

**1. Announcements & Important Meetings**

League of Women Voters' Legislative Day

On March 6th, Nikki Charlson and I attended the luncheon of the League of Women Voters' Legislative Day. Nikki was the luncheon speaker and shared information about how Maryland election officials protect elections systems and data. About 50 members of the League were present.

Maryland Association of Counties' (MACo) Legislative Committee

On March 7th, Nikki Charlson and Shafiq Satterfield provided to the members of the MACo's Legislative Committee an overview of and recent findings from the computer assessments we perform on all computers connected to State election systems and requested each county's support of its local board of elections. We hope to work with MACo and the counties' Chief Information Officers to support the local boards and protect State and county systems and data.

Election Directors' Meeting

On March 8th, we hosted an in-person Election Directors' meeting. Matthew Weil from the Bipartisan Policy Center discussed the Center's Election Line Data Collection Program and encouraged the local boards to participate in the 2018 General Election. We also introduced the management team for the statewide staffing contract, provided updates on the voting system and electronic pollbooks, demonstrated how individuals working under the temporary staffing contract will be managed, and gave updates on legislation. A summary of this meeting will be included in the board meeting folder.

On April 12th, we hosted an Election Directors' meeting by conference call. A summary of this meeting will be provided when it is complete.

Maryland Association of Election Officials' (MAEO) Annual Meeting

MAEO hosted its annual meeting in Ocean City from March 13th - 16th. The conference was well attended by State and local election officials. SBE staff members presented a variety of information, including post-election audits, voter registration and absentee voting at nursing homes and assisted living facilities, electronic pollbooks, and legislation being discussed during the 2018 Legislative Session. One of the most talked about sessions was the session explaining the characteristics of different generations and how individuals in each generation obtain and process information.

Center for Internet Security - Handbook for Elections Infrastructure Security

On March 15th, I attended an event hosted by the Center for Internet Security and the University of Maryland's School of Public Policy to announce the release of the Center's *Handbook for Elections Infrastructure Security*. This report describes various election systems and the risks associated with using them and offers critical activities and best practices to mitigate the risks associated with these systems. We reviewed the recommended activities and best practices and are pleased to report that we have implemented most of them. We are evaluating the remaining activities and best practices. A copy of this report will be provided in the board meeting folder.

### Pre-Primary Table Top Exercise

On March 19th, approximately 10 SBE staff members and I participated in an all-day table top exercise. This exercise provided us with the opportunity to practice responding to a specific situation - ransomware attack the day before the election and on election day, access to the Internet was restricted - and reviewing how we responded. We intend to conduct another exercise before the 2018 General Election.

### Belfer Center's Defending Digital Democracy's "TTX Train the Trainer" Conference

On March 27th - 28th, Nikki Charlson, Erin Perrone, and Guy Mickely, Election Director for the Howard County Board of Elections, participated in table-top exercise (TTX) and received training on how to conduct this type of an exercise. Based on what they learned, they hope to conduct a statewide TTX for the local boards of elections in August. A summary of the two-day event will be provided in the meeting folder.

### Help America Vote Act - Federal Funds for Election Security

The federal Omnibus Appropriations Act of 2018 included a \$380 million appropriation for election security. Over the next several weeks, we will receive \$7,063,699 to improve election administration, including enhancing election technology and making election security improvements. One of the conditions associated with this funding is that we have to spend \$353,185 of State funds over the next two fiscal years on the same type of expenses.

## **2. Election Reform and Management**

### Election Judges' Manual

All of the local boards of elections have submitted their customized Election Judges' Manuals, and these manuals have been approved for the upcoming election.

### Election Judge Training

Most of the larger local boards of elections began training election judges earlier this month with the exception of the smaller local boards who will begin training at the end of April.

### Supply Orders

Various supplies, such as provisional ballot applications, absentee envelopes, "I Voted" stickers, and contingency supplies, have been ordered and delivered to the local boards in preparation for the upcoming elections.

## **3. Voter Registration**

### MDVOTERS - Software Release 6.8

Release 6.8 was moved into production the weekend of April 7th. Enhancements were made to the election judge and absentee candidate modules and the module for processing reports from the Electronic Registration Information Center (ERIC).

### Electronic Registration Information Center (ERIC)

Since joining ERIC in 2012, the total number of voter registration records impacted is:

- Cross State Report (another member state has newer information than MD): 265,585
  - Potential Duplicates: 7,754
  - In-State Updates (more recent information at MVA): 194,694
  - Deceased (according to the Social Security Administration): 46,421
  - NCOA (USPS National Change of Address program): 600,433

### MVA Transactions

During the month of March 2018, MVA collected the following voter registration transactions:

New Registration - 8,602	Residential Address Changes - 10,109
Last name changes - 1,464	Political Party Changes - 1,804

### Non-Citizens

Removal of non-citizens - 15

Removal of non-citizens who voted - in progress

Removal of non-citizens who voted multiple times - in progress

Non-citizens forwarded to the Office of the State Prosecutor - in progress

## **4. Candidacy and Campaign Finance (CCF) Division**

### Candidacy

The deadline for candidates to file for the 2018 Gubernatorial Primary Election has past. SBE processed 678 candidate filings, and the local boards of elections processed an additional 1,841 candidates. Only petition and non-principal political party candidates can file for the 2018 General Election.

Two candidates, Scott Womer, a Democratic candidate for House of Delegates District 46, and Fernando Luis Raffucci, Jr., a Democratic candidate for House of Delegates District 21, were removed from the primary ballot for failing to file a financial disclosure statement with the State Ethics Commission by the deadline.

### County Public Financing Programs

As of March 31, 2018, the Montgomery County Public Election Fund has disbursed \$2,432,650 to certified candidates. The aggregate disbursement in February was \$28,244, and the aggregate disbursement in March was \$594,871. Eighteen of the 33 participating candidates have qualified for the program.

SBE reviewed and notified 5 candidates - Shruti Bhatnager, Michele Reiley, Paul Gellar, Tim Willard and Loretta Garcia - that their certification requests failed to meet the minimum requirements for participation in the program. These individuals are no longer eligible to participate.

Committees may file matching fund requests on the first and third Tuesday of every month.

### Campaign Finance Enforcement

The following committees paid civil penalties:

1. County 1 Now Slate paid a \$850 civil penalty on February 21, 2018, for failing to maintain account books and records; failing to report all contributions received and expenditures made on a campaign finance report(s), failing to remit anonymous contributions and failing to return an over contribution from Laurel Park LLC. The committee also remitted to the Fair Campaign Financing Fund \$5,700 in anonymous contributions and returned \$4,000 to Laurel Park, LLC.
2. (Robert) Danny Farrar for Frederick paid a \$250 civil penalty on March 7, 2018, for an authority line violation.

### Financial Disclosure Statements

This is a reminder that financial disclosure statements are due for the Board members on April 30th.

## 5. **Project Management Office (PMO)**

### Inventory: Excess Equipment Disposal

The PMO continued to work with the Department of General Services (DGS) and the State's contract recycler to dispose of the TS-R6 voting system and other legacy equipment and supplies. To date, 12,484 out of 18,940 TS-R6 units have been picked up by the recycler.

During this reporting period, SBE sold 29 Accuvote Optical Scan units to election officials in the State of Alaska.

### Inventory System Updates

During this reporting period, the PMO facilitated three regional training sessions and one GoToWebinar training session on the inventory mobile app. The mobile app will be used by the local boards of elections to conduct the FY2018 Inventory Audit. DGS requires the FY2018 Inventory Audit, and SBE and the local boards of elections must complete the audit by June 30th.

### Staffing

The PMO continues to lead the staffing contract, with one Administrative Assistant, one Training Coordinator, and 23 Trainers now onboard. By May, we expect that we will have between 400 - 450 temporary resources supporting the 2018 Primary Election.

### Other

During this reporting period, SBE procured the services of an electromagnetic field tester to test the proposed 5,000 square foot warehouse facility for the Worcester County Board of Elections. Based on the preliminary test results, no issues were found. The Worcester County Board of Elections is expected to move into the facility in May.

Most of Worcester County's equipment and supplies are stored at SBE's Central Warehouse. This equipment and supplies will be transported to the new warehouse facility when it is ready to receive the equipment. The uncleaned equipment will be disposed of according to DGS' disposal requirements.

The PMO is actively working on other efforts in support of the 2018 Primary Election, including the setup and support of the helpdesk system and managing the temporary resource time-tracking application.

## 6. **Voting Systems**

### Electronic Pollbooks

Following extensive software testing, SBE has signed off on the latest release and is preparing to update all the pollbooks in the state's inventory. This software version will be the same for both early voting and election day.

### Additional Voting Equipment

For the 2018 Elections, SBE is leasing additional voting equipment from ES&S. This includes 465 precinct-based scanners, 6 additional DS850 high-speed central scanners, and associated ballot boxes, bins and memory drives. This equipment has undergone acceptance testing at the central warehouse, and has been delivered to the local boards. An additional 20 scanners have also been ordered for Baltimore City.

SBE has also procured replacement ballot on demand printers, and additional network equipment, such as firewalls for the new early voting centers.

### Transportation

The transportation vendor, Interstate, has been conducting planning meetings with all the local boards, as well as their subcontractors, in preparation of delivery and pickup of equipment for the primary and general elections, and these are complete with the exception of two local boards.

### Ballots

The 2018 Primary Election ballots have been created and certified. There are 745 different ballot styles for this upcoming election. In comparison, there were 645 in the 2014 primary and 587 in the 2010 primary. Natasha has done great job and has worked very closely with the local boards during the proofing process.

## 7. **Legislation - 2018**

A chart of the legislation we tracked will be in the meeting folder. Noted below are several of the election specific bills that passed.

*HB 532 - Secure and Accessible Registration Act (SARA)* - This redesignates electronic voter registration agencies as automatic voter registration agencies - Motor Vehicle Administration, Maryland Health Benefit Exchange, local department of social services and Mobility Certification Office in the Maryland Transit Administration. Effective July 1, 2019 these agencies shall inform the applicant that the applicant shall be registered to vote or the applicants' voter record will be updated unless the applicant declines.

*HB 981/SB 875 - Online Electioneering Transparency and Accountability Act* - Requires online platforms to create a public database of purchasers of online ads. Additionally, the act allows for the State Administrator to investigate and subpoena witnesses and records for violations of the authority line requirements on the Internet. At the conclusion of the investigation, we could seek an injunction for removal of the online political ad if the purchaser fails to comply with disclaimer requirements. Finally, the act bans the use of foreign currency in the purchase of campaign material. Effective July 1, 2018.

*HB 1278 - Postelection Tabulation Audit* - Requires an automated software audit for the primary and general and a manual audit for the general. Effective June 1, 2018

*HB 1331 - Election Law - Cybersecurity* - Requires the State Administrator to report certain significant security violation attempts. Requires that if an Election Service Provider knows that a security violation or significant attempt has occurred to notify the State Administrator. Requires that certain information be provided by certain voters using the online absentee ballot system. Also codifies the SBE contingency policy process for a paper or electronic backup copy of the list of voters. Effective July 1, 2018.

*HB 1717 - State Government - Protection of Information - Voter Registration Numbers -* Excludes a voter registration number from the definition of personal information under the State Government Article. Emergency bill effective April 9, 2018.

*SB 281 - Maryland Cybersecurity Council - Membership -* This designates the State Administrator of Elections or designee as a member of the Council effective Oct 1, 2018.

There are also two Constitutional Amendments that will appear statewide on the 2018 General Election ballots.

1. *HB 532 - Elective Franchise - Registration and Voting at Precinct Polling Place.* This will ask voters if they want to have same day registration on election day.
2. *SB 1122 - Education - Commercial Gaming Revenues.* Nicknamed the “lockbox” bill.

The Secretary of State will write and certify to this office the language for these ballot questions. This certification is required no later than the 3rd Monday in August.

## ASSISTANT ATTORNEY GENERAL'S REPORT

April 12, 2018

1. *Benisek v. Lamone*, No. 17-333, October 2017 Term (Supreme Court). This case involves claims that the State's congressional districting map is an unconstitutional political gerrymander. Oral argument took place on March 28, 2018. Solicitor General Stephen M. Sullivan argued the case in the Supreme Court. Questioning focused on both procedural and substantive elements of the case. The Court is expected to issue its ruling by the end of June.

2. *In re Petition of the Maryland State Board of Elections*, No. 24-C-17-005677 (Cir. Ct., Baltimore City). This matter relates to a petition for judicial review of a decision of the Board of Contract Appeals holding that SBE had breached its contract with Star Computer Supply ("Star") when it sought to recover money it had paid Star through an offset against other amounts payable to Star by the State of Maryland under unrelated contracts. In connection with this petition for review, the Central Collections Unit also sought to intervene in the case, in light of what it believed was the Board of Contract Appeals' exceeding the scope of its authority on certain issues that affected CCU's practices. On March 18 the Board of Contract Appeals' ruling was affirmed by the Circuit Court, and CCU's motion to intervene was denied. SBE and CCU are considering whether to appeal the Circuit Court's ruling.

3. *Fusaro v. Davitt et al.* (U.S. District Court, D. Md.). Plaintiff Dennis Fusaro has brought a complaint in federal court alleging that Maryland violates the First and Fourteenth Amendments by limiting access to the voter list to Maryland voters and only for purposes related to the electoral process. The State defendants moved to dismiss the complaint in January, and their reply in support of that motion was filed February 23, 2018. The motion is fully briefed and awaiting ruling by the Court. Assistant Attorney General John Grimm is representing the State Board in this litigation.

4. *Claudia Barber v. Maryland Board of Elections*, No. C-02-CV-17-001691 (Cir. Ct. Anne Arundel Cnty.) On January 25, Ms. Barber appealed from the Circuit Court's January 11 dismissal of her complaint. Ms. Barber sought damages and judicial review of, among other things, the State Board's decision not to issue a declaratory ruling permitting her to use campaign funds to pay for litigation costs she incurred in her unsuccessful attempt to retain her position as an administrative law judge in the District of Columbia. Ms. Barber was ruled ineligible for that position due to her candidacy in 2016 for Judge of the Circuit Court for Prince George's County, Maryland. Ms. Barber's

opening appeal brief should be due in late May. Assistant Attorney General Andrea Trento will represent the State Board in the appeal.

