.6% in 2016 after reaching a record-high 66.6% in 2012.
- The Latino voter turnout rate held steady at 47.6% in 2016, compared with 48.0% in 2012.
- The number of naturalized-citizen voters reached 10.8 million in 2016, up from 9.3 million in 2012
- Blacks, Hispanics, Asians and other racial or ethnic minorities accounted for 26.7% of voters in 2016, a share unchanged from 2012.
- The voter turnout rate increased among Millennials and those in Generation X.
- The voter turnout rate among women was 63.3% in 2016, mostly unchanged from 63.7% in 2012. [increased among white women; decreased among black women].⁴

NOTE: If you wish to further explore the Census Bureau's 2016 election findings and how they calculate voter turnout quoted in Krogstad and Lopez's article, go to: <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html> (last revised May 2017).

Another explanation for turnout changes from 2012 to 2016 mentioned in various media is that 2016 was the first election since the U.S. Supreme Court's decision in *Shelby County v. Holder* that found Section 4 of the Voting Rights Act (VRA) was unconstitutional. In a 5-4 decision announced on June 25, 2013, the Court invalidated Section 4 which had provided the basis for implementing Section 5 and its requirement of prior federal approval in specified states and jurisdictions for any election law changes.

Michael D. Regan noted in his Nov. 20, 2016, article for PBS News Hour Updates, "What does voter turnout tell us about the 2016 election?" that after the Court's decision, 14 states enacted more restrictive voting laws before the 2016 election, including Wisconsin and Ohio. Further in the article, Neil Albrecht, executive director of the Milwaukee Election Commission, was quoted as saying that voter identification laws hurt turnout in the city's high-poverty

districts, noting that 41,000 fewer people voted there in 2016 than did in 2012.⁵

However, the Brennan Center for Justice, a nonpartisan law and policy institute, said in its Nov. 14, 2016, post “Voting Problems Present in 2016, but Further Study Needed to Determine Impact,” that there has not been enough data collected to determine the new voting laws’ impact on the election.

The data isn’t in yet to assess the impact of restrictive voting laws on the 2016 race, but there’s ample evidence that long lines, malfunctioning machines, and confusion created problems on Election Day.⁶

In October, we will discuss the League’s core value of expanding access to the vote and restoring the VRA. Also we will cite legislation that has been introduced in the Virginia General Assembly that proposed to further hinder access to the vote, as well as legislation trying to expand access.

Virginia’s Voting Record

In presidential years, Virginians have turned out in the past three cycles with higher percentages than the U.S. total turnout. Voting percentages in the last presidential elections were 74.0 percent in 2008, 71.06 percent in 2012, and 72.05 percent in 2016, according to the VA Department of Elections,

www.wv.elections.virginia.gov

They compare turnout by the number of registered voters — not by the number of voters who are 18—or VAP.⁷ These seem like pretty good statistics, but when turnout is measured by voting age residents (VAP), the 2016 number

is reduced to 60.9 percent—not much more than the 55.7 percent total U.S. turnout mentioned earlier in this article.

It is in “off-year” elections when turnout declines even more, as it does in all 50 states. In most states, “off-year” means November general elections in the years that are NOT presidential election years (every two or three years), but in Virginia, “off-year” means **every year** except presidential years! Why does Virginia hold elections every year? Believe it or not, it was designed that way back in the day, when one party (Democratic) dominated Virginia politics under the control of Harry F. Byrd, Sr., from 1924 until 1956 (the peak of Byrd’s dominance). Byrd’s goal was to minimize competition in non-presidential election years when voter turnout would be low, especially in local election years (year 4), allowing certain candidates more likely to be elected. (*That still happens in 2017.*)

Although many of the voting procedures and protocols designed to keep segregation in place during the years of Byrd’s dominance – including restrictions on how, when, and where Virginians could register to vote—have been eliminated by 2017 through federal law or judicial edict as discriminatory, one old practice remains today: Virginia’s electoral calendar, which schedules general elections **every November**. According to this schedule: presidents and members of Congress (year 1); governor and statewide officials and delegates (year 2); U.S. Senate and House of

