

APRIL 26, 2007

STATE BOARD MEETING

151 WEST STREET, SUITE 200, ANNAPOLIS, MD 21401

Attendees: Robert L. Walker, Chairman
Bobbie Mack, Vice Chairman
Joan Beck, Member
Linda Lamone, Administrator
Mark Davis, Assistant Attorney General
Ross Goldstein, Deputy Administrator
Donna Duncan, Election Management Director
Mary Wagner, Voter Registration Director
John Clark, MDVOTERS Project Manager
Jared DeMarinis, Candidacy and Campaign Finance Director
Joseph Torre, Director, Procurement and Voting Systems
Patrick Strauch, Voting System Manager
Michael Kortum, CIO
Nikki Trella, Election Reform Director
Jaimie Jacobs, Election Reform Deputy Director
Bob Murphy, Project Manager Electronic Pollbooks

Also Present: Mary Kiraly, MD Election Integrity Coalition
Raymond Rankin, Howard County Board of Elections appointee
Kenneth Fox, Prince George's County Board of Elections appointee
Michael Berla, Save Our Votes- MD

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:36p.m. and declared that there was a quorum present.

APPROVAL OF THE MARCH 29th BOARD MEETING MINUTES

Mr. Walker made a motion to approve the minutes, and Ms. Mack seconded the motion. Mr. Walker noted that he was Chief Administrative Officer, not Chief of Staff, for Anne Arundel County and requested that his former title be corrected. The minutes of the March 29, 2007, board meeting, as amended, were approved unanimously.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

ADMINISTRATOR'S REPORT

1. Personnel

Ms. Lamone reported that after many years of service with the State Board of Elections, Sharon Proctor left the agency effective Friday, April 20th. Ms. Lamone recognized Sharon's years of service and wished her well in her future endeavors.

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Ms. Lamone further reported that Christine England has been hired as the agency's new receptionist. Ms. England began working on April 25th. In addition to receptionist duties, she will be also assisting the Voter Registration and Candidacy and Campaign Finance Divisions. She is very excited about joining SBE.

Mr. Walker asked Ms. Lamone about Ms. Proctor's position and how it was to be filled. Ms. Lamone responded that DBM will provide a list of applicants from which SBE will select a candidate and the position is a skilled service position.

2. Meetings

Lessons Learned

Ms. Lamone reported that, on April 11, 2007, the third lessons learned session was held. The topics covered during the meeting related to election day issues. Specifically, the meeting discussed best practices for:

- Election day communication with the election judges, the press, key stakeholders, and the public;
- Instructing election judges on where to set up the 100 foot no-electioneering zone and how to ensure polling places are left in good condition;
- Managing election day support specialists;
- Developing contingency plans;
- Conducting polling place evaluations; and
- Strategies for dealing with election day electioneering complaints.

Swiss Internet Voting

Ms. Lamone informed the board that she and Mr. Goldstein attended meetings on April 23rd hosted by the Swiss Embassy for members of a Swiss delegation and U.S. policy makers, academics, and election officials to learn about the Swiss Internet voting initiatives and U.S. experiences with Internet and electronic voting. The first meeting occurred at the EAC office and focused on the Department of Defense's development of the Secure Electronic Registration and Voting Experiment program (SERVE). SERVE was designed to assist military and overseas voters with registering and voting. However, SERVE was scrapped after a \$27 million investment based on a negative security analysis report by computer scientists well known for their opposition to electronic voting. According to Carol A. Paquette, project manager for the program, the computer scientists misrepresented how SERVE system operates by failing to mention key features such as the use of digital signatures and the ability of voters to verify their voted ballots. Further, the analysis did not fully grasp the strength of the hosting site or how the multi-layered security process operates. The SERVE project demonstrates the challenges Internet voting will face in this country.