5. *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.). This case involves a challenge under the U.S. Constitution and Maryland Constitution and Declaration of Rights to the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court. Assistant Attorney General Andrea Trento will represent the State Board in this matter going forward.

6. *Lewin v. Lamone*, No. \_\_\_\_\_ (Cir. Ct. Anne Arundel Cnty). This case involves a challenge by voters in the 41<sup>st</sup> Legislative District to SBE's refusal to remove Nathaniel Oaks' name from the primary ballot, despite Mr. Oaks' conviction on March 29, 2018 in the U.S. District Court to two counts of wire fraud and honest services wire fraud in connection with misconduct while serving as State Senator. The complaint challenges the constitutionality of certain statutes that prevent SBE from removing Mr. Oaks' name from the primary ballot on the basis of his almost certain ineligibility following his sentencing hearing, which is scheduled to take place in July. Plaintiffs are expected to file an application for a TRO on April 12, 2018. Assistant Attorney General Andrea Trento will represent the State Board in this matter.

7. *Kreamer v. Maryland State Board of Elections*, No. C-02-CV-18-000629 (Cir. Ct. AA Cnty.). This case involves a challenge by one of the candidates for the Democratic nomination for Senate District 34 (Harford County) to the eligibility of the other candidate for that nomination. The challenged candidate was not named as defendant in the case. SBE expects to file a motion to dismiss the Petition imminently. Assistant Attorney General Andrea Trento will represent the State Board in this matter.

8. *Riley v. Mathis*, No. 03-C-18-002423 (Cir. Ct. Balt. Cnty.)  
*Comeau v. Vignarajah*, No. 24-C-18-1309 (Cr. Ct. Balt. City)  
*Miller v. Bates*, No. 24-C-18-1310 (Cir. Ct. Balt. City)

These cases each involved residency-based challenges by voters, respectively, to the eligibility of a candidate for the Republican nomination for Senate District 42 (Baltimore County), and to the eligibility of both challengers to the incumbent for the Democratic nomination for State's Attorney for Baltimore City. On March 18, 2018, the Circuit Court for Baltimore County held that Mr. Mathis was ineligible as a candidate for election to represent Senate District 42 on the basis of his residency and declared his certificate of candidacy void. On March 22, 2015 and March 24, 2015, respectively, the Circuit Court for Baltimore City held that the Mr. Vignarajah and Mr. Bates were eligible to serve as State's Attorney for Baltimore City on the basis of their residencies. None of these rulings have been appealed.

STATE BOARD OF ELECTIONS

P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840

David J. McManus, Chairman  
Patrick J. Hogan, Vice Chairman  
Michael R. Cogan  
Kelley Howells  
Gloria Lawlah



Linda H. Lamone  
Administrator  
  
Nikki Charlson  
Deputy Administrator

Memorandum

**TO:** State Board Members  
**FROM:** Jared DeMarinis, Director  
Division of Candidacy and Campaign Finance  
**DATE:** March 22, 2018  
**SUBJECT:** Waiver of late filing fees – Persons Doing Public Business, Title 14 of the Election Law Article

Enclosed are the waiver requests, which were submitted by businesses that have been assessed late filing fees. The attached Waiver Request Information Page contains an overview of each entity as well as the Agency's recommendation to the Board.

The Board should consider the following factors in determining whether just cause exists to grant a waiver.

1. Administrative error of any kind on the part of the Division.
2. The lateness is due to extenuating circumstances, i.e. physical illness or death in the family; or
3. Computer problems occurred which made timely filing impossible. However, the filer still must have demonstrated a good faith effort to timely file.

Prior to the meeting please review each waiver request. Note the recommendations that you may disagree with or have questions on that you would like to discuss.

§ 14-107(c) Late Filing Fees

- (1) As provided in this subsection, the State Board may impose fees for late filing of:
  - (i) a statement required under § 14-104 of this title; or
  - (ii) an amended statement required under subsection (b) of this section.
- (2) The State Board may impose late filing fees in the same amounts and in the same manner as provided under § 13-331(a) and (b) of this article for late filing of campaign finance reports.
- (3) Late filing fees imposed under this subsection shall be distributed to the Fair Campaign Financing Fund.

Pursuant to COMAR 33.20.07.01C, the State Administrator has denied 3 late fee waiver request. No Board action is required on the denials.

Year to date, SBE has collected \$3,740 in late fees under this provision of law.

Please feel free to contact me at 410-269-2853 if you have any questions.

**Business Contribution Disclosure System  
Waiver Request– Late Fees**

Grant/Reduced

1. SETA Consulting, LLC

Denials

1. Correct Rx Pharmacy Services, Inc.
2. National Center on Institutions and Alternatives
3. High Street Strategies LLC



**Overview emailBusiness Contribution Disclosure System  
Waiver Request Information Page – Late Fees**

**General**

<b>Account Name</b>	SETA Consulting, LLC
<b>BID ID:</b>	14000528
<b>Date Established</b>	08/01/2015
<b>Date Waiver Requested</b>	03/08/2018
<b>Account Type</b>	Title 14 – Persons Doing Public Business

**Officers**

<b>Current Filer</b>	Michelle Lynn Karczeski	Start Date: 8/01/2015
<b>Principal Officer</b>	Michelle Lynn Karczeski	Start Date: 8/01/2015

**Waiver Request Dates**

<b>Late Report</b>	<b>Date Received</b>	<b>Fees</b>	<b>Total Fees</b>
11/30/2017	2/12/2018	\$500	\$500
		\$	\$
		Total	\$500

**Prior Waiver and Fees**

n/a

**Reason for Waiver**

She is the owner and only employee. She got custody of 4 yr old nephew last year and life has been hectic. She does not have the funds to pay the late fee and she has already filed the 2018 Spring report since she makes no contributions and filed Affidavits.

**Agency Comments**

Michelle has filed all past reports timely and early.

Grant

Michelle L.  
Karczeski



1207 Starmount Lane, Bel Air MD 21015  
443.910.0243  
mlk@seta-consulting.com

3/5/2018

Dear State Board of Elections,

I am writing this letter to request a waiver/reconsideration of the late fee that I was assessed for delinquent reporting of my Fall 2017 Contribution Disclosure Report. This was not done intentionally but in error. I am the only employee and owner of my company – SETA Consulting, LLC and do not have the funds to pay this assessment. Last year I took custody of my 4-year old nephew and things have been very hectic getting him adjusted to my home.

I have since resolved the issue and have already reported for the Spring 2018 Contribution Disclosure Report. I have never contributed to a campaign and do not plan to in the future but recognize I do have the obligation to report. This is the first time I was unable to meet my reporting obligation and have changed my email filters to highlight any emails from SBOE.

I contacted Victoria Molina and it was suggested I submit my request in writing so please consider this as my formal request to forgive the \$500.00 amount owed for not filing. Thank you for your consideration.

Account: SETA Consulting, LLC, BID ID: 14000528

Warmest Regards,  
Michelle L. Karczeski

A handwritten signature in cursive script that reads "Michelle L. Karczeski".

RECEIVED

MAR 08 2018

STATE BOARD OF ELECTIONS



**Business Contribution Disclosure System  
Waiver Request Information Page – Late Fees**

**General**

<b>Account Name</b>	Correct Rx Pharmacy Services, Inc.
<b>BID ID:</b>	14000315
<b>Date Established</b>	01/01/2015
<b>Date Waiver Requested</b>	02/21/2018
<b>Account Type</b>	Title 14 – Persons Doing Public Business and Employing a Lobbyist

**Officers**

<b>Current Filer</b>	Robert Donovan Bossle	Start Date: 1/01/2015
<b>Principal Officer</b>	Ellen Yankellow	Start Date: 1/01/2015

**Waiver Request Dates**

<b>Late Report</b>	<b>Date Received</b>	<b>Fees</b>	<b>Total Fees</b>
11/30/2017	2/15/2018	\$500	\$500
		\$	\$
		Total	\$500

**Prior Waiver and Fees**

2/05/15 – received 2/24/15 with late fee of \$190, Paid  
 11/30/15 – received 4/19/16 with late fee of \$500, Paid  
 5/31/17 – received 8/15/17 with late fee of \$500, Paid

**Reason for Waiver**

They data entered contributions, but did not continue with additional steps and file the report.

**Agency Comments**

They have been filing reports since 2015 – 7 total.

Deny



1352 Charwood Road, Suite C, Hanover, MD 21076  
tel 443.557.0100 fax 443.557.0333

February 15 2018

Maryland State Board of Elections  
Mr. Jared DeMarinis  
P O Box 6486  
Annapolis, MD 21401-0486

Dear Mr. DeMarinis,

Thank you for your call this morning. I have now officially submitted the report for Fall of 2017 which was still in the preview status.

I apologize for missing the final step in filing this report. As you can see we intended to file the report in a timely manner and misunderstood that there was another step to be taken on the web-site.

We are requesting a waiver of the \$500.00 fine for failure to submit.

Please advise me if this waiver is not approved.

Thank you again for your guidance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Donovan Bossle".

R. Donovan Bossle  
Controller

RECEIVED  
FEB 21 2018  
STATE BOARD OF ELECTIONS



## Overview emailBusiness Contribution Disclosure System Waiver Request Information Page – Late Fees

### General

<b>Account Name</b>	National Center on Institutions and Alternatives
<b>BID ID:</b>	14000496
<b>Date Established</b>	02/01/2015
<b>Date Waiver Requested</b>	02/22/2018
<b>Account Type</b>	Title 14 – Persons Doing Public Business

### Officers

<b>Current Filer</b>	Yong Kim	Start Date: 2/15/2018
<b>Principal Officer</b>	Herbert Hoelter	Start Date: 2/01/2015

### Waiver Request Dates

Late Report	Date Received	Fees	Total Fees
11/30/2017	2/15/2018	\$500	\$500
		\$	\$
		Total	\$500

### Prior Waiver and Fees

8/31/15 report received 11/30/15 – Late fee \$500, paid

### Reason for Waiver

Previous Filer retired and was not replaced. They also moved and the show cause letter was sent to old address. Once they received the letter they filed the report.

### Agency Comments

The Principal Officer has the ability to log in and file the reports as well.

Deny

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FEB 22 2018



STATE BOARD OF ELECTIONS *Celebrating 40 Years*

February 19, 2018

Jared DeMarinis  
Division of Candidacy and Campaign Finance  
State Board of Elections  
PO Box 6486  
Annapolis, Maryland 21401-0486

**RE: NATIONAL CENTER ON INSTITUTIONS AND ALTERNATIVES  
Bid ID #14000496**

Dear Mr. DeMarinis:

We are in receipt of your letter dated February 7, 2018 addressed to Kirk Larter , our previous CFO who is now retired. Through this letter, we are respectfully requesting a waiver of the \$500 penalty.

This is the first notification that we have received as the address was not correct — we moved over 1-1/2 years ago. Mr. Larter retired in May 2017 and we did not receive this letter until last week. As soon as we received this notification, a report was filed (see attached).

Thank you for your attention to this matter and please feel free to contact me should you have any other questions.

Sincerely,

Herbert J. Hoelter  
Chief Executive Officer

HJH:ab

Enclosure

**NCIA**

7130 Rutherford Road  
Baltimore, Maryland  
21244

443.780.1311 phone  
410.265.8078 fax  
[hhoelter@ncianet.org](mailto:hhoelter@ncianet.org)

[www.ncianet.org](http://www.ncianet.org)

**Founders**

Herbert J. Hoelter  
Dr. Jerome G. Miller  
(1931-2015)

**NCIA SERVICES**

Criminal Justice Services  
Youth In Transition  
School  
Adult Career  
Development  
Adult Residential Services  
Business Services  
Jail Suicide Prevention  
Public Policy

*individual focus. community perspective.*

**Overview emailBusiness Contribution Disclosure System  
Waiver Request Information Page – Late Fees**

**General**

<b>Account Name</b>	High Street Strategies LLC
<b>BID ID:</b>	14000833
<b>Date Established</b>	11/01/2016
<b>Date Waiver Requested</b>	02/23/2018
<b>Account Type</b>	Title 14 – Employing a Lobbyist

**Officers**

<b>Current Filer</b>	Matt Mullin	Start Date: 11/01/2016
<b>Principal Officer</b>	Matt Mullin	Start Date: 11/01/2016

**Waiver Request Dates**

Late Report	Date Received	Fees	Total Fees
11/30/2017	1/09/2018	\$400	\$400
		\$	\$
		Total	\$400

**Prior Waiver and Fees**

n/a

**Reason for Waiver**

He was advised by St. Ethics he did not have to file.

**Agency Comments**

Per William Colquhoun, St. Ethics: He was advised he did not have to file if he did not meet the filing a requirements, which he as I recall did not. A fact I was unaware of at the time was he had already entered into the system which requires continued filing.

He filed the 5/31/17 report with no issues.

Deny



Vicki Molina -SBE- &lt;vicki.molina@maryland.gov&gt;

---

**Fwd: waiver request**

2 messages

**Jared DeMarinis -SBE-** <jared.demarinis@maryland.gov>

Fri, Feb 23, 2018 at 4:17 PM

To: "William Colquhoun (Ethics)" &lt;william.colquhoun@maryland.gov&gt;

Cc: Vicki Molina &lt;vicki.molina@maryland.gov&gt;

\* Can you verify that was the advice given by State Ethics. Thanks.

Jared DeMarinis  
Director - Division of Candidacy and Campaign Finance  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, MD 21401-0486  
Phone: 410-269-2853

----- Forwarded message -----

From: **Matt Mullin** <mmullin@highststrategies.com>

Date: Fri, Feb 23, 2018 at 2:21 PM

Subject: waiver request

To: Jared DeMarinis -SBE- &lt;jared.demarinis@maryland.gov&gt;

State Board of Elections,

I respectfully request a waiver from the late fee penalty assessed to my firm regarding a Fall 2017 Contribution Disclosure Report. Please see attached.

In the attached Board's letter dated February 7, 2018, it is noted that the report was received after the deadline. I am instructed to show cause in writing why the late fee was not properly assessed. This email is to do that.

The reason the report was not filed on time is because I was advised by the Ethics Commission that I did not need to file.