*Chart with statistics for Presidential and Off Year elections - 2006-2016
(Percentage of registered voters by VA Dept. of Elections)*

Year	Registered Voters	Total Voters	Percentages
Year 1: (Presidential Elections, House of Representatives & sometimes *one U.S. Senate seat.)			
2016	5,529,742	3,984,631	72.05%
2012*	5,428,833	3,858,043	71.06%
2008*	5,034,660	3,723,260	74.00%
Year 2: (Governor, statewide officials and VA Delegates)			
2013	5,240,286	2,253,418	43.00%
2009	4,955,750	2,000,812	40.40%
2005	4,452,225	2,000,052	45.00%
Year 3: (US Senate and House of Representatives, the Senate seat not in Presidential years)			
2014	5,281,011	2,194,346	41.60%
2010	5,032,144	2,214,503	44.01%
2006	4,554,683	2,398,589	52.70%
Year 4: (All local and state legislative seats)			
2015	5,196,436	1,509,864	29.10%
2011	5,116,929	1,463,761	28.61%
2007	4,549,864	1,374,526	30.20%

SOURCE: Virginia Department of Elections⁷

*One U.S. Senate seat in a Presidential election year

Representatives (year 3); and all local and state legislative seats (year 4), although town and city elections can also be in May. Sometimes the election of one U.S. Senator also occurs in a presidential year.

Jeff Schapiro, political writer for the *Richmond Times Dispatch*, in his June 16, 2015, editorial, “Low primary turnout would have thrilled Byrd,” about the low turnout in the June 9, 2015 primary for state delegates and senators (year 4), explained it this way:

But it was the overall turnout [in non-presidential years] that would have tickled Byrd, a politician whose power relied on keeping the electorate small and, therefore, manageable.

Byrd quite literally had the law on his side. The Virginia Constitution in 1902 disenfranchised blacks and poor whites by requiring a \$1.50 poll tax that had to be paid six months before the Democratic primary, which in the Old South was tantamount to election. Byrd’s goal was to minimize competition. That kept him and his like-minded conservative white guys in control for 50 years.

Further in the editorial Schapiro observes that in the Old Dominion, the gubernatorial election (year 2) is the big deal, based on an 1851 constitutional directive:

The timing of the gubernatorial election, still the main event in these parts, and the chief executive’s four-year, nonrenewable term date to an even earlier Virginia Constitution, adopted in 1851.⁸

Virginia Turnout in General Elections

Although Virginia voter turnout in presidential elections was fairly low (18-31 percent) before 1968, when it reached 50 percent (as federal civil rights protections for African-Americans kicked in), it has risen to above 70 percent in the past three presidential cycles. However, the participation drops off precipitously (to 45 percent or less) in the off-year general elections of the next three years (especially in year 4), just as Byrd knew.

Turnout in Primaries

Turnout for Virginia’s 2015 primary election for local and state legislative seats was just under 8 percent of registered voters; the 2016 presidential primary on March 1, 2016, was 784,635 (15 percent) in the Democratic primary, and 1,025,191 (19 percent) in the Republican primary, for a total turnout of 34 percent of registered voters in March, 2016. The June 13, 2017, Democratic and Republican primaries for governor, lieutenant governor, and attorney general (and some delegate seats) had an overall turnout of 872,633, or 16.75 percent of registered voters, relatively low turnout

figures.

Primary elections traditionally have the lowest turnout despite the fact that the primary (or another method) determines whose names will be on the ballot in November. This is a case where “who” votes can sway the outcome. Using the June 2017 primary as an example, the total vote was 872,633, of which 507,813 voted the Democratic ballot and 364,820 voted the Republican ballot. The lower turnout in the Republican primary had interesting consequences.

Because fewer people voted in the Republican primary, the margin of victory was greatly affected for the gubernatorial candidate winner, Ed Gillespie, who won by just 4,500 votes (43.7 percent) over Corey Stewart who got 42.5 percent of the vote. A *Washington Post* article by Gregory Schneider about the primary results pointed out that pre-election polls had given Gillespie a huge lead, but a low turnout among Republican voters gave Stewart’s committed base an outsized influence, and the third candidate, Frank Wagner who received 13.8 percent of the vote, drew significant votes in Hampton Roads that might otherwise have gone to Gillespie. This seems to be a prime example of who votes and overall voter turnout creating unforeseen results.

