

State of Maryland 

State Board of Elections – September 11, 2020 Meeting

Attendees (via conference call):

Michael R. Cogan, Chair
Patrick J. Hogan, Vice Chair
William G. Voelp, Member
Kelley A. Howells, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Andrea Trento, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy, Election Policy
Tracey Hartman, Director of Special Projects
Erin Perrone, Director of Election Reform and Management
Mary Cramer Wagner, Director of Voter Registration
Art Treichel, Chief Information Security Advisor
Shafiq Satterfield, Regional Manager Supervisor

Also Present: David Garreis, Deputy Director, Anne Arundel County Board of Elections
Armstead Jones, Election Director, Baltimore City Board of Elections
Ruie Lavoie, Election Director, Cecil County Board of Elections
Tracy Dickerson, Election Director, Charles County Board of Elections
Alisha Alexander, Election Director, Prince George's County Board of Elections
Wendy Adkins, Election Director, Saint Mary's County Board of Elections

DECLARATION OF QUORUM PRESENT

Mr. Cogan called the meeting to order at 2:00 pm. After taking roll call, he stated that all members were present, and that there was a quorum. He stated that the meeting was being livestreamed.

ADDITIONS TO THE AGENDA

Mr. Cogan stated that there would be a closed meeting at the conclusion of the open meeting and that no additional speakers were scheduled for today. In response to a question from Ms. Howells regarding a topic she wanted to discuss, Mr. Cogan stated that "Members' Remarks" was the appropriate time to bring up her concerns.

APPROVAL OF PROPOSED EMERGENCY CHANGES TO COMAR 33.08.05.01 and .04:

Canvassing – Post Election Verification and Audit

Ms. Hartman presented for adoption proposed emergency amendments to COMAR 33.08.05.01 and .04. The proposed changes:

1. Define an election day vote center and amends the definition of a precinct to include an election day vote center;
2. Remove the requirement for the precinct verification and audit of an election day voting center to include precincts with at least 300 registered voters. This change is needed because polling places defined by precincts with a predetermined number of registered voters will not be used on election day. Instead, the 5% requirement remains, with the minimum number of election day vote centers to be audited being one; and
3. Extends the definition of precinct through Regulation .09 of the Chapter, to allow for election day vote centers to be audited as a precinct in the manual audit that takes places after the election is certified.

In response to a question from Mr. Voelp, Ms. Hartman clarified that the number of precincts to be audited under COMAR 33.08.05.04 would be 5% of all election day and early voting centers, instead of 5% of precincts as the term is defined in a normal election. This is allowable under the proposed change to the definition of precinct in COMAR 33.08.05.01 to include election day vote centers.

Mr. Funn made a motion to adopt the proposed emergency amendments to COMAR 33.08.05.01 and .04, and Mr. Hogan seconded the motion. The motion passed unanimously.

NOVEMBER 3 ELECTION DISCUSSION

a. Member's Remarks

Ballot Requests: Ms. Lamone stated that over 650,000 requests for mail in ballots have been received and that local boards of elections and SBE's Voter Registration Division are busily processing requests. In order to process these ballot requests as fast as possible, we continue to work with the MVA to finalize the data processing center. The Department of Budget and Management is recruiting individuals for these positions and there are currently about 40 applications in process. Ms. Lamone stated that we are also working with the University of Maryland on a second data center and that the Maryland Association of Election Officials will be providing supervision of the data center staff.

Ballot Printing

Baltimore City- Question G Issue: Ms. Duncan stated that a notice will be included with the Baltimore City ballots regarding Question G. The language for the question was certified to us on August 7 by the Baltimore City Solicitor's Office. The attorney responsible for approving the language failed to take into account an amendment to the legislation that removed a sentence from the legislation. The error was discovered after the ballots had been posted for public comment and the printer had already begun printing the ballots. It was too late to redo the ballot development and proofing process. Mr. Trento developed a notice that will be included with all ballot packets, posted at all voting centers, and included with all sample ballots for Baltimore City. Mr. Trento concurred with Ms. Duncan's summary of the issue.