Ms. Lamone stated that the remainder of the meetings took place at the Swiss Embassy. She reported in general, the Swiss have begun a very limited phased-in implementation of Internet voting. Each canton (state) is in charge of developing its own method of Internet voting. Internet voting was initially offered to only 2% of the population (this number was chosen since it was the largest number they could allow that would not affect the outcome of an election). This year, the number will go up to 5%. The Swiss delegation

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pointed out that the Internet voting was designed to go hand-in-hand with other voter information to make voting more accessible and understandable. One of the challenges in Switzerland is the vast number of candidates (in some contests, there are over 1,000 candidates) and the frequency of elections (almost one election per month). Accordingly, the Internet is seen as a means to provide convenience to voters by making election information and voting more accessible. They also pointed out that Internet voting will remain only one of several methods of voting (including in-person and mail). In their opinion, this eliminates concerns about digital divide and equal access to the Internet.

Ms. Lamone noted that she and other American speakers discussed some of the challenges in this country to implementing technological solutions to voting. The negative response by computer scientists and general distrust of government in the United States were the two most significant obstacles discussed.

Ms. Beck inquired about how the Swiss vote in the polling places. Ms. Lamone responded by paper. Mr. Goldstein added since the ballot is only one issue, they sometimes do not count individual ballots but weigh the ballots to determine the winner.

3. Office Management

Inventory Management

Ms. Lamone informed the Board that the agency is exploring a variety of different options for addressing inventory management and control issues. Staff will be meeting with a vendor who provides inventory management products and support. In the meantime, staff is developing an internal system to help track voting system inventory. The ultimate goal is one inventory system for all SBE property.

Mr. Walker inquired if the inventory is bar coded. Mr. Goldstein responded that not everything is bar coded, and Ms. Lamone added that the voting system team currently uses bar codes for voting system equipment.

Document Management

Ms. Lamone also reported that the staff is undertaking an ambitious document management project. The goal is to organize all electronic documents into a well-defined agency-wide file structure. There will be strict naming conventions and version control procedures to ensure uniformity and accuracy.

Mr. Walker and Ms. Mack both inquired about the timeline for the document management project. Mr. Kortum responded that no timeline has been established but a committee has been established and working toward completing the majority of the project by the end of the year.

4. Voter Registration

New Software

Ms. Lamone reported that the Voter Registration Division tested new software developed for the statewide voter registration system (MDVOTERS) by Saber Consulting against

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the specifications developed by participants from our local boards in the January business design sessions.

Additionally, the Voter Registration Division installed this new release of the MDVOTERS software, which will improve the efficiency of processing petitions, managing election worker recruitment and training, and statewide reporting. Ms. Lamone informed the Board that two days of online training on the new software were provided for the local boards of elections.

Contract Management Issues

Ms. Lamone reported that the Voter Registration Division approved the Service Level Agreement (SLA) for 2007 that defines the help desk and maintenance support provided by Saber Consulting to local boards of elections.

She noted that the Division has communicated with Saber Consulting regarding the removal of its Project Director from Maryland without proper advance notification and replacement. Currently, the Division is working with our Procurement Officer and Assistant Attorney General on this matter and intends to pursue a claim against Saber if they fail to meet the conditions of the MDVOTERS contract (as SBE interprets the contract) with regards to staffing and timely notification of the removal of any key Saber personnel from the Maryland project.

In response to a question from Ms. Mack about whether the dispute was over a part of the contract to which they had agreed, Ms. Wagner replied that it was. Ms. Beck wanted to know the Attorney General's opinion, and Mr. Davis stated the Attorney General's Office agreed with State Board.

Ms. Lamone stated that the Division also sent a change order to Saber Consulting directing it to pay for all third party software needed to operate the voter registration system. The Division is working with our Procurement Officer and Assistant Attorney General on this matter, and intends to pursue a claim against Saber if they fail to meet the conditions of the MDVOTERS contract (as SBE interprets the contract) to provide this software at no added cost to SBE and local boards of elections for all years of the contract.