Please let me know if you have any questions, or need any further information from me.

Best regards,  
Matt

**Matthew P. Mullin**  
President & CEO

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**Washington, DC Office**  
1717 K Street, NW  
Suite 900  
Washington, DC 20006

3/15/2018

Maryland.gov Mail - Fwd: waiver request

**Annapolis, MD Office**  
41 State Circle  
Suite 2  
Annapolis, MD 21401

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 **State Board of Elections\_020718.pdf**  
342K

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**William Colquhoun -Ethics-** <william.colquhoun@maryland.gov> Mon, Feb 26, 2018 at 7:50 AM  
To: Jared DeMarinis -SBE- <jared.demarinis@maryland.gov>, Matt Mullin <mmullin@highststrategies.com>  
Cc: Vicki Molina <vicki.molina@maryland.gov>

He was advised he did not have to file if he did not meet the filing a requirements, which he as I recall did not. A fact I was unaware of at the time was he had already entered into the system which requires continued filing.

Kind regards,

William J. Colquhoun  
Staff Counsel  
State Ethics Commission  
45 Calvert Street, 3rd Floor  
Annapolis, Maryland 21401

(410) 260-7770/Facsimile (410) 260-7747

Direct Dial (410) 260-6177

<http://ethics.maryland.gov/>

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[Quoted text hidden]



**Paul Lubell**

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*Substitute Member*

**Gloria Mason**

*Substitute Member*



**Katie Brown**

*Election Director*

**Nancy Stratton**

*Election Deputy Director*

**Andrew Bailey**

*Board Counsel*

## Board of Elections

---

February 23, 2018

Ms. Linda H. Lamone, Administrator  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, Maryland 21401

**RE: Request for Waiver – Ballot Marking Device Deployment**

Dear Ms. Lamone:

I am writing to request a variance to the regulation for deployment of one (1) ballot marking device during Early Voting and on Election Day. There are several contributing factors that support this request including voter turnout, voter age and known accessibility issues. Although we do offer assistance to voters when needed, having an additional ballot marking device available will allow more voters the opportunity to vote in private without a long wait for one machine. I believe we will be better prepared for our voters if we deploy two (2) ballot marking devices to all eleven (11) of our early voting centers and the following precincts:

1. 01-16, Charlestown Retirement Community
2. 02-12, Liberty Senior Center
3. 02-25, North Oaks Retirement Community
4. 03-01, Augsburg Lutheran Home
5. 08-22, Broadmead Recreational Room (serves a retirement community)
6. 09-10, Cromwell Valley Elementary (serves a retirement community/high voter turnout)
7. 11-15, Oak Crest Village
8. 12-08, Ateaze Senior Center
9. 14-12, Parkville Senior Center
10. 15-02, Rosedale Senior Center
11. 15-12, Essex Co-Op

Thank you for your time and consideration. I look forward to hearing from you.

Respectfully,

A handwritten signature in black ink that reads "Katie A. Brown". The signature is written in a cursive style with a large, sweeping flourish at the end.

Katie A. Brown

Election Director

cc: Baltimore County Board of Elections  
Nikki Charlson, Deputy Administrator, State Board of Elections

# Emergency Early Voting Center Changes for the 2018 Elections

State Board of Elections

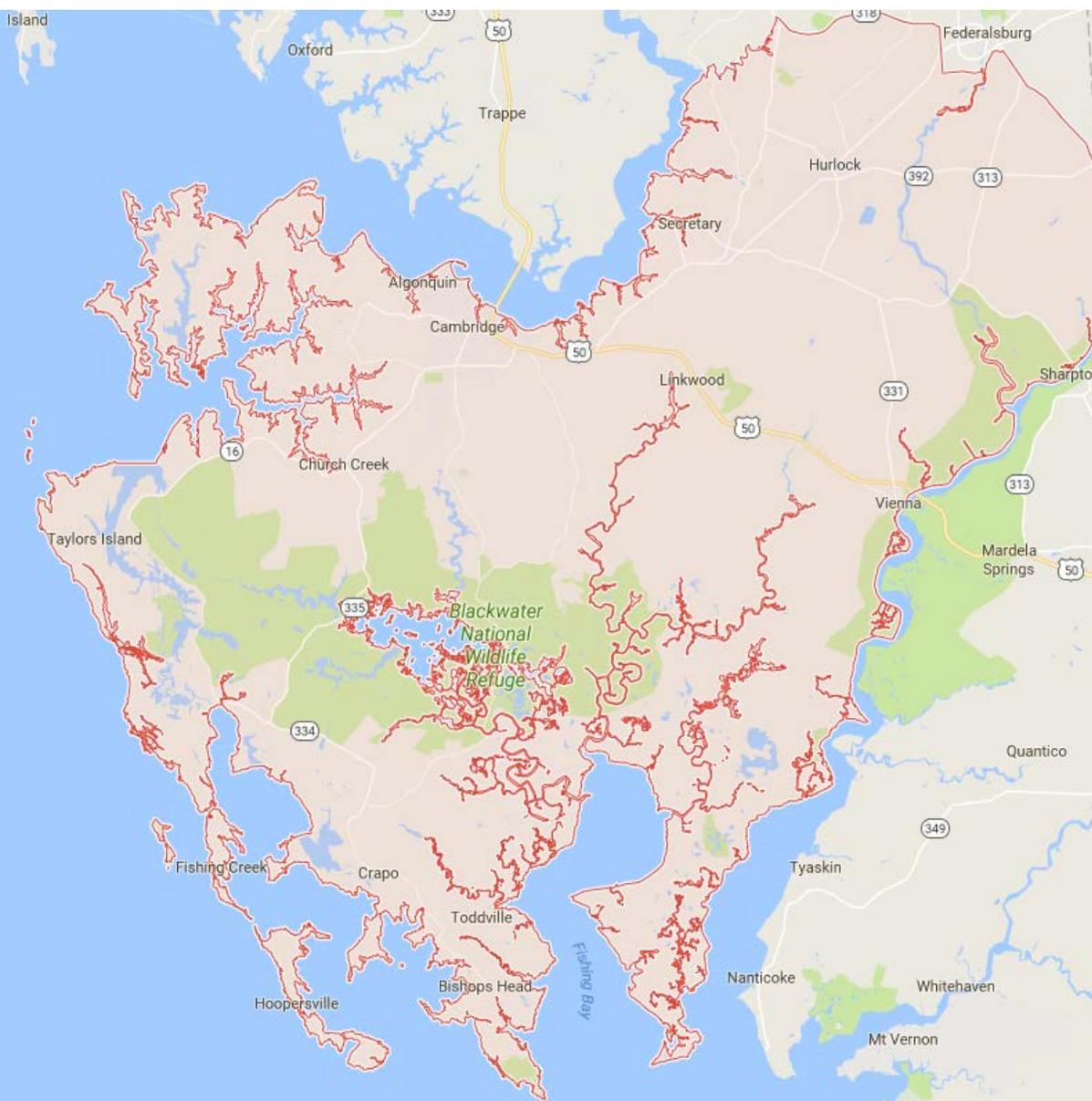
April 12, 2018 Meeting

# Dorchester County

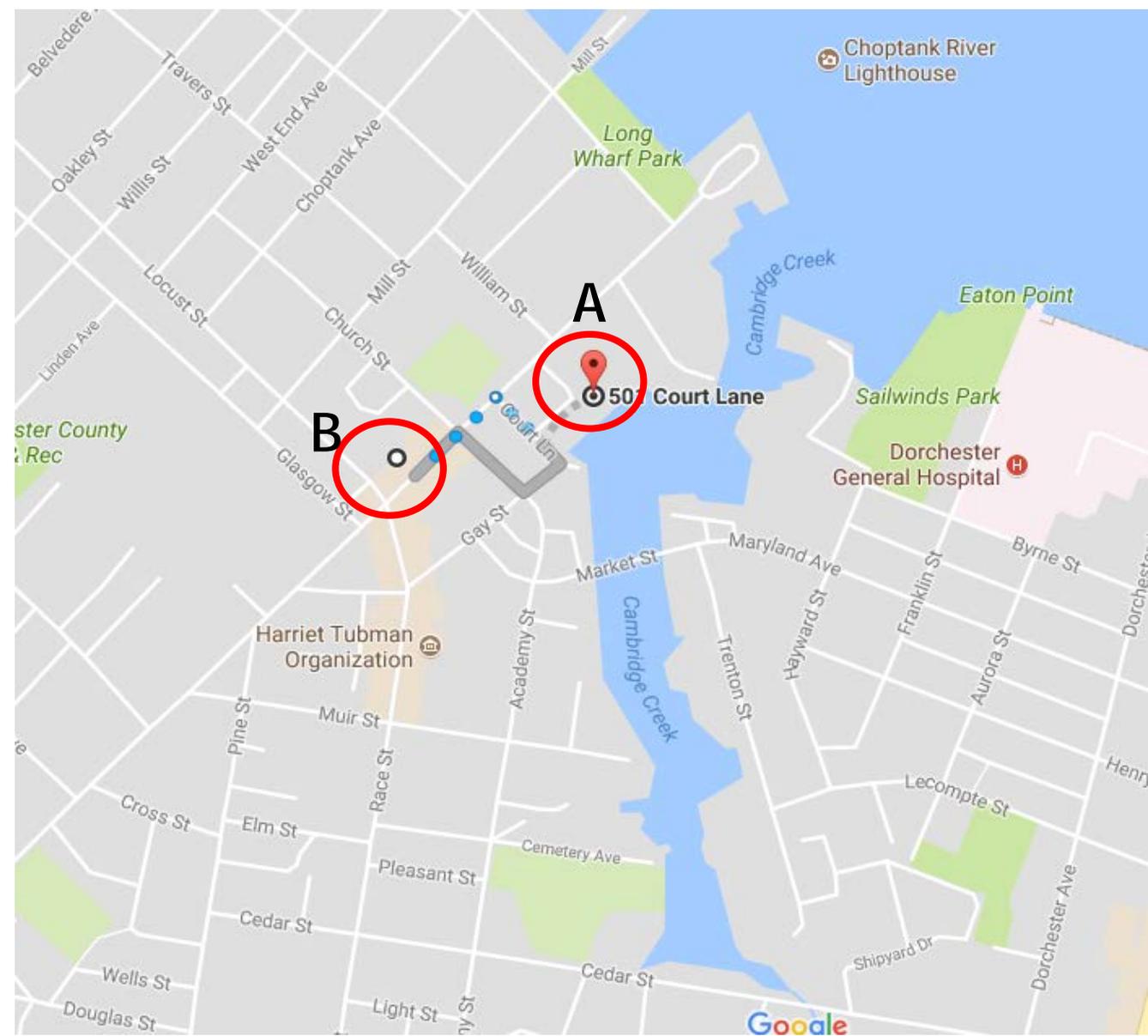
- ▶ After the 2016 elections, Dorchester County Board of Elections was asked to relocate their early voting center because of noise and fire codes
- ▶ October 26, 2017 - State Board approved the Dorchester Center for the Arts as the new early voting center
- ▶ March 14, 2018 - Dorchester County Board of Elections advertised the new early voting center which resulted in “many public comments” on social media
- ▶ March 20, 2018 - Dorchester County Council held a meeting to not relocate early voting to the Dorchester Center for the Arts
- ▶ March 27, 2018 - Dorchester County Office Building was approved by the Fire Marshall and confirmed it could be used as an early voting center
- ▶ March 30, 2018 - Dorchester County Board of Elections voted to move the early voting center back to its original location during an emergency meeting

# Dorchester County - 1 early voting center Dorchester County Office Building

- ▶ Used in the 2016 elections
- ▶ 50% of voters live within 10 miles of the proposed center
- ▶ Accessible for 2018 early voting
- ▶ Allows for electioneering
- ▶ Adequate parking
- ▶ Adequate to handle estimated peak voting hour
- ▶ Accessible by public transportation



Dorchester County Map



Dorchester County Office Building (A)  
Dorchester Center for the Arts (B)

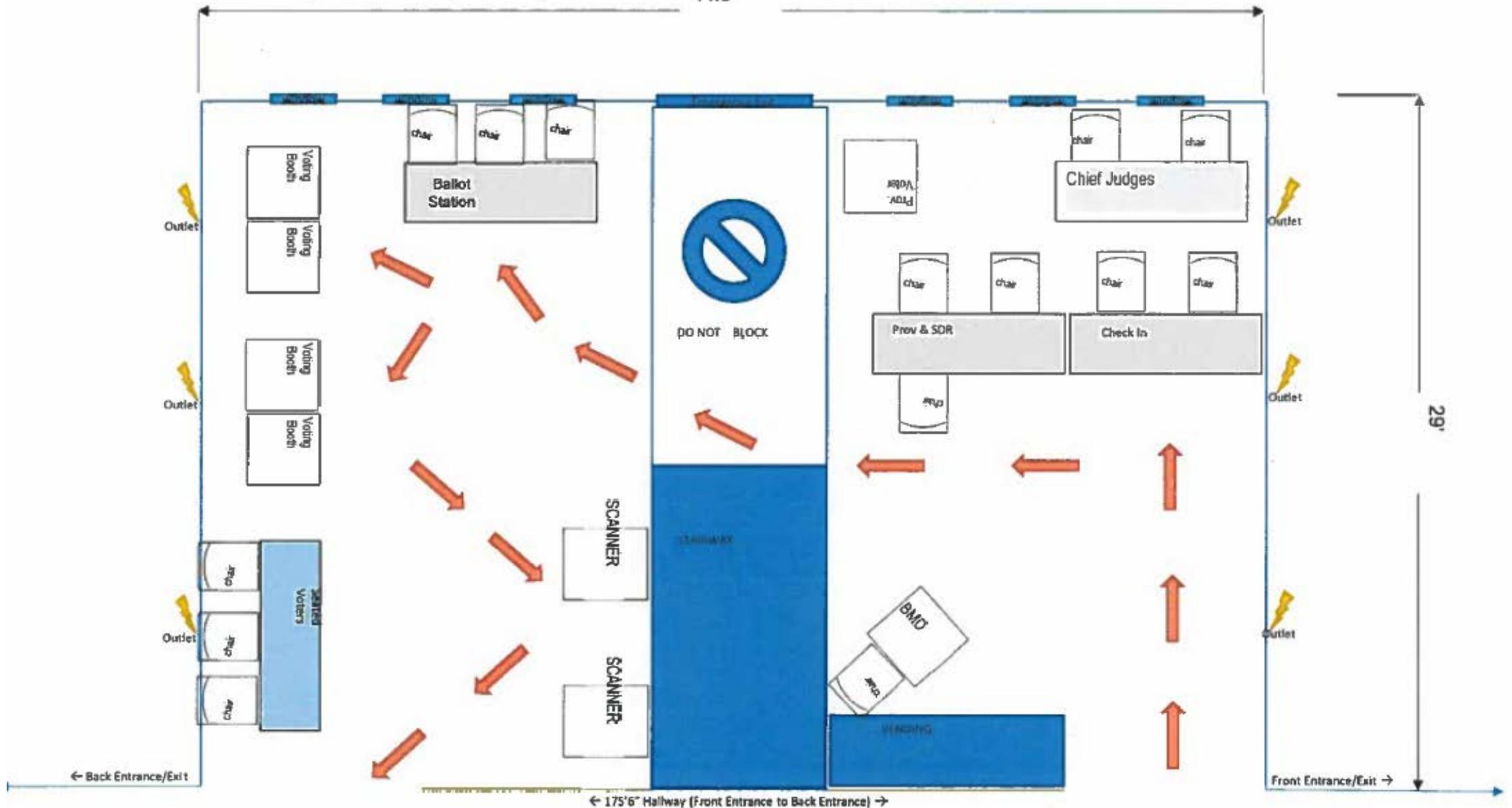
At least 50% of the registered voters in Dorchester County live within 10 miles of the early voting center.

