

JULY 6, 2006

STATE BOARD MEETING
151 WEST STREET, SUITE 200, ANNAPOLIS MD 21401

Attendees: Gilles Burger, Chairman
Joan Beck, Member
Bobbie Mack, Member
A. Susan Widerman, Member
Mark Davis, Assistant Attorney General
Nikki Trella, Election Reform Director
Donna Duncan, Election Management Director
Jessica Jordan, Budget Officer

Also Present: Catherine Countiss, St. Mary's County Election Director
Tracy Dickerson, Charles County Election Director
Loretta Brown-Malloy, Anne Arundel County Employee
Margaret Jurgensen, Montgomery County Election Director
Neal Jones, Baltimore City Deputy Director
Alisha Alexander, Prince George's County
Derek Walker, MDP
Dan deVise, Washington Post
Thomas Roskelly, MFFE

DECLARATION OF QUORUM PRESENT

Chairman Burger called the meeting to order at 9:08 a.m. and declared that there was a quorum present. Mr. Burger thanked the Board members for attending the meeting on short notice and thanked SBE employees for putting together the meeting despite the power outage at the office the prior day.

Mr. Burger noted that Tom Fleckenstein resigned from the Board on June 23rd and remarked that he was an active member that embraced the issues; the Board wishes him well. Mr. Burger asked that Mr. Fleckenstein's name be removed from the letterhead and web site immediately; Ms. Beck noted that the letterhead already reflects the change in Board membership.

ADDITIONS TO THE AGENDA

Mr. Burger added a discussion of the petition process as the first order of business and the E-poll book 5000 certification under New Business.

PETITION PROCESS

The State Board of Elections held a vote to hold a closed session in order to discuss the petition verification process, a matter which is the subject of pending litigation pursuant to State Government Article §10-508 (a)(8).

The Board members unanimously voted against having a closed session. As an explanation for his nay vote, Mr. Burger said that the discussion in which he was interested did not relate to the outcome of the pending litigation but rather the process, and therefore the discussion ought to be

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public. Since petitioners are not allowed to view the verification process, there exists a likelihood that the public does not understand the process. Mr. Burger commented that the recent decision of the Anne Arundel Circuit Court on the petitioners' challenge was a legitimate legal decision but was not a good decision from a policy perspective (state the decision??). Ms. Beck echoed Mr. Burgers sentiments and added that it was the Board's role to ensure that the process gives people confidence. Ms. Mack expressed interest in finding out exactly how the local boards verify names on the petitions. Because this topic is currently in litigation, Assistant Attorney General Mark Davis informed the Board that he would speak up if the conversation turned to sensitive areas regarding the lawsuit.

Donna Duncan was asked to give the Board a brief overview of the petition process. She explained that, at midnight on May 31, the signatures were due to the Secretary of State's office which then turned them over to the State Board of Elections. The State numbers the petition pages and forwards them to the correct local board with instructions for verification. The verification must be completed within 20 days and the results reported to the State Administrator; the State Administrator then reports the results to the petition sponsor. In response to a question from Mr. Burger about the specifics of the instructions for verification, Ms. Duncan explained that the instructions are uniform across all jurisdictions and that the statewide voter registration system (MDVOTERS) has a petition function that will mark that a voter signed a petition. Thus, people cannot be counted twice and if the signature belongs to a person registered in another county it can still be counted. Ms. Duncan further explained that because the petition sponsor had not accurately sorted all the House and Senate bill pages, the counties received added instructions to make sure that they were sorted and counted correctly.

Ms. Widerman inquired as to how the number of signatures is checked as the petitions are passed from the Secretary of State's office to SBE to the LBEs, to which Ms. Duncan responded that the count was the responsibility of the petition sponsor. Mr. Burger added that the petition sponsor was more interested in reaching the threshold number than in the actual number of signatures. Ms. Beck expressed belief that the number of signatures should be counted at each agency as they were passed along. Ms. Duncan responded that counting the signatures at each level would seriously jeopardize the timeline for verification; the number of signatures is not the same on each page.

Mr. Burger referenced the charges in a newspaper that Montgomery County found more valid votes after the deadline for verification passed due to difficulties with MDVOTERS; he asked Margaret Jurgensen, Election Director for Montgomery County, to comment on her problems. Before Ms. Jurgensen spoke, Mr. Davis expressed his objection to having this discussion in public because the topic is specifically related to current litigation. Mr. Burger acknowledged Mr. Davis' opinion but responded that he was willing to take the risk of having a public discussion.

Ms. Jurgensen discussed the special requirements of Montgomery County including the GIS Interface and the bilingual translation within the voter registration system; because of these two requirements the County relies on the legacy voter registration system to create documents and continues to maintain dual entry. Ms. Jurgensen discussed the short time period between receiving the petition module and having to verify the petition by the June 20th deadline. .

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Montgomery County completed the verifications on June 23 using both the legacy system and MDVOTERS, but an employee said after the deadline that at least 10 people were found in the legacy system whose signatures were not verified because they were not initially found in MDVOTERS. In response to a question from Mr. Burger, Ms. Jurgensen explained that she does not attribute this to human error but to the inconsistency of results of MDVOTERS searches.

Ms. Beck expressed concern about the search function and how this would affect the e-poll books on election day. Ms. Jurgensen further iterated that she was able to find all of the names in MDVOTERS but that it took some time; specifically, the Soundex feature had difficulty finding names and it was not uncommon to enter a name two to three times before it was found. She acknowledged that the county made the best effort possible to find all of the names.