5. Help America Vote Act

Ms. Lamone reported that Ms. Jacobs convened the first meeting of the Election Judges' Manual Committee. This group will be working on the 2006 manual in preparation for the 2007 Baltimore City elections and the 2008 Presidential elections. In addition to including changes required by legislation, the committee is reviewing the organization of the manual, checklists and quick reference guides, and the editing process. The Committee met on Wednesday, April 25th to finalize the organization of the manual and how to handle voters when the voting unit times out. In response to a question from Mr. Walker about how many individuals were on the committee, Ms. Trella responded that 5 or 6 local board staff members were on the committee.

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6. Candidacy and Campaign Finance Division

Candidate Filing

Ms. Lamone stated that the 2008 candidate filing has commenced, and as of April 24, 2007, 4 candidates have officially filed for office.

Audits

Ms. Lamone informed the Board that the Candidacy and Campaign Finance Division is currently auditing the 2006 Pre Primary 1 and 2, Pre-General and Post-General campaign finance reports. The audit will encompass a review of over 5,900 campaign finance reports. Ruth Maynard is the lead person in the auditing process.

Administrative Contributions

Ms. Lamone reported that the Division has requested from the Attorney General's office a written opinion on whether political committees may make administrative contributions to central committees. It has been the opinion of this office that political committee may not make administrative contributions.

Software

Ms. Lamone stated that the Candidacy and Campaign Finance Division is in the process of testing a new version of the electronic filing software. The testing will be completed by the end of the week. A final product should be completed by May 4th. Last week, the staff tested and commented on the agency ELECTTrack system updates. The agency system changes should be in place by mid-May.

Mass Mailing

Ms. Lamone informed the Board that in order to comply with several statutory changes, the Candidacy and Campaign Finance Division is planning a mass mailing to all the committees in mid-May. The mailing will include the new version of the electronic filing software and an *Affidavit of Designation*. The affidavit replaces the *Affidavit of Non-Participation*. Under the old law, all committees were deemed participating in every election unless they filed an *Affidavit of Non-Participation*. Now, the committee will designate the election year they wish to participate and need only file the Annual Report in the other election years.

7. Voting System

Post Election Maintenance

Ms. Lamone reported that the local boards of elections are preparing to perform the post election maintenance activity on the voting system equipment. This activity ensures the voting units are functionally ready for the next election. The printers, card readers, screens and voting unit booths are checked to validate all components are working properly. The documentation describing the procedures was distributed to the local boards on March 30th. Ten local boards have requested assistance with this process. The voting system team is coordinating schedules with the local boards to supply trained resources to assist with this task.

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Ballots

Ms. Lamone stated that the voting system team continues to document the ballot production process. This will enable the voting system team to plan and manage the process.

The voting system team is also collecting and analyzing best practices surrounding ballot-printing security. Once the analysis is completed, the voting system team will develop a model to implement a secure process for ballot printing. Security may include features such as watermarks and security strips embedded in the ballot paper.

Mayoral Election Preparation

Ms. Lamone informed the Board that the voting system team is developing a questionnaire for the Baltimore City Board of Elections. The questionnaire requests information from the City to enable SBE to properly plan and support the 2007 Mayoral Primary and General Elections. The questionnaire will include number of election day support specialist required, the number of absentee ballot envelopes and ballots required, and other type of supplies and resources necessary for the election. This questionnaire incorporates lessons learned from the prior four statewide elections and will be used as a boilerplate for all future elections.

Ms. Mack inquired about finding a printer in Maryland. Mr. Torre replied that 5 vendors were found but 2 withdrew from consideration. He stated it is difficult process because of the security and control concerns. Ms. Beck stated she could foresee that as well.

Security

Ms. Lamone reported that the voting system team is reviewing and revising our agency's *Information Systems Security Plan* to conform to NIST standards and solidify our security practices.

8. New Voting System Implementation

Ms. Lamone reported that staff is in the process of initial plans for the implementation of a new voting system in 2010. While the implementation is still pending necessary funding, staff is gathering information to help the State Department of Budget and Management determine the amount that must be budgeted, identify issues, and develop an initial schedule.