Front Entrance



# County Office Bldg - Lobby

44.5'



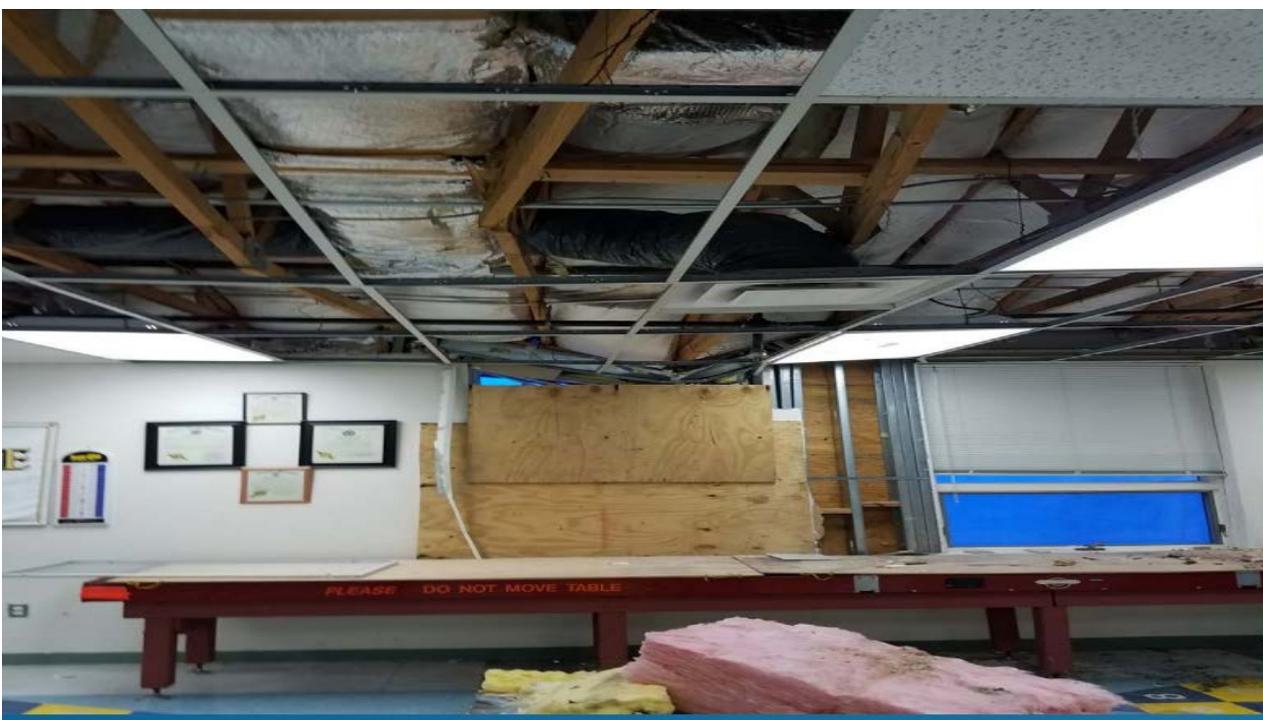
Dorchester County

Dorchester County Office Building

State Board Decision

# Harford County

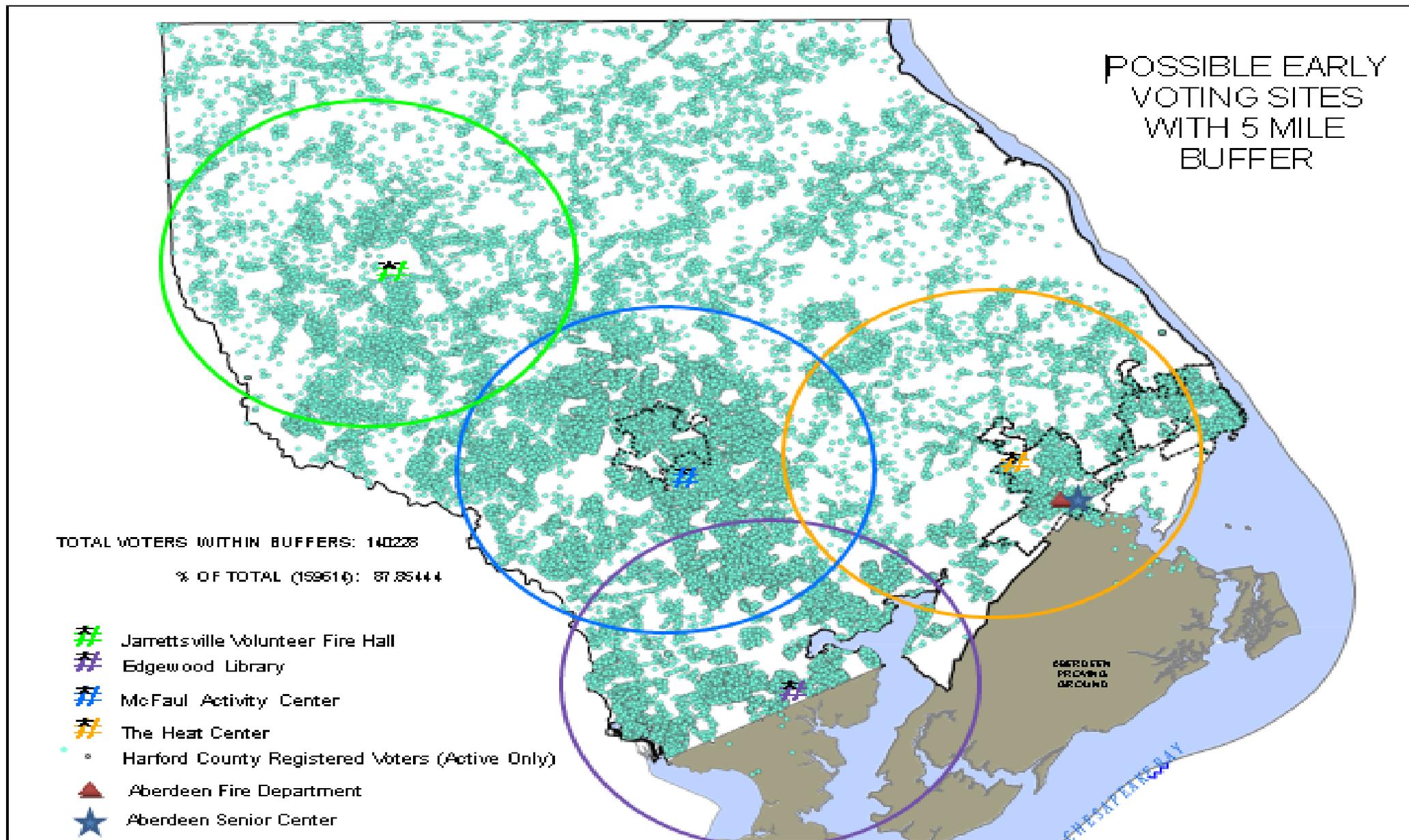
- ▶ January 18, 2018 - State Board approved the Aberdeen Senior Center to replace The University Center
- ▶ March 2, 2018 - Winter Storm Riley Event damaged the Aberdeen Senior Center



# Harford County - 4 early voting centers

## Aberdeen Senior Center

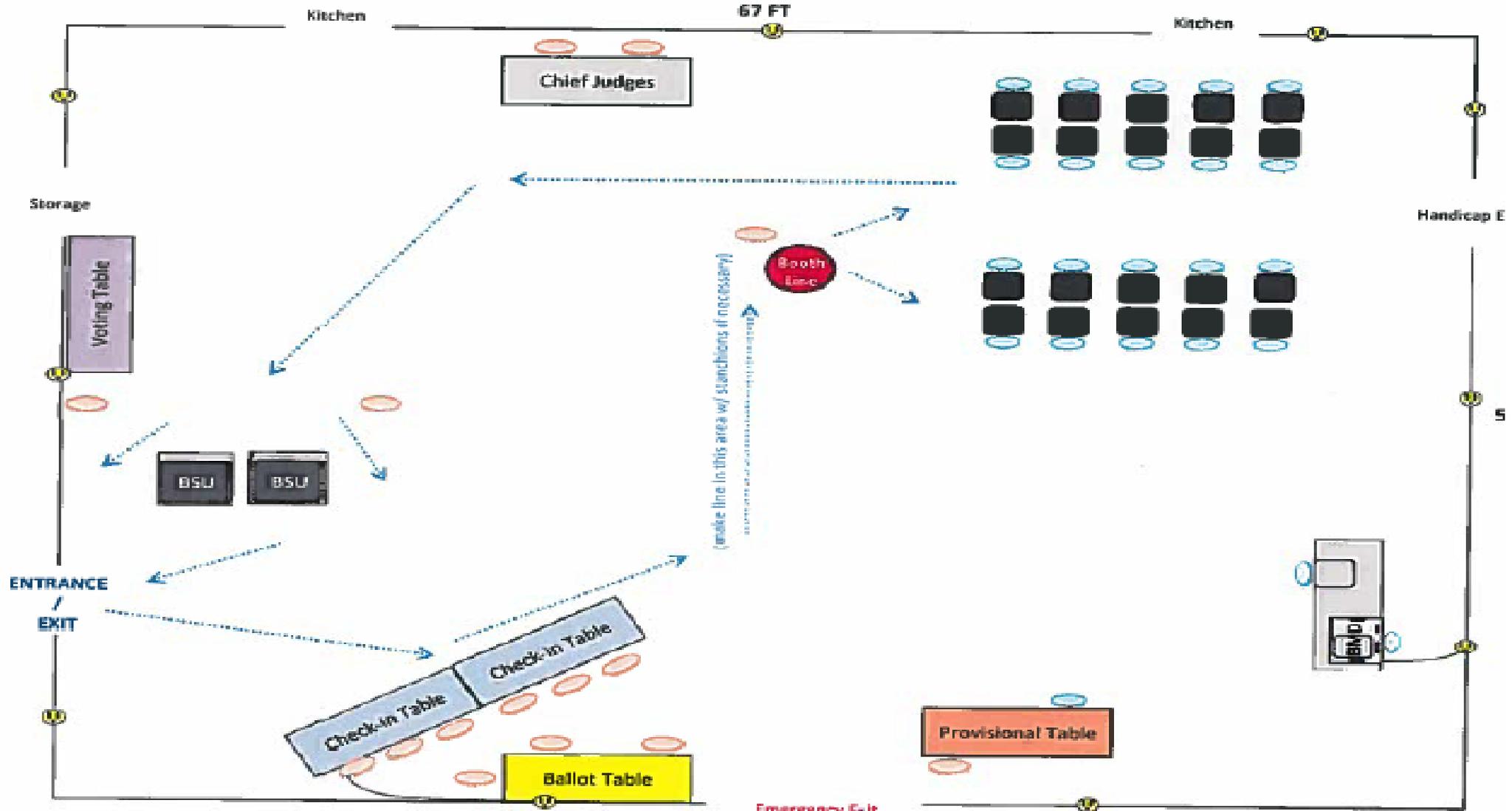
- ▶ Replaces The University Center (formerly HEAT Center)
- ▶ 80% of voters live within 5 miles of one of the proposed centers
- ▶ Accessible for 2018 early voting
- ▶ Allows for electioneering
- ▶ Adequate parking
- ▶ Adequate to handle estimated peak voting hour
- ▶ Accessible by public transportation



Harford County is replacing one of their early voting centers. Three of their sites were used in the 2016 elections. At least 80% of the registered voters in Harford County live within 5 miles of one of the early voting centers.



# EV03: ABERDEEN FIRE DEPARTMENT - BANQUET HALL



VOTING BOOTHS	20
PRIVACY SCREENS	3
E-POLLBOOKS	6
BMDs	1
BSUs	2
EXTENSION CORDS	4
POWER STRIPS	6

# Harford County

McFaul Activity Center

Edgewood Library

Aberdeen Fire Department

Jarrettsville Library

Recommendation: Approve



# ALLEGANY COUNTY, MARYLAND

Board of Elections

701 Kelly Road, Suite 231, Cumberland, MD 21502  
301-777-5931 FAX 301-777-2430 www.gov.allconet.org

RECEIVED

APR 02 2018

STATE BOARD OF ELECTIONS

**Diane L. Loibel**, Elections Administrator  
**Brandy M. Gordon**, Elections Registrar  
**Samantha L. Logsdon**, Elections Registrar  
**Melissa K. Smith**, Elections Clerk

March 29, 2018

Ms. Linda Lamone, State Administrator  
Maryland State Board of Elections  
151 West Street  
PO Box 6486  
Annapolis, MD 21401-0486

Dear Ms. Lamone,

I was notified on Monday, March 26<sup>th</sup> that a water line had broken on the third floor of one of our polling places which damaged the heating system. Because the building is not regularly used they have decided not to repair the heating system. If necessary, I am able to use the building for the primary election but it will not be available for November or any time thereafter. Due to this unexpected emergency, we are requesting to change our polling place located at the Former Senior Citizens Center – Dining Hall (District 14) located at 19 Frederick Street, Cumberland to the Ramada Inn, Allegany/Garrett Room, 100 S. George Street, Cumberland, MD 21502. Board members will be meeting on Wednesday, April 4, 2018 to discuss this change.

