

State of Maryland 

State Board of Elections – January 25, 2017 Meeting

Attendees: David McManus, Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Gloria Lawlah, Member
Linda H. Lamone, Administrator
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy for Election Policy
Keith Ross, Assistant Deputy for Project Management
Paul Aumayr, Director, Voting Systems
Erin Perrone, Director, Election Reform and Management
Cortnee Bryant, Deputy Director, Election Reform and Management
Stacey Johnson, Project Manager, MDVOTERS
Kim Meiklejohn, Supervisor, Regional Managers
Roger Stitt, Voter Registration Division
Natasha Walker, Project Manager, Election Management Systems

Also Present: Rachel Rachfel, Voter Outreach Coordinator, New Voting System Replacement
Lynn Garland

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 2:00 pm and confirmed that a quorum was present. He stated that the meeting was being recorded.

RATIFICATION OF MINUTES FROM DECEMBER 15, 2016, MEETING

Ms. Howells made a motion to ratify the minutes, and Ms. Lawlah seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

Meeting of the Electoral College

On December 19, 2016, the members of Maryland's Electoral College met at the State House to cast votes for President and Vice President of the United States. The meeting was well organized and covered by the media. Special thanks to Jared DeMarinis, Mary Wagner, and Ms. Rachfel for coordinating the event and various SBE staff members that prepared for and facilitated the meeting.

Department of Homeland Security - Critical Infrastructure Designation

On January 6, 2017, the U.S. Department of Homeland Security designated the nation's electoral system as a "critical infrastructure." The impact of this designation is not known at this time, as the Department of Homeland Security has not provided election officials with additional information.

General Accounting Office - Voting System Survey

On January 11, 2017, Paul Aumayr and Ms. Lamone had a conference call with the federal General Accounting Office (GAO) to pre-test an upcoming national voting system survey. During this call, we reviewed each question and provided feedback on how to improve the question and

obtain the information that they are seeking. GAO expects to distribute to state election officials this survey soon.

Senate Education, Health, and Environmental Affairs (EHEA) Briefing

On January 19, 2017, the Senate EHEA Committee held an elections briefing for committee members. At this briefing, Ms. Lamone provided a summary of the 2016 General Election and Larry Moore, President and CEO of The Clear Ballot Group, gave an overview of the ClearAudit product and how the post-election ballot tabulation audit was performed. A copy of Ms. Lamone's talking points and Mr. Moore's presentation were included in the board meeting folder. On February 7, 2017, there will be a similar briefing for the House Ways and Means Committee.

2. Election Reform and Management

Post-Election Audit and Verification

Ms. Perrone and Ms. Bryant continue to collect various documentation from the local boards of elections to complete the post-election comprehensive audit tasks. The comprehensive audit results for each local board should be available by the end of March.

2016 General Election - Line Analysis

Ms. Charlson and Brett Mitchell of the New Voting System Replacement (NVSR) team continue to collect and review data from the 2016 General Election. Since the December meeting, we have gathered additional data from the voting system and pollbook systems, the local boards of elections, election judges, and voters. The data shows that some of the lines could have been alleviated with additional equipment, but lines at other precincts were caused by other factors. A summary report of the findings should be available at the February meeting.

3. Voter Registration

MDVOTERS

Over the weekend of December 17th, software release 6.3 was moved into production. Enhancements include several candidacy reports, polling place accessibility, the ability to accept more information from the Electronic Registration Information Center (ERIC), and prohibiting users from entering more than just the last four digits of an applicant's social security number. In response to a question from Mr. McManus, Mr. Stitt responded that capturing only the last four digits of the social security number will not impact SBE's ability to verify applicants' identities. Most applicants have a driver's license number, which is used to verify identity, and the verification process with Social Security Administration uses the last four digits as well as other identifying information to verify identity.

Release 6.4 will go into testing January 30th.

Electronic Registration Information Center (ERIC)

In early February, the next set of ERIC reports will be forwarded to the local boards for processing.