Mr. Burger asked Alicia Alexander from Prince George's County if they experienced similar problems. Ms. Alexander echoed the comments from Montgomery County about the search criteria difficulty but stated that nine times out of ten the person was found in the system. An issue item was submitted to the help desk that outlined the difficulty searching. Prince George's County also performed a random check of signatures in the legacy system and found a 100% match with MDVOTERS. In response to a question from Ms. Beck, Ms. Alexander agreed that difficulty searching could cause problems on Election Day. Mr. Burger pointed out that on Election Day, a voter would be there spelling his/her name so there isn't a correlation between doing a database search for petitions versus pulling up a voter with exact information. In response to a question from Mr. Burger, Ms. Alexander said she was very comfortable with the number of petition signatures verified.

Neil Jones spoke on behalf of Baltimore City and said that while they experienced the same search issues, he is confident that the number of signatures verified is correct. Ms. Beck added that she is still concerned about Election Day, to which Ms. Duncan responded that it is a different system.

Ms. Beck noted that with the e-poll books, if you type in the name "Jones," an entire list of Jones's would appear creating a time-consuming search. Ms. Trella pointed out that not only will the names on Election Day be narrowed by precinct, the election official could use name and date of birth, first initial, etc, that would immediately find the correct voter. She also noted that performing an extended search on the poll book is less time-consuming than finding a name in a printed precinct register.

Ms. Widerman asked about the precinct-level search to which Ms. Trella clarified that if the voter cannot be found in the precinct the election judge can choose to search the entire county. If the voter cannot be found at all, or is at the incorrect precinct, he/she will be given the option to vote a provisional ballot. Ms. Jurgensen added that Montgomery County will print one precinct register per polling place just to have available, but that in their comparison of the legacy system to MDVOTERS, all voter records matched. She further added that they are very excited to have the e-poll books.

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POLLING PLACE CHANGE REQUESTS

Ms. Duncan informed the Board that the deadline for polling place change requests was June 13. However, several jurisdictions learned after the deadline of several required changes. The jurisdictions are Baltimore City, Prince George's County, Worcester County, and Montgomery County. Ms. Beck made a motion to approve all change requests; Ms. Mack seconded and the motion passed unanimously.

EARLY VOTING REPORTING

Mr. Burger asked for an update on what the local boards of election would be allowed to report each night of early voting. Ms. Duncan responded that there are two issues of reporting, the results and the persons that voted. Since the machines will not be closed out each night, the results from the day cannot be reported. Mr. Burger requested that the Board form a more specific policy on the type of information that can and cannot be distributed on each early voting day. Ms. Widerman added that the information given out should not be a means by which the outcome of the vote can be manipulated by the media, but she does not object to providing the number of voters that voted each day. Ms. Beck noted that it was her understanding that Ms. Lamone would be releasing the names of the people that voted each day to the newspaper, and Mr. Burger added that he was afraid it would have a detrimental effect on voter turnout. Ms. Mack explained that once a person votes it becomes part of the public history of the election and that the Board should not prevent someone from accessing public information. Mr. Burger made a motion that Board policy is to not release names of voters until after Election Day. Mr. Davis explained that while the information is public, having access to it does not necessarily guarantee an instantaneous response. Ms. Widerman seconded the motion and it passed 3-1 with Ms. Mack voting against it.

APPROVAL OF FORMS

Ms. Trella presented to the Board for approval the provisional ballot application, the late absentee ballot application, and absentee ballot instructions. Ms. Trella explained that the provisional ballot application had been updated to reflect new laws, regulations, and guidelines regarding provisional voting. Ms. Beck made a motion to adopt the revised provisional ballot application, late absentee ballot application, and absentee ballot instructions. Ms. Mack seconded the motion and it passed unanimously.

ELECTRONIC POLL BOOK 5000

Ms. Trella explained that, due to the lengthy contract process, it is essential to get the contract modification for upgrading e-poll books onto the Board of Public Works agenda for the July meeting. The only changes to the current contract are the upgrade to the e-poll book 5000 model and the quantity needed for Election Day (5500 total). The software is identical and the hardware is only cosmetically different. Mr. Burger initiated a motion for conditional approval of the modification pending certification by NASED and the State, with an email vote acceptable for final approval. Ms. Trella asked if this meant that the agency could continue moving forward with the paper work, to which Mr. Burger assured her they could and clarified the motion to be

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conditional on certification. Ms. Widerman seconded the motion and the Board unanimously approved it. Mr. Burger offered a second motion to conditionally approve the purchase of 5300 additional poll books also hinging on certification. Ms. Beck seconded the motion and it passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Burger stated the Election Assistance Commission (EAC) notified the Board of the upcoming audit of federal funds and that the Board welcomes any audit. He asked that the agency provide logistical support and that the EAC have access to the Office of Legislative Audit's (OLA) results. Ms. Jordan responded that the EAC auditors have already been given information to contact the OLA.

Ms. Beck asked if MDVOTERS has a bilingual function and what SBE was doing to fix the search issues; Ms. Trella assured her it did and that the MDVOTERS team was well aware of the search function issues and other interfaces.

ADJOURNMENT

The public meeting was adjourned at 10:55 a.m.

Gilles W. Burger, Chairman