If you have any additional questions, feel free to contact me at your earliest convenience.

Sincerely,

Diane Loibel, Election Director

BOARD MEMBERS

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PRESIDENT

THOMAS M. CORKRAN  
VICE PRESIDENT

JANET M. LIVINGSTON  
SECRETARY

WILLIAM E. BATSON  
SUBSTITUTE

RALPH C. LEWIS, JR.  
SUBSTITUTE



**DORCHESTER COUNTY  
BOARD OF ELECTIONS**

GWENDOLYN H. DALES  
ELECTION DIRECTOR

BRITTANY M. PHILLIPS  
DATA APPLICATION SPECIALIST

JESSICA R. NORANBROCK  
DATA APPLICATION SPECIALIST

KIMBERLY K. JONES  
ELECTION INFORMATION  
SYSTEMS SPECIALIST

HUBERT H. WRIGHT, IV  
ATTORNEY

**MEMORANDUM**

TO: Davis J. McManus, Esq., Chair  
Maryland State Board of Elections

FROM: Gwendolyn Dales, Director   
Dorchester County Board of Elections

DATE: April 4, 2018

SUBJECT: Early Voting Re-Location

---

In response to recent public outcry regarding the change of the Early Voting location, the Dorchester County Board of Elections voted on March 30, 2018 at an Emergency Board Meeting, to request to return their Early Voting site to its original location at the Dorchester County Office Building.

Initially, the Elections office was requested by the County Manager to begin looking at new locations for an Early Voting site directly following the 2016 election due to noise and fire codes. On August 9, 2017, the Dorchester County Board of Elections chose the Dorchester Center for the Arts as its new Early Voting site. Subsequently, the Maryland State Board of Elections approved the site at their public board meeting on October 26, 2017.

On March 14, 2018 the elections office advertised the new site in a local paper. This resulted in many public comments on social media and at the March 20, 2018 Dorchester County Council Meeting to not move Early Voting. Concerned citizens requested that the Fire Marshall inspect the County Office Building and on March 27, 2018, the building was approved as an Early Voting Location.

As Director of the County Elections Office, and on behalf of the Board of Elections, I would like to formally request that we relocate Early Voting back to its original location at the Dorchester County Office Building. We are working hard to have a successful 2018 Gubernatorial Election and are hopeful for a supportive and large voter turnout.

James F. Shalleck  
*President*  
Nahid Khozeimeh  
*Vice President*  
Mary Ann Keffe  
*Secretary*  
Alexander C. Vincent  
*Member*  
David Naimon  
*Member*  
Jacqueline Phillips  
*Substitute Member*  
Alan Banov  
*Substitute Member*



**Montgomery County**  
**Board of Elections**  
Post Office Box 4333  
Rockville, Maryland 20849-4333

Margaret A. Jurgensen  
*Election Director*  
Alysoun McLaughlin  
*Deputy Election Director*  
Janet A. Ross  
*Information Technology Manager*  
Jessica White  
*Voter Services Manager*  
Christine Rzeszut  
*Operations Manager*  
Kevin Karpinski  
*Counsel*

April 11, 2018

David J. McManus, Jr., Chairman  
Patrick J. Hogan, Vice Chairman  
Michael R. Cogan  
Kelley A. Howells  
Gloria Lawlah  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, Maryland 21401

Linda H. Lamone, Administrator  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, Maryland 21401

RE: Request for relocation of Precinct 04-18  
Tilden Center, 6300 Tilden Lane, Rockville, Maryland and possible polling  
place change to 04-30

Dear Chairman McManus, Vice Chairman Hogan, Board Members Cogan,  
Howells and Lawlah and State Administrator Lamone:

The Montgomery County Board of Elections ("MCBOE") is requesting the State Board of Elections' ("SBE") permission to move precinct 04-18 from the Tilden Center to Tilden Middle School. On Wednesday, April 4, 2018, MCBOE staff was notified that the Tilden Center was part of a large Montgomery County Public School renovation project and the building will be demolished this Fall. Evidently, the Tilden Center was inadvertently not included on the School system's list of possible renovation projects that may impact the 2018 election cycle.

---

18753 North Frederick Avenue, Suite 210 • Gaithersburg, Maryland 20879  
240-777-8500 • MD Relay 1-800-735-2258 • FAX 240-777-8505  
elections@montgomerycountymd.gov • www.777vote.org

SBE Board members  
Linda H. Lamone, Administrator  
April 11, 2018  
Page 2

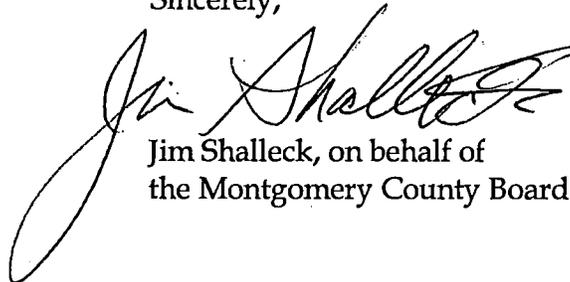
On Wednesday, April 11, 2018, MCBOE met to discuss possible options to address the renovations that will occur at Tilden Center. The Board voted to move Precinct 04-18 to Tilden Middle School. MCBOE respectfully requests SBE approve this proposed change.

On a related issue, while searching for a new polling place for 04-18, it was discovered that B'nai Israel Synagogue, 6301 Montrose Road, Rockville, Maryland was willing to serve as a polling place. MCBOE only learned of this possibility on the evening of **Tuesday, April 10, 2018**. MCBOE wishes to consider moving Precinct 04-30 from Richard Montgomery High School to B'nai Israel Synagogue for our voters in Precinct 04-30. However, because of the forty-eight (48) hour notice requirement under Maryland Code Ann, Election Law Article, section 1-305, MCBOE was not able to take action on this change at our meeting.

Our Board meets on Monday, April 16, 2018. MCBOE respectfully requests the Board be able to meet on Monday to decide whether Precinct 04-30 should remain at Richard Montgomery High or be moved to B'nai Israel Synagogue. MCBOE requests SBE vote to give MCBOE permission to use one of those two facilities for Precinct 04-30 based upon the MCBOE's vote this coming Monday.

As always, we thank you for your time and consideration to our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Shalleck". The signature is written in a cursive style with a large, looping initial "J".

Jim Shalleck, on behalf of  
the Montgomery County Board of Elections

JS:bjap



OFFICE OF  
**THE STATE'S ATTORNEY**  
FOR DORCHESTER COUNTY

WILLIAM H. JONES  
STATE'S ATTORNEY

April 3, 2018

Davis J. McManus, Esq., Chair  
Maryland State Board of Elections  
P.O. Box 6486  
151 West Street, Suite 200  
Annapolis, Maryland 21401-0486

Re: Dorchester County Early Voting

Dear Mr. McManus:

Due to what I assume to be some miscommunications, actions have occurred in order to move early voting in Dorchester County from the County Office Building to an off-site location. I believe that the concerns that led to these actions have proved to be either unfounded, or have been alleviated. As such, I urge the State Board of Elections to approve the request of the local board to return early voting to the original site, the County Office Building.

In my view, the local Board of Elections and staff have performed in an exemplary manner in their attempt to comply with a request that an alternative site be found for early voting. To that end, the alternative site is likely the best alternative; however, it is far inferior to the present site. The accessibility, parking, ability to locate the site, as well as security concerns, lead me to believe that we will see a decrease in early voting. In this day and age, any actions by government that could potentially result in a decrease in voter turnout should be seen as something against which we must guard.

The present location at the County Office Building is easy to locate as it is known by a majority of our residents. The building is readily accessible by all. It is known as a safe place with more than adequate parking. Maintaining this site for early voting will ensure the highest possible voter turnout. For that reason, I strongly urge the State Board of Elections to allow the local Board of Elections to maintain the current site at the County Office Building for early voting.

Please feel free to contact me with any questions and/or concerns.

Sincerely,



William H. Jones

cc: Hon. Sen. Adelaide Eckardt  
Hon. Del. Johnny Mautz

## Office of the Attorney General

Civil Litigation  
200 Saint Paul Place  
Baltimore, Maryland 21202  
410-576-6325

TO: David McManus, Chair  
State Board of Elections

DATE: April 5, 2018

FROM: Andrea W. Trento  
Assistant Attorney General  
Counsel to the State Board of Elections

SUBJECT: Advice Regarding Novus Ballot Duplication Software

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At its January 2018 meeting, the Board (“SBE”) requested advice about (1) whether the use of the Novus On-Screen Duplication software application (the “Novus BDS”), developed by Runbeck Election Services, Inc., (“Runbeck”), to duplicate all returned absentee ballots requires “certification” under sections 9-101(a) and 9-102 of the Election Law Article of the Maryland Code (“EL”), and (2) whether the potential use by some – but not all – Maryland counties of the Novus BDS would violate the requirement that, “[e]xcept where it would be inappropriate, or as otherwise provided in this article, the electoral process for primary elections, general elections, and special elections shall be uniform.” EL § 8-101(b). In addition, at its February 2018 meeting, the Board clarified that it is also seeking advice regarding the source of the interpretation of EL § 9-306 that SBE is *required* to provide absentee ballots to voters via the Internet, if so requested by the voter.

As set forth below, in my view the best reading of the applicable statutory provisions supports the conclusions that: (1) the use of the Novus BDS to duplicate returned absentee ballots would not require “certification” under EL §§ 9-101(a) and 9-102; (2) the use of the Novus BDS by some – but not all – jurisdictions during this cycle would not violate any applicable “uniformity” requirement set forth in the Election Law article; and (3) EL § 9-306 requires that SBE provide absentee ballots to voters via the Internet, if so requested by a voter.

**Background**

*Absentee Ballots in Maryland*

EL § 9-306 provides that if an applicant for an absentee ballot qualifies to vote by absentee ballot, “the local board shall provide the ballot by one of the following methods requested by the voter:”

- (1) Mail;
- (2) Facsimile transmission;
- (3) The Internet; or
- (4) By hand during an in-person transaction.

EL § 9-306(b)(1)-(4). Based in part on prior advice from this office, the Board has interpreted this provision to require that the Board provide qualified voters with an absentee ballot via the specific method requested by the voter.

Ballots that are mailed to voters are delivered in a format that, once completed and returned, can be scanned and tabulated by the machines that comprise the current voting system. However, ballots delivered by fax or through the SBE’s website must be “duplicated” onto ballots that can then be scanned and tabulated by the current system.

Ballots delivered to voters via the web may be printed and marked by hand by voters, or marked online using a “ballot-marking wizard” (“BMW”) and printed with the voters’ prefilled selections and encoded on a barcode that appears on the printed ballot. In either case, the ballots are printed by voters on standard 8.5” x 11” paper and, once they are received by local boards of election (“LBEs”), must be duplicated onto official ballots before scanning. For those ballots that are marked by voters using the BMW before printing, SBE has deployed software that allows for the automated duplication of ballots based on the information encoded in the barcode on the printed ballot (subject to visual confirmation by election workers after the duplicate is generated). For those ballots that are filled in by voters by hand, after the blank ballot is printed, duplicates are created manually by election workers (again, subject to visual confirmation). Ballots delivered to voters via fax must also, once returned, be duplicated manually.

*The RFP*

Because the manual duplication process is time-consuming and subject to error, on July 17, 2017, SBE (through the Department of General Services (“DGS”)) issued a Request for Proposals (“RFP”) “to procure services for duplication . . . of absentee ballots.” RFP § 2.1.<sup>1</sup> On

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<sup>1</sup> The RFP also sought bids for the printing and mailing of absentee ballots. *See* RFP § 2.1. These aspects of the RFP are not implicated by this advice.

its face, the RFP seeks bids for providing a software solution that encompasses duplication of all returned absentee ballots – those marked with the BMW, and those completed by hand. *See id.*

In August 2017, Runbeck Election Services, Inc. (“Runbeck”) submitted a bid for the ballot duplication portion of the RFP, centered around its Novus BDS product. As its title suggests, Novus BDS is a software application that assists in the ballot duplication process by providing on-screen review and approval. When an absentee ballot is scanned into the application, the software recognizes the ballot style and selects a blank ballot from its pre-loaded library to display alongside the scan of the marked ballot. Novus BDS is able to recognize marks on the scanned ballot and produce an on-screen duplicate. Any changes or adjustments that need to be made can then be done to the on-screen duplicate. Only when the on-screen duplicate has been reviewed and saved is the ballot duplicated and printed. These duplicates would then be scanned and tabulated by the current system.

*Legal Framework*

**Voting Systems.** Maryland law requires that “[t]he State Board, in consultation with the local boards, shall select and certify a voting system for voting in polling places and a voting system for absentee voting.” EL § 9-101(a). In addition, the voting systems selected and certified by SBE “shall be used in all counties.” *Id.* § 9-101(b). “Voting system” is defined as a “method of casting and tabulating ballots or votes,” *id.* § 1-101(xx) (emphasis added), and is further defined by regulation to mean “all or any components of any system for casting and tabulating ballots or votes.” COMAR 33.09.01.01B(4)(a).<sup>2</sup>

The SBE may certify a voting system if it determines that:

- (1) The voting system will:
  - (i) protect the secrecy of the ballot;
  - (ii) protect the security of the voting process;
  - (iii) count and record all votes accurately;
  - (iv) accommodate any ballot used under this article;
  - (v) protect all other rights of voters and candidates;

---

<sup>2</sup> “Voting system” is defined in the COMAR to “include[] any model or version of”:

- (i) A voting system;
- (ii) A voting machine, voting device, tabulating equipment, vote-counting program, or other equipment, hardware, firmware, or software used by or with a voting system;
- (iii) Election management software or hardware used by or within a voting system; and
- (iv) Any other component of a voting system.