Uniformed and Overseas Voters

In March 2014, SBE was awarded a financial grant from the Federal Voting Assistance Program for a pilot project to develop a single point of contact for military, overseas voters and their families. Since that time, SBE assumed all the duties of supporting and working with these voters. One of the final actions to conclude the pilot project is the transition of duties back to the local boards. This will be effective Wednesday, February 1, 2017. Janet Smith will provide

refresher training to the local boards. For the 2018 elections, the local boards will process transactions for military and overseas voters registered in their counties.

4. Candidacy and Campaign Finance (CCF) Division

Candidacy

Starting on February 28, 2017, candidates may file a certificate of candidacy for the 2018 General Election.

Campaign Finance

On January 18th, the 2017 Annual Report was due for all political committees. Currently, the Division has over 1,600 active political committees. Over 1,400 reports have been filed. Failure to file timely will result in a fine of \$10 per day, up to \$500. The late fee must be paid with campaign funds.

The fundraising prohibition began on January 11th at 12 noon for all current State office holders. The office holders prohibited from raising or depositing funds are the Governor, Lieutenant Governor, Attorney General, Comptroller, and members of the General Assembly.

Enforcement

On January 20th, representatives of the Citizens for Rebecca Weir Nelson and Friends of Ramona Moore Baker failed to appear at court for a failure to file matter. Judgments on the affidavit were issued. The total late fees due are \$1,500.00 for Citizens for Rebecca Weir Nelson and \$500.00 for Friends of Ramona Moore Baker.

In the last month, the following committees paid civil penalties for violations of the Election Law Article:

- a. Committee For Frank M. Conaway, Jr.: Failure to maintain a campaign bank account, failure to maintain loan documents and authority line. The civil penalty was \$750.
- b. Friends of Belinda K. Conaway: Failure to include an authority line on campaign material. The civil penalty was \$100.
- c. Let's Put Jeanette Dixon to Work for All Students: Failure to include an authority line on campaign material. The civil penalty was \$100.
- d. Baltimore County Victory Slate: Impermissible expenditures. The committee made an unlawful \$100,000 loan to another campaign committee. The civil penalty was \$3,000.

On January 13th, Marta Gates-Jones was charged with felony theft and fraudulent campaign finance reporting for the Service Station Dealers PAC. It is alleged that Ms. Gates-Jones withdrew \$42,650 in PAC funds to pay herself and falsely reported those payments on the campaign finance reports as advertising expenses.

5. Project Management Office (PMO)

Legacy Inventory System Disposal

SBE is working with the Department of General Services (DGS) to dispose of the legacy voting system equipment and supplies. SBE will provide DGS with a list of potential bidders so that they can include them in any auction events. One significant work effort that must occur before disposing of the equipment will be to clear any election data stored on the units.

The warehouse team just completed a recheck of some voting system units as part of the reconciliation process. This effort was needed to make sure the master inventory record

matched the equipment in the warehouse. The warehouse team is currently performing the periodic battery recharging of the legacy units.

New Inventory System

SBE continues its work to prepare for the conversion of the inventory data for equipment, supplies, and furniture into the new inventory system.

NVSR Project Team

The project team continues coordinating and working on the election close-out reporting and issue resolution requirements between SBE, the local boards, and ES&S. This includes building a test plan to compare the upload rates for Certified Network workstations with different RAM sizes. In addition, the project team continues its efforts to track and resolve outstanding issues with any of the new voting system equipment and electronic pollbooks. The project team is coordinating the 2016 General Election Lessons Learned by developing and distributing to the local boards various surveys.

Other

SBE's PMO is in the process of refining and developing the scope of work content for the new election support resources solicitation. This contract provides 400-500 individuals to support an election. This solicitation is expected to be released in 2017.

6. Voting Systems

ES&S Contract Management - Option 1

The base period for the voting system contract with ES&S ends March 31, 2017. We have notified ES&S of our intent to exercise Option 1 of the contract, which will extend the contract through March 31, 2019. The Board of Public Works is scheduled to consider this contract option at its February 8, 2017, meeting. Upon approval of this option, we will propose some modifications to the contract. These modifications will also require Board of Public Works approval.