Conversely, over 100,000 more people voted in the Democratic primary, which resulted in Ralph Northam winning 55.9 percent of the vote, compared with Tom Perriello’s 44.1 percent. That race was predicted to be much closer with a lot of out-of-state money pouring in for both candidates. The above *Washington Post* article quoted voters who said they voted because of events in Washington D.C., with one voter declaring he had never before voted in a gubernatorial primary but decided this year was too important to miss.⁹

Primaries vs. Conventions or Caucuses in Virginia

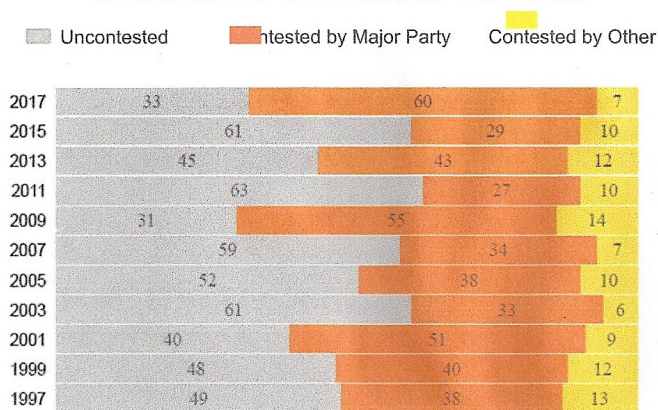
Primaries are not the only method for selecting a standard-bearer for the party; there can be caucuses (mass meetings), or a party canvass (“firehouse caucus” in Virginia), or conventions. The caucuses and conventions are private events run by the state political parties who set the rules for participation and procedures. Whether to use a caucus, convention, or primary is the decision of the state party; one party can hold a primary and the other party can hold a caucus—again, the decision is up to the party.

In 2009 and 2013, the Virginia Republican Party used conventions to nominate its candidates for governor, lieutenant governor, and attorney general. A convention includes a process for selecting delegates, and then only the delegates may vote; this process has been criticized as favoring “party insiders” and disfavoring moderate

candidates. Conventions and caucuses also eliminate the “crossover” voting that can occur in Virginia’s open primaries, where voters do not register by party affiliation and can vote in either primary by requesting that party’s ballot at the poll. Ken Cuccinelli, who the *Washington Post* once described as “one of the most conservative members of the General Assembly,” became the Republican Party nominee for state attorney general in 2009 and for governor in 2013 using the convention process. In 2013, when the party changed from holding a primary (as was previously announced) to holding a convention after Cuccinelli decided to run for governor, the more moderate candidate, then-Lt. Gov. Bill Bolling, dropped out of the race, thus ensuring Cuccinelli’s nomination.¹⁰

Looking Forward to the 2017 General Elections

Historic Trends: Contested v. Uncontested House Elections



SOURCE: <http://www.vpap.org/elections/house/historic/>¹¹

In the upcoming 2017 House of Delegate races, more seats are being contested than have been since the 2009 election (*see chart*), with 67 of the 100 seats contested—60 by major party candidates. Most media outlets in Virginia (and nationwide) say this phenomenon is a direct result of the 2016 presidential election. Whatever the results of the statewide and delegates elections, they are sure to be analyzed extensively to determine the effects the statewide and delegate elections had on each other, the impact of the 2016 presidential election, and the extent to which the earlier lack of competition was due to gerrymandering, or a lack of interest on the part of voters, or finances on the part of potential candidates – among many other possibilities.

The Importance of State and Local Elections in Virginia: Redistricting¹²

This topic will be addressed in more depth in the October material (“Elections Have Consequences-Part II”), but this month we want to look at one of the most obvious, but not always discussed, reasons to vote in state and local

elections: state legislatures are responsible for adopting the redistricting plans used for both their own members (senators and delegates) and for the U.S. Congress.