COMAR 33.09.01.01B(4)(h).

- (vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, including a manual recount; and
  - (vii) provide a voter-verifiable record . . . ; [and]
- (2) The voting system has been:
- (i) Examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and
  - (ii) Shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission.

EL § 9-102(d). “Each model or version of a voting system requires a separate application,” COMAR 33.09.03.02B(2), and “any change to the hardware, firmware, or software of a certified voting system (including any improvement, upgrade, or patch)” must be “submit[ted] . . . to the State Administrator for review of acceptance,” *id.* 33.09.07.02A(2). In applying for certification of a voting system, vendors must “specify clearly the specific equipment, hardware, firmware, and software for which certification is sought” in any such application. COMAR 33.09.03.02A, 33.09.03.02B(1). The vendor must also “provide all equipment . . . that is necessary for the evaluation to fully test all system functions,” which equipment “shall include”:

- A. Optical scanners for precinct voting and central count optical scanners for absentee and provisional voting;
- B. Any voting equipment and assistive devices for use by voters with disabilities;
- C. Optical scan ballots for testing . . . ;
- D. Election management server software;
- E. All third-party software required to operate the system; and
- F. All necessary ancillary equipment.

*Id.* 33.09.03.08. Notably, there are no statutory or regulatory provisions that contemplate certification of individual components of a voting system, under state or federal law.

The current certified voting system in Maryland is EVS Voting Solution manufactured by Election Systems and Software, which is comprised of the DS200 precinct tabulator, the DS850 high speed tabulator, the ExpressVote ballot-marking device, ElectionWare election management software, Election reporting manager software, and a ballot box affixed to the precinct tabulator and in which voted ballots are stored. *See* COMAR 33.10.01.02.

The BMW used by some voters to pre-mark absentee ballots received via the web prior to printing is not considered to be part of the “voting system” under EL § 9-101(b), and, accordingly, was not subject to certification by SBE. In an OAG opinion dated August 23, 2012, OAG concluded that the BMW “allows voters to mark selections electronically on a downloadable ballot before it is printed, but it does not include a capability either to ‘cast’ or ‘tabulate’ votes,” and therefore did not meet the statutory definition of a “voting system” under

Maryland law. 97 Op. Att’y Gen. 32, 33 (Aug. 23, 2012) (the “OAG Opinion”). Notably, the OAG Opinion considered whether the fact that the ballot-marking wizard generated a bar code on printed, marked ballots, that could be used to “automatically generate the duplicate ballot card,” altered this conclusion at all, but concluded that it did not. In the end, the voter’s submitted ballot (including any hand marks added to the marked, printed ballot) remained the authoritative record of the voter’s intent, and any discrepancy between the submitted ballot and the “duplicated” ballot is resolved in favor of the submitted ballot. *Id.* at 47.

## **Analysis**

### **1. EL § 9-306(b) is Mandatory**

To begin, EL § 9-306(b) likely does obligate SBE to provide absentee ballots to qualified voters via the precise method selected by the voter. This interpretation gives effect to the most natural textual reading of the provision, whereas the alternative interpretation pursuant to which EL § 9-306(b) is deemed not mandatory would yield nonsensical results.

Subsection 9-306(b) is titled “Permitted methods for providing ballot,” and provides that if an applicant qualifies to vote by absentee ballot, “the local board *shall* provide the ballot by one of the following methods *requested by the voter*:

- (1) Mail;
- (2) Facsimile transmission;
- (3) The Internet; or
- (4) By hand during an in-person transaction.

EL § 9-306(b) (emphases added). The presence of the verb “shall” in this provision denotes compulsion: “Absent any other indication that the context requires a different interpretation, we will not depart from our practice of interpreting the word ‘shall’ as mandatory.” *State v. Rice*, 447 Md. 594, 625 (2016). What, precisely, is required of the local board then turns on what the participle phrase “requested by the voter” is deemed to modify. If that phrase is construed to modify “methods” – the phrase’s immediate antecedent (*i.e.* the “methods requested by the voter”) – then the local board *must* provide the absentee ballot by one of the methods requested by the voter, including by the Internet, if that is what the voter requests. If, on the other hand, the phrase “requested by the voter” is deemed to modify the more remote antecedent “ballot” (*i.e.*, the “ballot . . . requested by the voter”), the local board *must* provide the absentee ballot requested by any one of the four permitted statutory methods.

Here, the former interpretation – that the clause “requested by the voter” modifies the immediate antecedent “methods” – conforms to the accepted canons of statutory interpretation and yields the most sensible results.

*First*, this interpretation is indicated by the “generally recognized rule of statutory construction that a qualifying clause ordinarily is confined to the immediately preceding words or phrase[.]” *McCree v. State*, 441 Md. 4, 22 (2014) (quoting *Kane v. Bd. of Appeals of Prince George's Cnty.*, 390 Md. 145, 162, 887 A.2d 1060, 1070 (2005)) *see also* 2A *Sutherland Statutory Construction* § 47:33 (7th ed.). Also known as the “rule of the last antecedent,” *Davis v. State*, 426 Md. 211, 229 n. 6 (2012), this doctrine draws its authority from the intuitive notion that “[w]hen modifying words are separated from the words they modify, readers have a hard time processing the information” and that “the true referent should generally be the closest appropriate word[.]” Bryan A. Garner, *Garner's Modern American Usage* 540 (3d ed. 2009); *see Barnhart v. Thomas*, 540 U.S. 20, 26 (2003) (“construing a statute in accord with the rule is ‘quite sensible as a matter of grammar’” (quoting *Nobelman v. Am. Savs. Bank*, 508 U.S. 324, 330 (1993))). Because the last antecedent to the participle phrase “requested by the voter” is “methods,” the interpretation of § 9-306 that follows this rule would require the local board to provide the absentee ballot by the “method[] requested by the voter,” including via the Internet if that is what the voter requests.

*Second*, the interpretation that follows from the application of the “rule of the last antecedent” yields the most sensible results when related provisions of the code are considered.<sup>3</sup> Courts generally “interpret and harmonize statutes as a whole, giving meaning and effect to all parts of the statutory language and refraining from interpretations that render any part of the law surplusage or contradictory,” and “avoid constructions that are illogical, unreasonable, or inconsistent with common sense.” *Bd. of Physician Quality Assur. v. Mullan*, 381 Md. 157, 168 (2004) (internal quotations and citation omitted). Here, the alternative interpretation – which would allow the local or state board to choose the method of delivery of absentee ballots from among the four available alternatives – would be inconsistent with other provisions of the code. For example, section 9-305 establishes different deadlines for the submission of absentee ballot applications depending on the method of delivery *requested by the voter*. *See* EL § 9-305(b)(1)-(3).<sup>4</sup> It would not make sense to impose different deadlines for submitting applications based on

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<sup>3</sup> “The last antecedent rule does not apply ‘[w]here the sense of the entire [statute] requires that a qualifying [clause] apply to several preceding’ words.” *McCree*, 441 Md. at 21.

<sup>4</sup> Section 9-305(b) provides: “An application for an absentee ballot must be received by a local board:

- (1) if the voter requests the absentee ballot be sent by mail or facsimile transmission, [the application must be received] not later than the Tuesday preceding the election . . . ;
- (2) if the voter requests the absentee ballot be sent by the Internet, not later than the Friday preceding the election . . . ; or

the method of delivery requested by the voter, if the local board could disregard that request and deliver the ballot by the method of its choice.

For these reasons, the best reading of EL § 9-306(b) is that it requires a local board to provide absentee ballots to a qualified voter by the method requested by that voter, including via the Internet if the voter so requests.

## 2. The Novus BDS Is Not a Voting System

Next, in my view, the Novus BDS does not constitute or modify a “voting system” under EL § 9-101(b), and thus does not need to be “certified” by SBE under EL § 9-102(d) prior to its use. Although the analysis differs in some respects, this conclusion is informed substantially by the OAG Opinion, which reached the same conclusion with regard to the BMW and with which I am in agreement. Ultimately, however, the conclusion turns on whether the Novus BDS would become part of the method for casting votes that is currently certified as part of the voting system. Although the Novus BDS would be used at a point *during* the casting process (*i.e.*, after absentee ballots are submitted by voters, but before they are scanned by tabulating machines), it is best understood as a mechanism that exists alongside the current method for casting votes, but that does not purport to alter or even interface with that method.

The analysis begins with the language of the statute. *See* 97 Op. Att’y Gen. at 44. EL § 1-101(xx) defines “voting system” as “a method of casting and tabulating ballots or votes.” The OAG Opinion concluded that the use of the word “method” evinced an intent “to cover any technological approach to the job of ‘casting and tabulating’ votes, whether based on punch-cards, optical-scans, or any other type of platform that would later be developed.” 97 Op. Att’y Gen. at 44. Moreover, after evaluating the statutory scheme against the historical context from which the certification requirement emerged, the OAG Opinion concluded that the statute gives rise to a certification requirement that is “reserved for complete voting systems,” and not “individual components or subsystems.” *Id.* at 45. This conclusion is supported by the statute’s plain language, as it describes a single “method” that encompasses both “casting” *and* “tabulating” votes, such that a component of such a system that (for example) only “tabulated” votes would not meet this definition.<sup>5</sup> In other words, a “voting system” must include components that cover *both* the casting and tabulating of ballots or votes.

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- (3) if the voter or the voter’s duly authorized agent applies for an absentee ballot in person at the local board office, not later than the closing of the polls on election day.

EL § 9-305(b).

<sup>5</sup> This conclusion is somewhat at odds with the COMAR, which provides that the definition of “voting system” is intended to encompass any “component” of a voting system, and expressly includes any software or hardware “used by or with a voting system.” COMAR

The question, then, is whether the Novus BDS, standing alone, can be described as a comprehensive “method of casting and tabulating ballots or votes.” Plainly, it cannot. The analysis need proceed no further than examining the second statutory component – that the voting system be capable of “tabulating” ballots or votes. “Vote tabulation” (or “vote counting”) is defined as “the aggregation of the votes cast by individual voters to produce vote totals at any level.” EL § 11-101(g). An “aggregation” is “a group, body, or mass composed of many distinct parts or individuals,” or “the collecting of units or parts into a mass or whole.” *Merriam-Webster Online Dictionary*, <https://www.merriam-webster.com/dictionary/aggregation>. The Novus BDS is intended to duplicate individual ballots that have been marked and submitted by voters; it does not group, collect or assemble the ballots or votes for any particular contest(s) into a mass or whole (i.e. “aggregate”), nor is it equipped to “produce vote totals at any level.” Plainly, the Novus BDS is not a method for “tabulating” ballots or votes, and therefore is not a voting system subject to certification under EL § 9-102.

Even if the definition for voting system were construed in the disjunctive – that is, if a “voting system” were interpreted to mean a “method of casting *or* tabulating ballots or votes,” it would likely not be a “voting system” under EL § 1-101(xx). Although the question of whether the Novus BDS is a method of “casting” ballots or votes is closer, in my view, the best reading of the statute compels the conclusion that it is not.

The OAG Opinion explored the question of what it means to “cast” a ballot. It concluded that, on balance, dictionary definitions “marginally favor[ed] a reading of ‘casting’ that is focused on the process of *submitting* the ballot or vote for recordation and not the process of *marking* the ballot.” 97 Op. Att’y Gen. at 45-46 (citing *Black’s Law Dictionary*, *Webster’s New Int’l Dictionary*, and *Webster’s Collegiate Dictionary*). It cited the federal Help America Vote Act’s requirement that voters be afforded an opportunity to “verify . . . the votes selected” and correct any errors *before* the ballot is ‘cast and counted,’” as further support for the conclusion that to *cast* a ballot is to *submit* it for recordation. *Id.* at 46 (citing 42 U.S.C. § 15481(a)(1)(A)(i)). And, importantly, it cited cases from other jurisdictions arising in the context of absentee ballots, which held that it is the “depositing of the ballot in the custody of the election officials which constitutes casting the ballot or vote,” *Maddox v. Board of State Canvassers*, 149 P.2d 112, 115 (Mont. 1944) (Montana law); *see also Wakulla County Absentee Voter Intervenors v. Flack*, 419 So. 2d 1124, 1126 (Fla. App. 1982) (noting Florida statute providing that all absentee votes were “cast” in the election supervisor’s office).

The OAG Opinion noted that “casting” is also used to encompass both the marking *and* the depositing of the ballot, “as when, for example, a voter’s right to privately cast a ballot is invoked.” 97 Op. Att’y Gen. at 46. Thus, the voting system for persons with disabilities must

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33.09.01.01(4)(a)-(b). Nevertheless, “[w]here the language of a statute differs from relevant language in a departmental regulation, the statutory language must control.” *Cecil Cty. Dep’t of Soc. Servs. v. Russell*, 159 Md. App. 594, 611, 861 A.2d 92, 102 (2004).

“ensure the independent, private casting, inspection, verification and correction of secret ballots by voters with disabilities,” EL § 9-102(f)(2); *see also State ex rel. Stokes v. Brunner*, 898 N.E. 2d 23, 28 (Ohio 2008) (“electors who deposit their absentee ballots at a polling location during the absentee-voting period have cast their ballots under the plain language of [the relevant statute] by marking them and formally depositing them”). In distinguishing these contexts, the OAG Opinion noted that while “casting” may sometimes refer to both marking and depositing a ballot, “marking a ballot without officially submitting it for counting does not, by itself, amount to ‘casting’ a ballot or vote.” 97 Op. Att’y Gen. at 46. Instead, “[v]oters using the [BMW] can only cast their ballots in the same way that all other absentee voters do, *by mailing the ballot to the appropriate local election board.*” *Id.* At 47 (emphasis added). Accordingly, the BMW was not a “method” for “casting” ballots under Maryland law. Instead, an absentee ballot is “cast” when, after being marked, it is mailed to the appropriate local election board.