In response to a question from Mr. Funn regarding who is responsible for the cost of correcting the error, Mr. Trento stated that the statute does not provide for who is responsible for that cost. In response to a question from Mr. Hogan, Ms. Duncan clarified that the Maryland Secretary of State approves the language for statewide ballot questions. Mr. Trento further clarified that the attorney or law office for local government offices approve the language for local ballot questions, therefore the Baltimore City Solicitor is responsible for approving the language for ballot questions for Baltimore City. Mr. Trento stated that he would look into the question of which entity is responsible for the cost of this error.

In response to a question from Mr. Cogan regarding the supervision of employees at the data center, Ms. Duncan confirmed that the employees will be supervised by SBE staff. Ms. Charlson stated that we are also looking to the Maryland Association of Election Officials for assistance with supervision. Ms. Lamone stated that the data center is scheduled to open a week from Monday, September 14.

Ballots for In-Person Voting: Ms. Duncan reported that the primary printer for in-person ballots, Single Point Sourcing, committed its entire print shop to ballot printing for the next three to four weeks. The total number of in-person ballots to be printed is close to 20 million. She stated that

ballot test decks are the first step of the printing process, and they are expected to be delivered today. The first truckloads of ballots are expected to be delivered on September 25.

Mail In Ballots: Ms. Lamone announced that we have selected Taylor Corporation, a Minnesota-based company, to produce and mail our mail-in ballots for the 2020 General Election. Taylor has the ability to print and mail up to 4 million ballot packets for eligible Maryland voters who requested a mail-in ballot. This is part of a multi-vendor approach the Board has adopted to meet the unprecedented demand for specialized printing related to the 2020 General Election. She stated that Runbeck Election Services, Inc. is contracted to produce and send about 4 million ballot applications and postage-paid return envelopes. She stated that we are obtaining sample ballots and ballot packets from other vendors as a contingency.

Ms. Charlson stated that we conducted an extensive review of Taylor Corporation's capabilities and are confident in their ability to perform at the quantities that we need, including the capacity to print more ballot packets than we will need. Taylor Corporation submitted multiple rounds of test ballots for review. We also spoke with election officials in Clark County, Nevada, where the company implemented improvements to mail ballot packaging and provided sample ballot printing and oversaw delivery of sample ballots to more than 1 million voters during the 2018 General Election. Additionally, Taylor Corporation can meet our timeline to deliver ballots, and has a plan to place the ballots into the United States Postal Service's mail stream locally, rather than out-of-state. Ms. Charlson explained that originally, we assigned SeaChange a portion of the mail-in ballots required for the November election due to concerns about capacity to produce the number of packets needed for the general election, however, SeaChange notified the Board this week that it declined to produce the requested mail-in ballots.

In response to a question from Mr. Hogan, Ms. Charlson clarified that Taylor Corporation has previously printed ballots for Clark County, Nevada, which includes Las Vegas, but she was unsure if the company has printed for ES&S before. In response to a question from Mr. Cogan, Ms. Charlson stated that printing is on schedule. Taylor Corporation confirmed that six thousand ballot packets for UOCAVA voters will be mailed next week, and the first round of ballots for domestic voters will be mailed in a few weeks. In response to a follow up question from Mr. Cogan regarding how can we verify that the appropriate checks in place after the primary, Ms. Charlson stated that Taylor Corporation agreed to all checks that we requested, they will provide daily reports starting this coming Monday, and random ballots are being sent to us as a test.

Mr. Hogan, speaking to the public, advised voters not to panic if they have not received their ballot 45 days before the election. In response to a comment from Mr. Hogan regarding the ballot status section of SBE's Voter Lookup tool, Ms. Charlson stated that the website is updated daily with information from the voter registration database.

Ms. Lamone stated that she learned today, on a phone call with the National Association of Secretaries of State, that the USPS is sending to all postal customers a generic postcard about how to vote. Because this postcard is generic, there is incorrect information contained in the postcard related to voting in Maryland. She stated that she is trying to stop the mailing of postcards to Maryland residents but does not have an answer currently, but wanted to make the Board aware.