Ms. Mack inquired if SBE will be keeping the DREs or getting a whole new system. Ms. Lamone replied that it will be a whole new system. In response to a question from Ms. Beck as to whether the State will be returning to optical scans, Ms. Lamone responded yes.

9. Municipal Election Support

Ms. Lamone stated that SBE provided electronic pollbook support and post-election analysis for the Salisbury municipal election on April 3rd. There were 6 electronic

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pollbooks utilized in 2 polling places, processing 1,899 voters. There was a single error incident, a "screen freeze" at the "Writing to Card" screen. The card was not encoded, and the unit did not respond until it was restarted. Total down time was about 90 seconds, and afterward the unit processed an additional 240 voters without incident. The Salisbury electronic pollbook error rate of 0.05% was significantly lower than the 0.314% error rate experienced during the November 2006 Gubernatorial General Election.

She further noted that additional electronic pollbook support is being provided for the Montgomery County Student election on April 24th-25th, and the Indian Head and La Plata municipal elections to be held May 1st. Ms. Lamone reported that the Voter Registration Division also provided support to LBEs, as requested, with their data and reporting needs for municipal elections.

10. Electronic Pollbooks

Wide Area Network (WAN) Testing

Ms. Lamone reported that the electronic pollbooks were substantially re-configured with applications software and operating system updates between the 2006 Gubernatorial Primary and General Elections. Due to cancellation of early voting, they were never deployed over a wide area network. Ms. Lamone stated that, since it is possible that early voting or other wide area networking applications may yet be required, SBE asked Diebold to demonstrate this functionality. On April 10th, Diebold conducted a test with 15 electronic pollbooks, 5 each at 3 geographically separate locations (Baltimore, Rockville and Annapolis) connected via a WAN. Fifteen pre-scripted tests were conducted, processing a total of 2,018 voters over a 5-hour period. Ms. Lamone informed the Board that final analysis of the log files has not been completed, but the consensus of the participants in the test, including several SBE personnel, was that the electronic pollbook performance over the WAN was indistinguishable from the performance within a single polling place.

Ms. Mack inquired about the possibility for hacking. Mr. Murphy replied there is little risk because of the smart cards. He added that the State has systems and procedures in place (such as separate card reader/writer software, encrypted security key system, smart card capacity of only 512 bytes of data, and parallel testing) that mitigate the risks.

Voluntary Voting System Guidelines

Ms. Lamone reported that the draft Voluntary Voting System Guidelines (VVSG) of the U.S. Election Assistance Commission (EAC) does not permit ballot activation to be performed by electronic pollbooks if the electronic pollbooks are part of an external network during voting hours. Our electronic poll books currently perform ballot activation since they encode the voter access cards. However, currently our electronic poll books are not part of an external network (although the proposed early voting set-up would require the use of an external network).

Ms. Lamone stated that the rationale behind the prohibition is the theory that the voter access cards could be a potential "covert channel" for moving malicious software from

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the external network to the voting unit, or for extracting information from the voting unit and transferring it back to the external network.

The proposed VVSG solution is to require that ballot activation be performed by a separate device, such as the voter access card encoder.

Ms. Lamone noted that although Maryland (at least for now) does not stand to be greatly inconvenienced by the “no external networks” restriction, it does potentially limit our options for using the electronic poll books in a WAN environment. Accordingly, staff has responded to the EAC, expressing concerns with the draft recommendations. There are significant advantages to using the electronic poll books, rather than the encoder, to encode the voter access card. Also, the State has systems and procedures in place (such as separate card reader/writer software, encrypted security key system, smart card capacity of only 512 bytes of data, and parallel testing) that mitigate the risks identified by the EAC. Rather than a flat “no external networks” prohibition, staff has recommended that the NIST Technical Guidelines Development Committee (TGDC) set specific security standards and requirements for networks and devices.