As is often the case in LWV studies, we find that information from one set of issues affects other issues of LWV concern. So it is with redistricting and voter turnout. Anyone reading about elections and voting in the popular press in recent years has learned how the Republican Party concentrated its efforts and was able to position itself to control the redistricting process in a majority of states during the redistricting process following the Census in 2000 and 2010, thus engaging in partisan gerrymandering to design non-competitive districts favoring their party. We must note here that the same partisan gerrymandering is used by the Democrats in Democratically-controlled state legislatures such as Maryland; however it would appear that the Democrats may have been outmaneuvered.

By November 2016 the Republican Party controlled both houses of the state legislature in 32 (33 including Nebraska) states compared with just 13 for the Democrats. In 25 states they also controlled the governorship, compared with just 6 for the Democrats. Their attention to, and success in, many state elections for governors and legislators paid off, resulting in the current imbalance of the statewide popular vote for members of Congress and state representatives compared with the actual numbers of such offices held by each party in many states. Virginia was one of those states.

After a relatively balanced political party split in the Virginia Senate in the mid-1990s, the Republicans picked up seats in 1998, 1999, and 2000 to take control of that body in time for the 2001 redistricting session. The close party split continued through the following decade, allowing the Republican Governor and overwhelming Republican majority in the House of Delegates to call the shots again in the 2011 redistricting process.

Although the Democrats in the Virginia House of Delegates began the 1990s with a working majority, the control of the House had switched to the Republicans by the time of the 2001 redistricting session and increased even further by the time of the 2011 redistricting session, when a Republican was in the governor’s seat. The aim of both parties will be to control the redistricting process in 2021 unless a nonpartisan redistricting process—which has long been bottled up by the House of Delegates—is adopted by that time.

The impact of Virginia’s partisan redistricting on the number of non-competitive districts has been discussed by our

LWV many times, but not that often in connection with low voter turnout in the off-year elections. Data for recent years confirm the validity of Kenneth Stroupe, Jr.'s observation in a 2009 University of Virginia Weldon Cooper Center publication:

Low Voter Turnout. Perhaps the worst news from all this is that this decade's dismal levels of competition in state legislative elections and the lack of options for voters at the ballot box appear to have negatively affected voter participation in these elections. During the two state legislative elections this decade where both the House of Delegates and the Senate of Virginia were on the ballot simultaneously, voter turnout was dramatically lower— seven to twelve percentage points depending on the particular election—in districts where voters had no options compared to those where there was a viable contested race.¹³

The redistricting plans enacted in recent decades for the General Assembly resulted in planned non-competitive districts for the General Assembly, which effectively reduced both actual competition and voter participation.

In all Virginia elections since 2000, those for General Assembly With local elections had lowest turnout – 31 percent and lower. And with one exception, the turnout in other years has exceeded 50 percent (of registered voters) **only** in presidential election years. The one exception was the Congressional mid-term elections in 2006 when there was major party competition for eight of Virginia's 11 congressional seats and a highly competitive statewide race for the U.S. Senate (Jim Webb v. George Allen).

Virginia's turnout of 41.6 percent (of registered voters) in the 2014 mid-term congressional elections was right in line with the national turnout of 42 percent that year – the lowest since 1942. Two other Virginia mid-term elections during the last 25 years (2 ½ decades) have experienced lower turnout, and all three of the following demonstrate the effect of the lack of competition on voter turnout:

- In 1998, the 33 percent turnout was likely due to the fact that there was no contest for the U.S. Senate on the ballot and no major party competition for seven of Virginia's 11 congressional seats.
- In 2002, the turnout was 39.4 percent and was also likely due to the lack of a contest for the U.S. Senate on the ballot that year and no major party competition for six of Virginia's 11 congressional seats.
- In the 2014 elections, when the turnout was 41.6 percent, the total vote for congressional candidates in two districts without major party competition was 26,000 less than the turnout four years earlier when

there was major party competition. One of those districts was the majority-minority 3rd Congressional District where the vote dropped by over 170,000 from the presidential election just two years earlier.