Outreach to Incarcerated Voters: Ms. Howells stated that at a meeting last year, the members heard from an speaker who advocated for assistance in getting ballots to incarcerated voters, but has not heard of any follow up regarding the topic until today, when the members were provided with a letter from a voting rights organization outlining the steps SBE has taken to get ballots to

incarcerated voters. Ms. Charlson stated that we send many mailings before an election, including a voter registration application and mail in ballot request to individuals in detention centers who are eligible to vote. She clarified that the forms sent to detention centers are the same voter registration and mail in ballot applications that are on our website and mailed to those who request them; only the cover letter is different to explain who is eligible and how to participate. In response to a follow up question from Ms. Howells, Ms. Charlson stated that the Baltimore City Detention Center, because it is run by the Maryland Department of Public Safety and Correctional Services and therefore is a state facility, provides us with a list of inmates who are eligible voters who in turn receive an individual mailing. In the other 23 jurisdictions, the detentions centers receive blank packets containing the voter registration and mail in ballot application, which the detention centers then distribute.

Mr. Cogan noted that the mailings to incarcerated voters are sent pursuant to the statute. Ms. Howells stated that her concern is that all voters are treated the same and that the state and local boards of election shouldn't be engaging in get out the vote (GOTV) efforts. She pointed to individuals in hospitals who are eligible to vote but can't. Ms. Charlson stated that there are procedures for local boards to serve voters in nursing homes and hospitals. The outreach to incarcerated voters, she stated, isn't a GOTV activity, but rather another way of providing applications to voters as was the case with four million registered voters in the state.

Voter Outreach: Ms. Duncan expressed her appreciation for the public relations firm that has been assisting us, in particular handling many routine press inquiries, as well as website development and press releases. Ms. Charlson played the audio of a radio advertisement that the firm created and shared that the first TV ad will air this coming Sunday, September 13, during the Ravens game.

b.- d. Approval of Early Voting Center Changes, Election Day Voting Centers, and Additional Ballot Marking Devices (Combined)

Anne Arundel County: Ms. Charlson presented a request from the Anne Arundel County Board of Elections to approve three additional election day voting centers which will be combined with its existing 21 election day vote centers and seven early voting centers for a total of 31 voting centers on election day. On election day, 98.5% of voters live within five miles of a voting center. Mr. Garreis stated that the Anne Arundel County Board of Elections plans to add Arnold Elementary School in Arnold, Lindale Elementary in Severn, and Van Bokkelen Elementary School in Linthicum. In response to a question from Mr. Hogan, Mr. Garreis stated that the lunchroom at Van Bokkelen Elementary School, which is over 3,000 square feet, will be used for voting, and that the school has over 100 parking spaces and therefore the facility is adequately sized for a vote center. Also in response to a question from Mr. Cogan, Mr. Garreis stated that he feels good about preparations for election day.

Baltimore City: Ms. Charlson presented a request from the Baltimore City Board of Elections to approve eight early voting centers, including two previously approved facilities and six new facilities. This request includes the additional early voting center as authorized under EL §10-301.1. During early voting, 100% of voters live within five miles of an early voting center. For election day, Ms. Charlson presented a request from the Baltimore City Board of Elections to approve 16 election day vote centers, to be combined with the eight early voting centers, for a total of 24 voting centers on election day. On election day, 100% of voters live within five miles of a voting center. In response to a question from Mr. Hogan regarding the use of Camden Yards as

an election day vote center, Mr. Jones stated that Camden Yards if the Board approved the use of Camden Yards as a voting center, then he would take his request to Camden Yards for approval.

In response to a question from Mr. Cogan regarding election judges, Mr. Jones stated that his office had more than enough individuals signed up as election judges. In response to a question from Mr. Funn, Mr. Jones stated that Baltimore City would only have the required seven early voting locations if Camden Yards was not approved as a voting center

Charles County: Ms. Charlson presented a request from the Charles County Board of Elections for one additional proposed new election day vote center for a total of nine voting centers on election day. On election day, 85.6% of voters are within five miles of a voting center, which is an increase from 83%.

In response to a question from Mr. Cogan, Ms. Dickerson stated that her office has enough election judges and will be able to efficiently move voters through the voting centers.