11. Legislation

Ms. Lamone reported on the passed legislation.

SB 1 – *Early Voting Constitutional Amendment* – will place a question on the 2008 General Election ballot authorizing the General Assembly to provide for voting at a polling place outside an individual's election district or ward.

SB 128 – *Education – Public Schools - Constitution Day and Citizenship Day and Civic Responsibility for Students* – Provides for a program on these issues including the opportunity for students to register to vote.

SB 376/HB 181 – *Baltimore County Election Judge Salary* - Increases the salary for Baltimore County Election Judges to \$225 for chief and \$162.50 for others.

SB 392/HB18 - *Voting Systems – Voter-Verified Records* – Provides for a voter-verified paper record of votes cast.

Ms. Mack inquired as to what is the last date that the State will know if funds are available in the budget for a new voting system. Ms. Lamone responded the Governor's budget is introduced the 3rd Wednesday in January and is usually passed during the last week of session. In response to a question from Ms. Beck about whether additional electronic pollbooks were to be purchased, Mr. Goldstein replied that no additional electronic pollbooks were going to be purchased.

SB 488 – *Voter Registration Protection Act* – Alters the provisions for becoming a registered voter following a conviction.

SB 634/HB148 – *Agreement to Elect the President by National Popular Vote* – Altering the method of choosing the President and Vice President of the United States. Becomes

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effective if/when states cumulatively possessing a majority of the electoral votes have passed similar legislation.

Mr. Walker inquired how this was to accomplished. Ms. Lamone replied by interstate compact.

SB 956/HB 1091 – *Frederick County Board of Elections Salary* – Increases the salary of the Frederick County Board Members.

SB 1025/HB 1434 – *Presidential Primary Election Date* – changes the date of the Presidential Primary from the 1st Tuesday in March to the 2nd Tuesday in February – for 2008 it will change the date from March 4th to February 12th. Our technical amendments alter the Democratic Convention Delegate filing deadline to coincide with the regular filing deadline (now December 3, 2007)

HB 613 – *Montgomery County Board of Elections Members* – Increasing the number of members of the Board of Elections for Montgomery County.

HB 637 – *Prince George’s County Election Judge Salary* – Increases the salary for Prince George’s County Election Judges to \$250 for chief and \$200 for others

HB 1042 – *Campaign Finance – Reporting Requirements* – Authorizing a campaign finance entity to file an affidavit instead of a campaign finance report under certain circumstances.

Ms. Lamone reported on the bills committed for Summer Study.

SB 31 – *Voter Registration and Voting – Age* – Authorizes a 16 year old to register to vote.

SB 77 – *Rotation of Candidates Names on the Ballot*

SB 78 – *Election Judges – Hiring on a Nonpartisan Basis*

SB 89 – *Certificate of Candidacy – Address Requirement*

SB 363- *Change of Party Affiliation Deadline* – Moves the deadline to change party affiliation from 12 weeks before the election to the voter registration deadline that is 21 days before the election.

SB 417 – *Candidate and Other Outdoor Signs – Removal and Enforcement*

ASSISTANT ATTORNEY GENERAL’S REPORT

Mr. Davis reported that, in *Schade v. SBE*, Judge Manck has signed the parties’ consent order for a stay the litigation until next year’s General Assembly approves the budget. This was done in response to the passage of SB 392 and HB 18. In *Hufnagel v. State*

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Board of Elections, Judge Goetzke granted SBE's motion to dismiss. He noted that this was a case SBE won in the Circuit Court. Mr. Davis reported in *Maryland Green Party v. Maryland Board of Elections*, the plaintiffs have amended their petition for additional \$250,000 fees. Finally, he noted that the Attorney General's Office has circulated a request for opinions from the political parties regarding administrative contributions.