Critically for purposes of this analysis, the OAG Opinion concluded that the presence of the barcode on the voter-printed ballot – which allowed for the automated duplication of the marked ballot after it is submitted by the voter – did not alter this conclusion. *Id.* It noted that, as with hand-marked ballots:

the duplicate card is checked against the visible marks the voter made on the paper ballot, which remains the official record of his or her vote. If the ballot generated from the barcode does not match the visible record the voter has marked on the original paper she has submitted – where, for example, a voter using the ballot wizard later uses a pen to change her selection after printing the ballot – the visible record is used to create the duplicate and the barcode is disregarded. In this respect, the barcode is but a scrivener’s tool, an administrative convenience for streamlining and regularizing the intermediate process of copying the absentee voter’s choices into a system-readable format. At no point does the use of the barcode affect either the voter’s selections or the voting system itself.

*Id.* The analysis is substantially the same with regard to the Novus BDS at issue here. Whereas the BMW involved the marking of ballots and did not involve or interface with any system by which they were “cast” or “tabulated,” the Novus BDS interfaces with ballots that have already been cast, and – just like the role played by the barcodes on the printed BMW ballots – serves as a “scrivener’s tool” that allows those ballots to be “duplicated” onto a format that can then be scanned by the vote-counting machines. Thus, the ballots are introduced into the Novus BDS environment *after* they have already been cast, and duplicates are generated by that system, verified against the originals, and (if necessary) duplicated again manually, *before* the ballots undergo tabulation. As with the BMW, “at no point does the use of the [Novus BDS] affect either the voter’s selections or the voting system itself.” 97 Op. Att’y Gen. at 47.

In sum, the Novus BDS is not a “method of casting and tabulating ballots or votes,” nor is it a method of casting *or* tabulating ballots or votes. Accordingly, it is not a “voting system”

under the definition set forth in EL § 1-101(xx), and therefore need not be certified pursuant to EL § 9-102.

### **3. The Novus BDS Does Not Modify the Certified EVS Voting Solution**

The conclusion that Novus BDS is not a voting system does not end the analysis. The law requires that “[e]ach model or version of a voting system requires a separate application,” COMAR 33.09.03.02B(2), and “any change to the hardware, firmware, or software of a certified voting system (including any improvement, upgrade, or patch)” must be “submit[ted] . . . to the State Administrator for review of acceptance,” *id.* 33.09.07.02A(2). For many of the same reasons that Novus BDS is not itself a method of casting ballots or votes, it does not effect a “change to the hardware, firmware, or software” of the current certified voting system, and thus certification should not be required.

From the SBE’s description of the proposed use of the Novus BDS, the software would never be connected to any component of the current EVS Voting Solution, nor would it interface at any point with any of the components of that voting system. The closest it would come is where the duplicate ballots generated by the software and printed on ballot stock are introduced into the tabulating components of the EVS Voting Solution. But these duplicate ballots will by that time have been *verified as accurate against the original ballots submitted by voters*. In other words, there is a break in the link between the duplicated ballot generated by the Novus BDS and the tabulation of that ballot by the certified voting system: manual, visual confirmation and, if necessary, rejection by election officials.

In concluding that the BMW would not “represent a modification or addition to the [voting system],” the OAG Opinion noted that the “paper ballot that is created from the ballot wizard” – i.e., printed by voters – “is never introduced into the optical-scan system, but is instead separated from the vote-recording and tabulation processes by intermediate procedures needed to duplicate the voter’s original ballot onto a ballot card capable of being scanned.” 97 Op. Att’y Gen. at 50. Here, the same logic applies, but the “separation” between the Novus BDS-generated duplicate ballot and the voting system is the manual confirmation by election officials that the duplicate is, in fact, reflective of the voter’s selections.

The fact that the ExpressVote Ballot Marking Device – which is the assisted voting device used at polling places – is part of the certified EVS Voting Solution does not alter the analysis. The OAG Opinion distinguished the ballot-marking device that was part of the then-certified assisted voting system from the BMW by noting that, “[a]s a strictly legal matter, State law required a voting system that met accessibility standards,” and therefore “had to be considered as part of the system for certification purposes.” 97 Op. Att’y Gen. at 51. In addition, “the [assisted] device would mark the actual ballot cards fed into the scanning device,” and therefore “its performance and accuracy, and the quality of the marks on the ballot card would directly impact the performance of the optical-scan system.” *Id.* By contrast, not only did the BMW *not*

mark the ballots that would be fed directly into the scanning device, but “an absentee voter who has used a wizard to assist her in navigating through the various ballot choices before printing her ballot has the opportunity to review the accuracy of the marked selections at her leisure and to make any corrections she finds necessary.” *Id.* The OAG Opinion summarized this distinction between devices that are integrated into the voting system and those that are not:

Arguably, the need for testing and certification as to the[] core functions [of system performance and accuracy] would arise where the ballot-marking tool is integrated into the voting system because, once the ballot is cast in such an arrangement, the voter is completely reliant upon the voting system to record and tabulate all votes accurately. Because the State Board has determined that the ballot-marking wizard before us now is not so integrated, and the facts support its determination, we conclude that certification is not required.

*Id.* at 52. In the end, as with the BMW at issue in the OAG Opinion, the absentee voter whose ballot is duplicated by the Novus BDS is not “completely reliant upon the voting system to record and tabulate” that vote accurately, once her ballot has been cast. Instead, lying squarely between the interface between the duplicated ballot and the voting system itself is a layer of review and confirmation (or rejection, as necessary) of the duplicate by election officials, before the duplicate is introduced into the system. Accordingly, it is my view that the use of the Novus BDS does not constitute a modification or “change” to the firmware, software or hardware of a certified voting system,” or an “improvement, upgrade or patch” to any such system.

**4. The Use of the Novus BDS in Only Some Counties Would Not Violate the Uniformity Requirements of the Election Law Article.**

Finally, the use of the Novus BDS in select counties would not violate the requirement that the “electoral process for primary elections, general elections, and special elections . . . be uniform.” EL §8-101.<sup>6</sup>

Section 8-101 requires that, “[e]xcept where it would be inappropriate, or as otherwise provided in this article, the electoral process for primary elections, general elections, and special elections shall be uniform.” EL § 8-101. Whether the use of the Novus BDS in only some counties would violate this provision depends first on what aspects of the “electoral process for primary elections, general elections, and special elections” must be “uniform,” and then – depending on whether the “uniformity” requirement encompasses the use of the Novus BDS –

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<sup>6</sup> Other uniformity requirements in the Election Law article clearly do not apply here. EL § 9-101(b) requires that the same voting system be used in all counties, but since the Novus BDS is not part of the “voting system,” this provision does not apply. The same is true of EL § 9-204(b), which requires that “all ballots used in an election . . . be as uniform as possible.” The uniformity of the ballots themselves is not at issue with the Novus BDS.

whether it would otherwise be “inappropriate” to require uniformity in the deployment of the Novus BDS<sup>7</sup>.

- a. *Deployment of the Novus BDS in Only Some Counties Would Not Implicate the “Uniformity” of the “Electoral Process for Primary Elections, General Elections, and Special Elections.”*

In my view, the use by only some counties of the Novus BDS does not give rise to a kind of lack in uniformity that section 8-101 was intended to reach. I arrive at this conclusion for several reasons.

*First*, the most natural reading of the statute would impose the “uniformity” requirement only on the “electoral process for primary elections, general elections, and special elections.” That is to say, the electoral process must be uniform as it relates to primary elections, general elections, and special elections, meaning the same processes must be used in each of these three kinds of elections. The extent to which the Novus BDS is used in some counties and not others does not implicate this uniformity requirement, at least insofar as the counties that do use the Novus BDS use it in both the primary and general elections during this cycle (unless, of course, some other statute precludes this or it would otherwise be “inappropriate”).

*Second*, this interpretation is supported by the legislative history of § 8-101. Section 8-101 was adopted as it is written today in 1998, in connection with the implementation of the recommendations of the Commission to Revise the Election Code (the “Garber Commission”). The Garber Commission was established in 1996 “to make a comprehensive revision of the Election Code, based on a full review of the [then] current Code and the election process in all of its aspects.” *Report of the Commission to Revise the Election Code 2* (Dec. 1997) (internal quotations and alterations omitted) (the “*Garber Commission Report*”). The final proposal included clarifying and substantive revisions to the Code, but substantive changes that were “deemed to be potentially controversial” were “not . . . included in the full revised Election Code” proposal, but rather were “presented as . . . separate bill[s].” *Id.* at 4. Appendix C to the *Garber Commission Report* cataloged and summarized the proposed substantive changes that were included in the “full revised Election Code” proposal, *see id.* at 51-62, and Appendix D summarized the “separate bills proposed by the Commission” on account of having been deemed “potentially controversial,” *id.* at 63-64, 64-1 – 64-2.

Prior to the 1998 revision, the relevant provision that was amended and recodified as § 8-101 provided as follows:

Primary elections shall be held and conducted and determined in the manner and form provided by this article for general elections and subject to all regulations, requirements

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<sup>7</sup> Although § 8-101 also refers to exceptions that are “otherwise provided in this article,” I have not identified any other provision that would address these circumstances.

and provisions as prescribed by this article for general elections, insofar as the same are or may be applicable to primary elections, except as may be herein otherwise provided.

Md. Code Art. 33, § 5-3(a) (1996). As is clear from this language, this provision contained no broad “uniformity” requirement except insofar as primary elections were to be conducted “in the manner and form provided by this article for general elections.” Moreover, what became § 8-101 was *not* identified by the Garber Commission as a “substantive change” from the then-existing law. Against this backdrop, therefore, the interpretation of § 8-101 that requires “uniformity” only with regard to the conduct of primary, general and special elections is supported by this provision’s legislative history.

Indeed, in articulating its general goals at the outset of its work on this project, the Garber Commission noted that while “performance standards . . . should be uniformly applied throughout the state,” it also observed that:

Uniformity . . . should not be imposed so rigidly as to stifle creativity and preclude innovation. Standards established should not be a search for the least common denominator, but rather should assure that compliance with the standards will result in high level performance by all. Finally, there are striking differences between and among Maryland’s 24 local jurisdictions, predominant among which is size; these cannot be ignored when devising standards that must be applicable to and feasible for all.

*Garber Commission Report 2.* It is precisely this difference in size among Maryland’s local jurisdiction that is driving the selective roll-out of the Novus BDS.

*Third*, the SBE in practice has not required uniformity across all counties as to the conduct of the electoral process since the enactment of section 8-101. *See, Balto. Gas & Elec. v. Public Serv. Comm’n*, 305 Md. 145, 161–62 (1986) (the construction given a statute by the agency charged with administering it is entitled to deference). For example, in 2016 and 2018, the SBE staff authorized – but did not require – local boards to use the ExpressVote ballot-marking device to duplicate absentee ballots. As a result, some local boards did avail themselves of this opportunity (using procedures established and distributed by staff), while others did not, effectively creating the same lack of “uniformity” that would exist if only some local boards used the Novus BDS during this cycle to perform the same function. Indeed, the very purpose for making this process optional is the same purpose that is driving the limited deployment of the Novus BDS for this cycle: the larger counties can benefit from the efficiencies created by the use of these tools to a much greater degree than the smaller counties.

In sum, the plain language, legislative history, and practical interpretation of § 8-101(b) all point to the same conclusion: that the “uniformity” requirement of this provision has specific reference to the conduct of primary, general, and special elections within the State, and does not speak to whether the electoral processes *among* the 24 local jurisdictions must be uniform in all respects.

- b. *Even if the “Uniformity” Requirement Were Interpreted to Encompass the Use of the Novus BDS Across Different Jurisdictions, the Uniform Deployment of the Novus BDS May Be “Inappropriate”*

Even if § 8-101’s uniformity requirement were interpreted to encompass the use of the Novus BDS in all jurisdictions, the exception in the statute for instances where uniformity would be “inappropriate” could justify its deployment in only certain jurisdictions.

As the Garber Commission noted, “[u]niformity . . . should not be imposed so rigidly as to stifle creativity and preclude innovation,” and the development of standards must account for the “striking differences between and among Maryland’s 24 local jurisdictions, predominant among which is size.” *Garber Commission Report 2*. Both of these factors are at play here. The Novus BDS is a new technology for a which a limited deployment could prove beneficial for testing and validation purposes. At the same time, the Novus BDS – if it proves effective – is likely to achieve efficiencies that benefit larger counties to a substantially greater extent than smaller counties. In this context, there is a reasonable argument that it would be “inappropriate” to require uniformity among all counties in the use of the Novus BDS.

## I. Welcome

Nikki welcomed all the participants. All local boards participated by either attending the meeting or joining the conference call.

## II. Administration

- A. *Election Support Team Members* – Keith introduced various members from the staffing vendor. Sandeep Singh, General Manager of 22<sup>nd</sup> Century thanked everyone for the opportunity to provide services to the State of Maryland. Mr. Singh introduced Tonya Hubbard from Bizy Bee, who also thanked everyone for the opportunity to provide staffing services to the State of Maryland. Shafiq introduced Sheldon Walter from ES&S. Sheldon thanked everyone for their support and looks forward to meeting the rest of the election directors. He reminded everyone to provide feedback on the training so the training will be effective and useful.
- B. *Candidacy Filing & Proofing – Thank you* - On behalf of Ebony, Nikki thanked everyone for the excellent performance of the candidate filing deadline and the continued proofing efforts of the local boards.
- C. *On-the-Job Accident Reports* – Nikki reminded everyone if an employee is injured at the workplace, no matter what the injury may be, the employee must complete the required report. The report should then be sent to Sylvia or Joanne in the HR Department.

## III. Presentation: Bipartisan Policy Center – Matthew Weil

– Erin introduced Matthew Weil from the Bipartisan Policy Center. Mr. Weil presented information on the Bipartisan Policy Center's Election Line Data Collection Program. The program involves a poll worker at each precinct in a jurisdiction to count the number of people in line at the opening of the polls and then at the top of each hour through closing of the polls. Once the data is received by the Bipartisan Policy Center, the average wait time at each precinct, and each hour during the day, can be determined. The Bipartisan Policy Center accepts the data electronically or by paper form. The program is for the general election only, however the Bipartisan Policy Center will assist in both the primary and general elections.