Yes, one effect of Virginia's gerrymandered districts is a lack of competitiveness that then plays an important role in our low voter turnout. Low turnout can affect election results, not only in the specific election itself, but in the up- and down- ticket races. Consider the above-cited mid-term elections of 2014, when Virginia's 11 congressional seats and the Senate race between Mark Warner and Ed Gillespie were on the ballot. The lack of major party opposition in the 3rd (Scott-D) and 9th (Griffith-R) Congressional Districts resulted in a significant drop-off in voter turnout in both districts. However, the drop-off in the Democratic vote in the 3rd Congressional District exceeded the drop-off in the Republican vote in the 9th Congressional District by over 52,000 (120,002 minus 67,417). This is certainly one reason why the margin of Warner's statewide victory over Gillespie was fewer than 18,000 votes.

We can probably cite many other specific and general instances of how Virginia's gerrymandered districts have resulted in less competition, lower voter turnout, more likelihood of affecting other elections on the ballot in an election year, and less likelihood for the majority party winners to support any change in the redistricting process. But the foregoing gives you a clear picture of how gerrymandered districts affect voter turnout.

As mentioned earlier in this article, Virginians voting for members of the House of Delegates this year will find a significant increase in the number of competitive races. The League of Women Voters is hopeful that the increased competitiveness will signify a new trend that will also include a significant increase in voter turnout. LWVFA will be watching this and report back after the November 2017 General Election.

Coming in October

In October's Part II of "Elections Have Consequences" we will look at instances where very close elections (brought about in part by low turnout) determined Virginia's future legislation and social policies, and in one four-year term, how the results of that close election reversed several of the previous administration's legislative and judicial actions. We also will explore specific legislation that has passed the General Assembly in recent years along with what failed (and at which point in the process it failed), concentrating on

legislation that is/was directly tied to League positions and advocacy. We hope to gather your questions to be asked of the 2017 candidates as to where they stand on those specific League issues. More to come...

Sources/Endnotes:

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11. Virginia Public Access Project (VPAP), <http://www.vpap.org/elections/house/historic/>
12. The election results and other data in this section can be found in and calculated from material on the web site of the Virginia Department of Elections, www.vote.Virginia.gov. The structure of the site and amount and presentation of election reports and results have recently changed, and are likely to continue to do so. Many of the comparisons discussed in this section were calculated from material that can be found at: <http://historical.elections.virginia.gov/>.
13. Stroupe, Jr, Kenneth S., "Gerrymandering's Long History in Virginia: Will this Decade Mark the End?", *The Virginia News Letter*, Weldon Cooper Center for Public Service, University of Virginia, February 2009. <http://www.cooper->

Discussion Questions

1. What, if anything, did you learn **new** about (a) Virginia elections; and (b) voter turnout and its consequences?
2. Were you surprised by any of the voter turnout statistics (globally, U.S. or in Virginia)? Explain why or why not.
3. What do you think of Virginia's electoral calendar of having an election **every year and sometimes twice a year**, when there are May local town and city elections and November general elections—or even more than that when there are primaries and special elections in the same year? Do you think that voter turnout in Virginia is affected by the number of elections? Would you recommend anything different?
4. What do you think of the primary process in Virginia? Compare it with other candidate selection methods used in Virginia or in other states.
5. Can you explain how state elections affect the redistricting process?
6. What questions would you like to ask the candidates running in the November 7 General Election? (Governor, Lt. Governor, Attorney General, and Delegate candidates) [*We will collect your questions and ask them at LWVFA candidate forums*]
7. What else do you want to know about this topic?

LWV-VA Announces 2017 Fall Workshops

Friday, September 22, 2017
Hospitality House
Hotel and Conference Center
2800 Plank Rd, Fredericksburg VA

The morning session topics will include LWV 101 - parliamentary procedures, Robert's Rules, Resolutions, Caucuses, adoption of positions, program studies and task forces - especially designed for new members and those that need a refresher.

Lunch will provide an opportunity for small functional interest group discussions. This will be followed by three workshops that will be given twice to provide Leaguers a chance to attend more than one session. Watch for more information in *The Virginia Voter*.