Post-Election Maintenance

After the Board of State Canvassers certified the election results and the Electoral College meeting, the voting equipment, including the ballot scanners, ballot marking devices and electronic pollbook, were released. The local boards have been conducting the post-election maintenance on this equipment, which includes examining the equipment and performing any required maintenance. If any unit requires repair, ES&S will perform that repair. Scanners and ExpressVote units are repaired at the local boards' warehouses, and pollbooks are repaired by ES&S at ES&S' Bowie warehouse in Bowie. All post-election maintenance should be complete by mid-April.

Electronic Pollbooks

On January 14, 2017, we had a productive meeting with Adam Carbillido, ES&S' Senior Vice President of Product Development, to discuss the future development and testing of electronic pollbook software and hardware. SBE has been testing early pre-release versions on pollbook software to better understand changes and perform some initial testing. Both sides agree that this process has been beneficial and agreed that it should continue.

High Speed Scanners

On January 12, 2017, SBE and ES&S hosted a lessons learned meeting with the eight local boards who use the DS850 high speed scanners. Representatives of these local boards described their

experiences from the 2016 General Election and shared their issues and concerns. ES&S will host a follow up meeting on February 1, 2017, and provide responses to the feedback they received and present proposals for moving forward with the DS850s.

Comprehensive Audit

The voting systems team continues to gather data for the 2016 General Election post-election comprehensive audit. This includes verifying the opening times for all the polling places and identifying the number of “offline” provisional ballots that were issued. This follows the post-election audit and verification that took place last month. In response to a question, Mr. Aumayr explained that “offline” provisional ballots are provisional ballots issued to voters who are listed in the electronic pollbook but for some reason, an election judge could not find the voter’s name.

7. Information Technology

Upgrade of the SBE HQ Network Switches

We plan to upgrade the office's Local Area Network switches in the next few weeks. The new switches are 1,000 megabytes and replace the old switches (100 megabytes). This upgrade will improve SBE’s computer network speed and performance and offer the capability to power up future office staff desk VoIP telephones. The network switches are currently being procured, and we hope to have them installed, configured and operational by the end of February 2017

8. Miscellaneous

National Voter Registration Act – Designated State Agencies

Mr. Stitt referenced a document in the meeting folder listing the State agencies designated as voter registration agencies under the National Voter Registration Act of 1993. The second list of agencies are agencies with voter registration responsibilities under the State’s Freedom to Vote Act of 2016. Under the Freedom to Vote Act, several agencies are required to transfer to SBE electronic voter registration information, while other agencies are required to provide on the agency website a link to SBE.

There was a discussion about the relationship between private organizations and SBE and the local boards of elections. Ms. Charlson explained that SBE does not have any partnerships with private organizations for voter registration drives or trainings but provides training and voter registration applications upon request. The local boards of elections may have programs, but they vary in size.

2016 General Election – Forwarding of Absentee Ballots

At the December 2016 meeting, Ms. Howells requested the number of timely absentee ballots from military and overseas voters that SBE sent to the local boards of elections after November 18, 2016. Ms. Charlson explained that, while SBE knows how many packages were mailed to the local boards, SBE does not know how many absentee ballots were in each package and how many of the absentee ballots were timely and how many were untimely.

2016 Joint Chairmen’s Report – Post-Election Tabulation Audit

The 2016 Joint Chairmen’s Report withheld \$50,000 of SBE’s FY2017 funds until a report on the post-election tabulation audit from the 2016 General Election was submitted. A copy of the report submitted in response to the 2016 Joint Chairmen’s Report was included in the board meeting folder.

2017 LEGISLATIVE SESSION – UPDATE

Ms. Duncan referenced a table in the board meeting folder showing all of the legislation being tracked in the 2017 Legislative Session and explained why some non-election related legislation is tracked. House Bill 143 is SBE's departmental bill.

In response to a question from Mr. McManus, Ms. Duncan explained that the agency does not generally take positions on legislation. An impact statement may be submitted so that the legislature understands how the bill impacts the administration of elections.

ASSISTANT ATTORNEY GENERAL'S REPORT

In Mr. Darsie's absence, Ms. Lamone stated that a copy of the Court of Appeals' recent decision in *Voters Organizations for the Integrity of City Elections, et al. v. Baltimore City Board of Elections, et al.* was included in the board meeting folder.