Alysoun McLaughlin explained the process that Montgomery County used in prior elections. In that process, a card was handed to a voter and the voter wrote the time in which he or she got in the check-in line and then wrote the time in which he or she left the polling place. Alysoun reiterated that Montgomery County received good data so that issues could be addressed in certain polling places and issues that appeared in other polling places as a result of the data could be addressed. If the local boards are interested in participating in the program, they can email Mr. Weil directly or contact Erin. The presentation and handout is provided with this summary.

## IV. Voter Registration

- A. *New Cancellation Reason – Non-Citizen* – Mary reported that a “Non-Citizen” reason has been added to MDVOTERS when a voter's registration record is cancelled. This reason should only be used when a voter reports himself or herself as being a non-citizen.

- B. *ERIC Report* – Mary stated that the data entry as a result of the ERIC report is due on Tuesday, March 27<sup>th</sup>. She explained that there was an error in loading the original data, so when an attempt to load the data again occurred, the data was loaded incorrectly twice and resulted in duplicate records.
- C. *NVRA Deadline* – Mary reminded everyone that all NVRA activations, cancellations, etc. must be completed by the close of business on Wednesday, March 28<sup>th</sup>. Mary also recognized that any NCOA confirmation mailings will be on hold after the NVRA deadline.
- D. *Petitions* – Mary stated that there has not been any interest in referendum petitions. However, she has received questions about candidate and new party petitions. The deadline for candidate and new party petitions is in August.
- E. *SDR Training* – Mary reported that there are some local boards who have not assigned same day registration privileges to staff in MDVOTERS. Local boards must contact Roger so privileges can be assigned to those staff members.

## V. Voting Systems

- A. *Pollbook Update* - Brandon reported that a lot of testing is still being conducted on the pollbooks to address a software issue on the same day registration software. During the week of March 19<sup>th</sup>, the local boards will have a chance to participate in the final test of the software. Participation is voluntary.

Brandon also stated that he will be offering several webinars to review how to process same day registration voters in the pollbook.

Brandon reported that Saint Mary's County will be receiving new pollbook printers. The printers will be tested at SBE. The paper in the new printers is slightly different than the paper in the old printers. The old printers from Saint Mary's will be distributed among the local boards. Shelly stated that the price of the new printer is approximately \$650. Eventually, all of the old printers will be phased out of all the local boards.

Brandon reiterated that no local boards will be using the tablets for the 2018 Primary Election. If the redesign of the tablet is acceptable, then Charles and Caroline Counties will be using the tablets in the 2018 General Election.

Brandon stated that additional pollbooks were purchased and will be sent to the local boards once they are tested. Shafiq reiterated that if a local board requested additional pollbooks, then the request was included in the procurement.

- B. *Training* – Shafiq thanked everyone for completing the training assessment. The Regional Managers and Sheldon Walter analyzed the responses and a training plan has been set. If a local board requested ElectionWare or ERM training, the training will be conducted on a laptop. Shafiq reminded everyone that links will be provided to the local boards to provide feedback to make sure that training objectives were met and to improve training for the general election.
- C. *Ballots* – Natasha reported that ElecTrack has software patches available to fix issues with the headings. When someone logs into ElecTrack, a message will appear that updates are available, but someone with administrator rights may need to sign in to apply the patches.

Natasha also stated that ballot production will begin on Monday, March 12<sup>th</sup> and a candidate's voter registration record cannot be changed after Friday, March 9<sup>th</sup>. If a candidate's voter registration record is changed, contact the Candidacy & Campaign Finance Division at SBE immediately. By the end of next week, each local board will receive an excel spreadsheet detailing the ballot styles and quantities of each ballot style. Natasha reported that updates are being made to the L&A Checklist and the Election Checklist to be used after ballot production. Ballot proofing materials will be distributed to the local boards around Monday, March 19<sup>th</sup>.

## **VI. Project Management Office**

- A. *Staffing Dashboards* – Shafiq distributed the 2018 Gubernatorial Staffing flowchart and demonstrated the staffing dashboard on Smartsheets. The dashboard was created so that local boards could view any staffing information and report any staffing issues. The dashboards are active and any hiring requests from the local boards should be submitted through the 2018 Gubernatorial Staffing Dashboard (SBE/LBE). You may use the hiring request web form to submit the information. The dashboard does not require a login to access it and the links may be saved on a user's desktop if needed. Shafiq stated that any trainers that have been submitted to SBE appear in the dashboard. The links to the dashboard are provided below and the handout is provided with this summary.

The link to the 2018 Gubernatorial Staffing Dashboard (SBE/LBE) is <https://app.smartsheet.com/b/publish?EQBCT=bc30fcc3b0f64969a4081d28ceaf7baf>.

The link to the 2018 Gubernatorial Staffing Dashboard (Contractual Employees) is <https://app.smartsheet.com/b/publish?EQBCT=f66fd6b4ba364c68b232b5eed8008a9e>.

- B. *Inventory* – Keith thanked everyone for their patience during the implementation of the inventory software. He encouraged all the local boards to enter the point of contact into the inventory system and enter new equipment as it is received at the local board. Keith reminded everyone that if additional barcodes are needed, the local board should contact their Regional Manager. In the future, the local boards will be taking a leading role when conducting inventory. Inventory can be completed during the L&A process. During the week of March 26<sup>th</sup>, Keith is looking to conduct regional training on the inventory system. If a local board is interested in hosting a training session, contact Keith.
- C. *Cart Handle Repair/Replacements* – Keith explained that some of the local boards are experiencing difficulties with the locking component on the black transfer carts. Some of the locking components are broken and do not work. Keith stated that Howard County used JB Weld to secure the nut onto the screw so that the lock is still functional. Keith asked the local boards to let him know if the ramps for the black transfer cart are bent.

## **VII. Election Reform**

- A. *"Videos" Section – Online Library* – Cortnee thanked everyone for the cooperation and participation in the various video projects. She reported that a new "Videos" section has been added to the Online Library. Right now, the Hagerstown Recount video is listed and additional videos will be posted in the coming weeks.

## **VIII. Legislation**

HB1278 – Stuart Harvey reported that MAEO is supporting HB1278 as long as the audit does not have to be completed by the certification deadline. Stuart stated that HB1278 will be monitored closely and updates will be sent as he receives them. No written amendments have been produced and HB1278 was passed through subcommittee. The effective date of the bill is June 1<sup>st</sup>. Nikki stated that an automated audit would be required for both the primary and general elections and a manual audit would be required for only a general election. A manual audit would be optional for a primary election.

HB532/SB594 – Mary stated that offering same day registration on election day would be a constitutional amendment and the question must be printed on the ballot.

HB1717 – Mary reported that HB1717 would narrow the scope of who can ask for a voter registration list.

## **IX. Information Security & Technology**

A. *Maryland Association of Counties – Request for Assistance* – Nikki reported that she and Shafiq attended a meeting of the Maryland Association of Counties' (MACo) legislative committee earlier in the week. She addressed MACo about helping the local boards secure systems and data. Shafiq spoke to the MACo committee about the monthly computer assessments performed by the Regional Managers.

Nikki asked the local boards to contact their Regional Manager to report any IT issues and what kind of support may be needed. For example, if a local board needs firewall support, report it to the Regional Manager. While Chief Information Officers (CIO) for each county were not present, it is possible the presentation may trigger communications from the CIO. A couple of local boards reported that communication from the CIO has begun.

Shafiq thanked the local boards for understanding the necessity of maximizing security. He emphasized that if a Regional Manager cannot resolve an issue during the computer assessment, a 48 hour deadline will be enforced. To resolve an issue, the local board's IT department will have to get involved and screen shots that a solution has been applied will be sent to the Regional Manager. In addition, local board users will be locked out of MDVOTERS until all issues are resolved. Shafiq reminded everyone that if a security scan appears on a user's computer, do not cancel the scan and be sure to let the scan run. Nikki stated that MACO understands the importance of security issues, but the priority is to make sure data is secure. Nikki reported if SBE, the local boards and a possible MACo committee of CIOs met, issues of mutual interest can be discussed, including distributing a letter expressing the importance of county interaction with the local boards in regards to system and data security.

B. *Disaster Recovery Plans – Status of SBE Review* – Nikki reported that all of the disaster recovery plans have been reviewed and the local boards will be contacted soon.

C. *Ransomware* – Nikki distributed a handout about Ransomware to all participants. The handout is attached to this summary.

D. *Chrome Plan: Label as "Not Secure" on all HTTP websites* – Vincent stated that Chrome will begin putting a "not secure" label on all websites that do not have HTTPS beginning in July. Right now, SBE's main website is not an HTTPS site because the public does not enter any information on the website, but SBE is moving to an HTTPS site to prevent the display of this message starting in July. However, the Voter Lookup, Polling Place Lookup, and the Online

Voter Registration System (OLVR) are secure sites. Currently, all websites in Chrome have a neutral icon in the address bar, but in July, the address bar will say “Not Secure.” He also stated that websites that have a Security Certificate are shown with a green lock. Nikki encouraged the local boards to begin working on making websites secure by communicating with the local board’s IT department. If the local boards have any trouble switching websites to a HTTPS site, they may contact Vince.

- E. *DHS’ Cyber Hygiene Scans* - Nikki distributed a handout detailing the cybersecurity assessment and technical services offered by the Department of Homeland Security (DHS). She stated that SBE participates in the vulnerability scans of our websites, OLVR and MDCRIS. The service is free and local boards can go to the DHS website to subscribe to the services. Within two to three weeks of subscribing to the services, the local board will begin receiving weekly reports. If a local board needs assistance with the technical information included in the reports, they are encouraged to contact SBE for help. DHS will be attending the MAEO Conference next week.
- F. *DHS’ “See Something – Say Something” brochure* – Nikki distributed the “If You See Something, Say Something” flier provided by the Department of Homeland Security. The flier may be distributed to the election judges during training and provided with their supplies for early voting and election day. If a local board would like to order printed fliers, they may contact Nikki.

#### **X. LBE Questions**

Nikki stated that a gun policy for a polling place should follow State law and SBE has asked the Attorney General’s office for legal advice. Diane Loibel stated that an email regarding the permit to carry a concealed weapon in a polling place was sent to the Assistant Attorney General’s office.

Nikki asked Margaret Jurgensen to submit any questions or concerns about the absentee ballot printing and mailing contract via email so they can be addressed.

Brandon stated that he will be distributing a pollbook database for the local boards to use during election judge training.

Natasha stated that she will be sending or giving to the Regional Managers a database for ElectionWare training. She also stated that local boards may use the test decks with the DS200s for training purposes.

#### **XI. Future Election Directors’ Meetings**

No future meetings have been scheduled.

James F. Shalleck  
*President*  
Nahid Khozeimeh  
*Vice President*  
Mary Ann Keeffe  
*Secretary*  
Alexander C. Vincent  
*Member*  
David Naimon  
*Member*  
Jacqueline Phillips  
*Substitute Member*  
Alan Banov  
*Substitute Member*



**Montgomery County**  
**Board of Elections**  
Post Office Box 4333  
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Margaret A. Jurgensen  
*Election Director*  
Alysoun McLaughlin  
*Deputy Election Director*  
Janet A. Ross  
*Information Technology Manager*  
Jessica White  
*Voter Services Manager*  
Christine Rzeszut  
*Operations Manager*  
Kevin Karpinski  
*Counsel*

March 20, 2018

David J. McManus, Jr., Chairman  
Patrick J. Hogan, Vice Chairman  
Michael R. Cogan  
Kelley A. Howells  
Gloria Lawlah  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, Maryland 21401

Linda H. Lamone, Administrator  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, Maryland 21401

RE: Duplication of Ballots

Dear Chairman McManus, Vice Chairman Hogan, Board Members Cogan, Howells and Lawlah and State Administrator Lamone:

It has come to our attention that the Maryland legislature is in the process of reviewing the issue of ballot duplication as it pertains to the canvass of absentee ballots. Because this issue has a meaningful impact on Montgomery County, we wanted you to be aware of the challenges faced by Montgomery County due to the large volume of ballots needing to be duplicated and the resulting cost incurred by the current process. During the 2016 General Election absentee canvass, there were ballots that had to be duplicated so that they could be tabulated by the State's optical scan voting unit. Ballots requiring duplication, such as web delivery, Federal Ballot Only and any ballot that was damaged, had to be manually duplicated.

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18753 North Frederick Avenue, Suite 210 • Gaithersburg, Maryland 20879  
240-777-8500 • MD Relay 1-800-735-2258 • FAX 240-777-8505  
elections@montgomerycountymd.gov • www.777vote.org

Members of the State Board of Elections  
Linda H. Lamone, Administrator  
March 20, 2018  
Page 2

Duplication requires bi-partisan teams to transfer votes from the original, unreadable ballot to a scannable ballot of a matching style that can be tabulated by the scanning unit. The team members must alternate between reading, marking and double checking the ballots for accuracy.

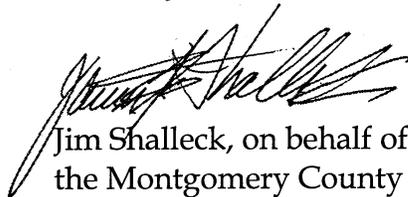
In the 2016 General Election, SBE guidance required an additional step in the duplicating process. In order to "marry" a duplicated ballot back to the original, unreadable ballot sent in by the voter, a match process had to be implemented. This process required teams to number the original ballot and the duplicated ballot with matching numbers, followed by sequentially numbering each subsequent ballot pair, using a yellow highlighter, which is unreadable by the ballot scanner, so it does not interfere with the tabulation process.

Another factor that contributes to the challenge of duplicating ballots is the short window of time to canvass ballots after the election. Overall, ballot duplication is administratively burdensome. Duplicating ballots significantly increases the overall canvass processing time, is labor intensive, costly and extremely time-consuming.

In the 2016 General Election, 19,133 web delivery ballots (38% of the total ballots canvassed in Montgomery County) had to be manually duplicated. This took approximately 2,565 man-hours at a cost of \$37,142.00. By comparison, the remaining 31,061 ballots that did not require the additional duplication steps were canvassed in 1,260 man-hours at a labor cost of \$18,258.00.

Thank you for your time and consideration on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Shalleck", is written over a printed name and title.

Jim Shalleck, on behalf of  
the Montgomery County Board of Elections

cc: Members, Senate Education, Health and Environmental Affairs Committee  
Members, House Ways and Means Committee