REGULATIONS

Ms. Trella presented proposed changes to two regulations. The first proposed change is a change to the date by which an absentee ballot must be mailed. The proposed change to COMAR 33.11.03.08 allows a voter to mail his or her absentee ballot *on* election day. Current regulations require that an absentee ballot be mailed *before* election day.

The second proposed change moves the deadline for receiving an absentee ballot and the start of the second absentee ballot canvass for a Baltimore City primary election. Because of the short time between a Baltimore City primary election and general election, moving the deadline to receive an absentee ballot and the start of the canvass back two days gives State and local election officials two extra days to prepare for the general election. With this proposed change, the calendar for a Baltimore City primary election will be the same as the calendar for a gubernatorial primary election. These changes were proposed to COMAR 33.11.03.08 (when the canvass starts) and 33.11.04.03 (deadline for receipt of an absentee ballot).

Ms. Mack made a motion to adopt these changes as proposed and emergency regulations, and Ms. Beck seconded the motion. The motion passed unanimously.

APPROVAL OF FORMS

Ms. Trella presented the absentee ballot applications for the 2007 and 2008 elections. Both forms are based on the 2006 applications and were updated to reflect suggestions from the lessons learned meetings with the local boards of elections. Ms. Mack suggested adding Baltimore City's website to the 2007 absentee ballot application. Ms. Beck made a motion to adopt the 2007 application with the City's website, and Ms. Mack seconded the motion. The motion passed unanimously. Ms. Beck made a motion to adopt the 2008 application, and Ms. Mack seconded the motion. The motion passed unanimously.

BIENNIAL MEETING

Mr. Goldstein reported that, in past years, the biennial meeting has been a multi-day event. However, this year, the agency is proposing to hold a one-day biennial meeting. Mr. Goldstein stated that the advantage of this is that it cuts costs for both SBE and the local boards. In addition, hosting a one-day event will greatly reduce the level of effort of staff, thereby allowing staff to remain focused on their primary responsibilities of preparing for the upcoming Baltimore City and Presidential Elections. He further noted that, given the multiple election directors' meetings throughout the year and the

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conference calls with local board attorneys, there is less of a need to try to pack a lot of information into a single conference.

Mr. Goldstein reported that the proposed date for the biennial is either Thursday, October 18th or Friday, October 19th, depending on the availability of the facilities. The proposed meeting will be either in Annapolis or near the BWI Airport. The dates were selected, because they do not conflict with any Baltimore City Election deadlines. The location will be as central for all counties as possible.

The proposed schedule for the meeting is as follows:

- 8:30am to 9:45am - Breakfast and Conference Registration
- 10:00am to 11:00am - Group Session 1 (Welcome - Speaker)
- 11:00am to 12:00pm - Group Session 2 (Speaker)
- 12:00pm to 1:30pm - Lunch
- 1:30pm to 2:45pm - Breakout Session 1
- 2:45pm to 3:00pm - Break and Snack
- 3:00pm to 4:00pm - Breakout Session 2
- 4:00pm to 4:30pm - Attorney breakout report and concluding remarks.

The breakout sessions will be for:

1. Board Attorneys
2. Local Board members – possible topics to include Board administration and conduct, election administration issues, and question and answer session.
3. Election Directors – possible topics to include disability awareness, media awareness, and election day advocate panel discussion.

Mr. Walker asked whether this will be enough time to get all the information out, to which Mr. Goldstein responded that there was. Ms. Duncan added that Ms. Lamone has the authority to call for other meetings. Ms. Lamone stated she would like an orientation for the local board members. Ms. Beck believed that was an excellent suggestion.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Mack noted that Kenneth Fox, newly appointed Board member for the Prince George's Board of Elections, was in attendance. Ms. Lamone added that Ray Rankin, a newly appointed member of the Howard County Board of Elections, was also in attendance.

SCHEDULING OF NOVEMBER MEETING

The next meeting of the State Board will be held on Thursday, May 24, 2007, at 2:30 p.m.

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ADJOURNMENT

The meeting adjourned at 3:30 p.m.