OLD BUSINESS

Review of SBE's Translation Policy

Ms. Howells summarized the concerns she raised before the 2016 General Election about the Spanish translation of the ballot. A member of the Prince George's County Board of Elections, who is from Puerto Rico and fluent in Spanish, shared with her that certain translations were incorrect. At the time, ballots needed to be printed for the 2016 General Election.

Ms. Howells distributed a document with six translations that, based on her research, she believes are not correctly translated. She asked that the translator be provided this document and asked to respond to her questions. There was a discussion about the requirement that SBE use the State's contract for translation and the name of the State's current vendor. Since Montgomery County is the only jurisdiction under the federal Voting Rights Act required to provide materials in Spanish, Montgomery County's decision on Spanish translations is conclusive.

Review of 2016 General Election – Voter Outreach

Ms. Howells expressed concern that the League of Women Voters and Maryland Public TV, two entities mentioned during voter outreach presentation at the December 2016 meeting, are left leaning organizations and asked about the authority for and objectives of the recent voter education campaign. The board members were referred to three documents in the board meeting folder that explained the 2016 voter outreach program and a complete list of outreach events SBE facilitated. In response to a question from Ms. Howells, Ms. Rachfel stated that SBE went to any event where voter education information was requested. There was not a process to screen or select events.

Ms. Howells made the following points:

1. Voter turnout is not the business of SBE. The agency should neutrally administer elections in an accessible, transparent, fair, and secure manner.
2. Because turnout affects the outcome of an election, SBE cannot promote turnout.
3. How SBE presents information to people is concerning. Answering phone calls, posting information on websites, and sending sample ballots are appropriate, but voter outreach events are problematic because it is easier in Maryland to get in front of Democrats than Republicans. Republicans tend to live in locations that are harder to reach, have less contact with government and civic organizations, and work in small businesses and are not able to attend events at certain locations (e.g., libraries).

4. Election administration must be fair and perceived to be fair. Ms. Howells noted that she did not see a conservative organization on the list of voter outreach events.

Mr. McManus stated that, while he was not criticizing the voter outreach effort for the 2016 General Election, SBE needs to be very careful about future voter education efforts. Ms. Lawlah stated SBE is perceived as a “conservative” and professional agency. She applauded Ms. Rachfel’s efforts and thinks that the voter outreach effort for the 2016 General Election was too conservative.

Online Ballot Delivery System – Disclosure Language

Ms. Howells identified two decision points where voters should be informed about impact of requesting an electronically delivered absentee ballots. The first decision point is at the time the voter requests an absentee ballot and selects how the ballot will be delivered. Ms. Howells proposed language that would inform the voter that a ballot delivered electronically must be duplicated onto a scannable ballot, is handled differently than all other ballots, and without duplication, is not machine readable. The second decision point is when the voter who requested an electronic absentee ballot is deciding how to mark the ballot. She proposed language explaining that while SBE tries to protect the secrecy of the ballot, it cannot guarantee it when a voter uses a computer to mark a ballot. Ms. Howells stated that she did not believe that a check off box related to the disclaimer language is necessary.

Ms. Charlson explained that, typically six to eight months before an election, staff will present to the board the paper version of the absentee ballot application for review and approval. When the board approves the paper version, staff makes the same changes to the online request process. Mr. McManus asked staff to draft language for the 2018 elections and present them to the board.

Baltimore County Precinct Data Concerns – Constituent Email

Ms. Walker reviewed each of the constituent’s concerns about Baltimore County’s precinct level results.

1. High number of blank ballots: Baltimore County’s ballots were two page ballots. The “Ballots Cast” total posted on the Baltimore County Board of Elections’ website reports the number of scanned page 1, but the number of unvoted contests shows the number of page 1 and page 2. Clear Ballot reports blanks at the contest level. For contests on page 2 only, Clear Ballot reports a range of 35,700 (first contest on page 2) to 50,434 (Last question on page 2). After reviewing the blanks reported by Clear Ballot, it would be reasonable to conclude that the voters chose not to vote these contests due to length of the ballot and number of ballot questions.
2. High number of overvotes on election day (668): We used Clear Ballot’s audit database for Baltimore County and reviewed election day ballots on which the voter made more than one selection for President. We discovered:
 - 442 ballots on which the voter filled in the oval next to Clinton/Kaine and an oval next to one or more candidates (other than Trump/Pence).
 - 128 ballots on which the filled in the oval for Trump/Pence and an oval next to one or more candidates (other than Clinton/Kaine).
 - 98 ballots on which the voter filled multiple ovals for other combinations of presidential candidates (Stein & Johnson; Stein, Johnson, & Write-in; Stein & Write-in; or Johnson & Write-in).