Prince George's County: Ms. Charlson presented a request from the Prince George's County Board of Elections for one additional proposed new early voting center located at FedEx Field. During early voting, 99.9% of voters live within five miles of an early voting centers. Ms. Alexander stated that FedEx Field was made available as a voting center in the last few weeks. She stated that it would be prudent to make use of an additional available location for a voting center, and that due to the size of FedEx Field, it would be easy to move voters quickly using the concourse area. In response to a question from Mr. Hogan, Ms. Alexander stated that Prince George's County has 11 early voting centers and 41 total election day vote centers with the inclusion of FedEx Field. Mr. Hogan stated that he thought using FedEx Field as a voting location was a great idea. In response to a question from Mr. Cogan, Ms. Alexander stated that she is feeling very good about election preparations, noting that her office is doing well with election judge numbers, has plenty of voting locations, and is doing robust voter outreach to encourage voting by mail. Mr. Voelp stated his appreciation that the large jurisdictions are "upping the game" in terms of number of voting locations and thanked Ms. Alexander for her efforts in that regard.

Ballot Marking Devices: Ms. Perrone presented a request from the Baltimore City Board of Elections to allow for four ballot marking devices at each of its election day vote centers.

Mr. Hogan made a motion to approve the proposed early voting centers, election day vote centers, and ballot marking device increase, as presented by SBE staff, and Mr. Voelp seconded the motion. The motion passed unanimously.

Saint Mary's County: Ms. Charlson stated that this discussion began at the last meeting on September 4 and was tabled. She recalled that two meetings ago, on August 28, the Board approved a plan for Saint Mary's County that included two early voting centers and five election day vote centers. Last week, Ms. Charlson presented a revised plan from the Saint Mary's Board of Elections that included one early voting center and six election day vote centers, which will be combined with the early voting center, for a total of seven election day voting centers.

In response to a question from Mr. Cogan, Ms. Lamone stated that she emailed the County Administrator, who responded that the St. Mary's Commissioners had no position on a second early voting center and deferred to the St. Mary's County Board of Elections.

Mr. Hogan summarized his frustration with the situation. In response to a question from Mr. Hogan regarding if other facilities were available to use for early voting, Ms. Adkins stated that her office has aggressively looked for facilities in the southern half of St. Mary's County but that no other facility met the requirements for an early voting center. Ms. Adkins stated that she also received a letter from the NAACP, which Mr. Hogan had referenced, and none of the facilities suggested in the letter are available for or meet the requirements for an early voting center.

After consultation with Mr. Trento, the Board concluded that it could not force St. Mary's County to open a second early voting center without the collaboration of the local governing body.

Ms. Howells made a motion to approve the revised proposal from St. Mary's County for one early voting center and six election day vote centers, and Mr. Hogan approved. The motion passed unanimously.

In response to a question from Mr. Hogan, Ms. Charlson confirmed that the Board has approved all early voting centers, election day vote centers, and requests for additional ballot marking devices for all 24 local boards. In response to a follow up request, Ms. Charlson stated that she could provide the total number of voting locations and ballot drop off boxes by jurisdiction to Mr. Hogan and the other members soon as the list was complete.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Cogan stated that he would disclose his contributions at the next meeting.

SCHEDULE NEXT MEETING

The next meetings are scheduled for Thursday, September 24 at 2 p.m. and Thursday, October 10 at 2 p.m. Mr. Cogan noted that the meeting on October 8 would be the last meeting before election day.

Mr. Funn congratulated the SBE and local boards staff for their hard work and success this far in – preparations for election day. He also stated that this is the last meeting for Ms. Perrone and wished her well. Finally, Mr. Funn recognized that today is September 11th and remembered those who perished on this day 19 years ago.

CLOSED SESSION- LEGAL ADVICE

Mr. Cogan requested a motion to close the board meeting under General Provisions Article, §3-305(b) (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending or potential litigation. Meeting in closed session allows the members to be briefed on a personnel matter and share their views without compromising the confidentiality of those discussions, consult with Board counsel without waiving attorney-client privilege and obtain information relevant to potential or pending litigation. Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7) and (8), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(7) and (8) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation.

The closed session began at 3:59 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, Mr. Funn, and Mr. Voelp attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting.

Mr. Trento shared legal advice with the board members.

No actions were taken.

The closed meeting adjourned at 4:15 pm.

ADJOURNMENT

Mr. Hogan made a motion to adjourn the open meeting, and Mr. Voelp seconded. The motion passed unanimously. Mr. Cogan stated that the Board would not be reconvening after the closed session.

The open meeting adjourned at 3:45 pm.