3. High number of undervotes on election day (1,375): Clear Ballot's audit database shows 1,707 election day ballots without a vote for President. The main reason why Clear Ballot's number is higher than the voting system's numbers is because Clear Ballot only counts a vote as a write-in vote if the oval is filled in. The voting system recognizes write-in votes even if the voter does not fill in the oval.

We reviewed all 1,707 ballot images in Clear Ballot's audit database. There were 1,406 ballots on which the voter did not fill in the oval next to a candidate, and 301 ballots on which the voter wrote in a name but did not fill in the oval next to write-in candidate's name. According to Clear Ballot's audit database, there were 31 (1,406 - 1,375) ballots with an undervoted contest for President, but the voting system counted those ballots as a vote for a candidate. In all 31 cases, the voter had only partially filled in the oval. Ms. Walker showed examples of these ovals.

4. Precinct with More Ballots than Voters: The precinct in question is 10-06 (not 10-16). This precinct is consolidated with precinct 10-07. Although precinct 10-06 had different ballot styles (Ballot Style 1 and Ballot Style 3, respectively), the content of the ballots was identical. Precinct 10-06 has 14 active voters and one inactive voter, and precinct 10-07 has 678 active voters. On election day, nine voters from precinct 10-06 – not 46 voters – voted and 247 voters from precinct 10-07 voted. The report shows 46 ballots, because some voters from precinct 10-07 were issued the ballot style for precinct 10-06.
5. Different Turnout Numbers: When the unofficial voter turnout report was posted in November 2016, voter turnout from some precincts in Baltimore County had not yet been posted. The official turnout reports currently posted on SBE's website show a total of 235,536 voters on election day. The number of votes cast for President is 2,147 less than the turnout.

Post-Election Ballot Tabulation Audit

Mr. McManus stated that he invited Larry Moore, President and CEO of the The Clear Ballot Group, to this meeting to continue the discussion on the post-election ballot tabulation audit. Mr. Moore was unable to attend this meeting, and Mr. McManus asked if he could attend the February meeting. Ms. Lamone noted that Mr. Moore might ask SBE to pay his travel costs.

2016 General Election – Baltimore City Precincts

Mr. McManus asked if someone from the Baltimore City Board of Elections could attend or provide information for the February meeting the issues and proposed solutions for the precinct he visited on election day. Ms. Charlson will follow up with the Baltimore City Board of Elections.

NEW BUSINESS

Ms. Howells asked why the voter look-up portion of SBE's website has links to organizations known to be hostile to Republicans. Ms. Charlson explained that, as part of SBE's grant from the U.S. Department of Defense's Federal Voting Assistance Program, SBE's website provided resources for military and overseas voters to find information about candidates and ballot questions. Mr. McManus asked why we need to continue to provide resources for military and overseas voters. The websites listed on the voter look-up portion of the website provide this

information. In response to a question from Mr. McManus, Ms. Charlson agreed to review the provided links.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Cogan reported a \$200 contribution to the Trump campaign and a \$475 contribution to the National Republican Senatorial Committee. Ms. Lawlah reported that she contributed \$250 to Senator Kasemeyer’s committee, \$1,000 to Prince George’s County Councilmember Toles’ campaign, and \$500 to Prince George’s County State’s Attorney Angela Alsobrooks’ committee.

CONFIRM NEXT MEETING

The next meeting is scheduled for Thursday, February 23, 2017, at 2 pm.

ADJOURNMENT

Ms. Lawlah made a motion to adjourn the open meeting, and Mr. Cogan seconded the motion. Mr. McManus adjourned the meeting at 3:53 pm.