

FEBRUARY 27, 2007

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

Attendees: Gilles Burger, Chairman  
Bobbie Mack, Vice Chairman  
Joan Beck, Member  
Andrew Jezic, Member  
Linda Lamone, Administrator  
Bill Varga, Assistant Attorney General  
Ross Goldstein, Deputy Administrator  
Donna Duncan, Election Management Director  
Mary Wagner, MDVOTERS Project Sponsor  
Joseph Torre, Director, Procurement and Voting Systems  
Jessica Jordan, Budget Director  
Nikki Trella, Election Reform Director  
Jared DeMarinis, Candidacy and Campaign Finance Director

Also Present: Mary Kiraly, MD – Election Integrity Coalition

#### **DECLARATION OF QUORUM PRESENT**

Chairman Burger called the meeting to order at 1:40 p.m. and declared that there was a quorum present.

#### **APPROVAL OF January 29<sup>th</sup>, 2007 BOARD MEETING MINUTES**

Ms. Beck made a motion to accept the minutes as presented. Mr. Burger offered the following language for the second paragraph on page 10: “Mr. Burger expressed disappointment that Ms. Lamone questioned his integrity and. . .” Mr. Burger made a motion to approve the minutes as amended, and Ms. Beck seconded the motion. The minutes of the January 29, 2007, board meeting were approved unanimously.

#### **ADDITIONS TO THE AGENDA**

Ms. Beck noted that the report of the Assistant Attorney General was omitted from the agenda and made a motion to reconsider the motion she made at the January 29<sup>th</sup> board meeting. Ms. Beck re-read her motion:

There are many Maryland citizens – from across the political spectrum, who believe that their votes may not have been recorded or may have been recorded incorrectly. We must alter this perception by making a voter verified paper trail available. Since the House of Delegates is currently addressing this issue, I believe that the State Board of Elections should make it a policy to explore, examine and determine, if a reliable voter verified paper trail capability exists with our current Touch Screen machines or if not, what direction we should pursue to achieve this goal.

Ms. Beck noted that, since the Administrator now believes that there is a consensus to move toward a paper trail, that the motion should be reconsidered. Ms. Lamone responded that her testimony does not support the motion, and while she offered a compromise for those individuals who wish to vote on paper, she had many qualifiers in her testimony about paper trail and noted that she did not use the word “paper.” Ms. Mack noted that she does not want to require paper, as there are other technologies available. Mr. Jezic restated his concerns about the motion and

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noted that they continue, although there is more of a legislative record. In response to a question from Ms. Mack, Ms. Beck agreed to replace the term “voter verified paper trail” with “voter verifiable voting system.” Ms. Lamone noted that public opinion polls do not support the statement in the motion that many citizens do not believe that their votes have been recorded correctly and that there is no voter verified paper trail option available on the State’s voting system. Ms. Mack inquired as to whether current technology is always reviewed, to which Ms. Lamone noted that it was. The motion failed with a 2-2 vote, with Mr. Burger and Ms. Beck voting in favor of the motion, and Ms. Mack and Mr. Jezic voting against it.

### **ADMINISTRATOR’S REPORT**

Before beginning her Administrator’s Report, Ms. Lamone informed the Board that Bob Antonetti, the Administrator for the Prince George’s County Board of Elections, died on Saturday, February 24, 2007. Mr. Burger recognized Mr. Antonetti’s long service to the citizens of Maryland.

#### **1. Meetings**

##### NASED Winter Conference

Nikki Trella and Linda Lamone attended the 2007 National Association of Election Directors Winter Meeting in Washington, DC. The meeting covered a variety of important topics including:

- EAC’s development of Management Standards for such things as, voting system certification, contingency and disaster planning, audit trails, public relations, and change management.
- Update on the status of Voluntary Voting System Guidelines being developed by the Technical Guidelines Development Committee.
- Review of research projects being conducted by the EAC.
- A lessons learned session with presentations by Colorado, Massachusetts, Pennsylvania, and Virginia.
- A review of pending federal legislation.
- A review of election litigation.
- Presentation by 3 states on their programs for certification and ongoing education of local election officials.

Complete meeting notes are being finalized and will be distributed upon completion.

##### Lessons Learned

The second lessons learned meeting for February 14<sup>th</sup> was cancelled. The topic, Pre-Election Activity, will be discussed at the March 14<sup>th</sup> meeting. The minutes for the first lessons learned meeting were sent to the local boards and are included in the Board meeting materials. In response to a question from Ms. Mack about what could be changed, Mr. Goldstein noted that staff members will be meeting to identify the best practices and strategies that could be used statewide.

Ms. Mack asked about the NASED review of federal legislation. Ms. Lamone relayed NASED’s concerns with Representative Holt’s bill, which has an effective date for the 2008 elections and will be very difficult for the states to comply. She noted that she expects Senator Feinstein to introduce a similar bill and that the elections community is working with the National

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Association of Counties, the National Association of State Auditors, and the corresponding association for municipalities to bring reason to the bill.

## **2. Voter Registration**

### JAD Sessions

To continue to improve MDVOTERS, the state-wide voter registration database, the Joint Application Development (JAD) process for 2007 continues:

- Saber recorded the proposed changes and priorities at the JAD sessions held in January and, on January 29<sup>th</sup>, submitted to SBE a document detailing that information.
- JAD participants at SBE reviewed and revised the submission and, on February 6<sup>th</sup>, distributed the JAD document to the participants from the LBEs for comment.
- Comments were collected by SBE, the document was again reviewed and revised, and, on February 20<sup>th</sup>, the JAD record was returned to Saber to begin software development.

### Schedule of Changes

- April 15<sup>th</sup> will be the date for Priority 1 items – (1) Absentee Management; (2) Election Workers; (3) Petitions; and (4) Appropriate Reports and Labels.
- July 15<sup>th</sup> will be the date for Priority 2 items – (1) Election Management (municipal elections and voting history); (2) Provisional Voters; and (3) Reports and Labels.
- November 26<sup>th</sup> will be the date for Priority 3 items – (1) Election Management (state-wide elections and election calendar); and (2) Companion Reports and Labels.

### Voter Merge

The Voter Merge process, used to identify and eliminate duplicate voter registrations and which began during the week of January 15<sup>th</sup>, continues:

- Beginning the week of January 29<sup>th</sup>: one authorized user from each local board of elections (LBE) was given access to Voter Merge in MDVOTERS and staff monitored the progress of the merge activity.
- As of the February 16<sup>th</sup>: Many of the smaller LBEs have completed the merging of their potential duplicate voters; the mid-sized jurisdictions are more than half finished; and some of the largest jurisdiction have also completed more than 50% of the potential merges.
- For the week of February 26<sup>th</sup>: the voter merge process is to be completed by the LBEs, and, on March 1<sup>st</sup>, the merge privilege will be turned off.

Once the current Voter Merge has been completed, staff will evaluate the success of the process to determine if, and how frequently, the exercise should be repeated for MDVOTERS to completely meet the 2002 Help America Vote Act (HAVA) requirement of one voter registration record in a statewide database.

## **3. Help America Vote Act**

### Polling Place Evaluation

Under regulations, members and staff of the local board of elections or other approved entities or individuals (i.e. the League of Women Voters) can make unannounced visits to polling places to evaluate the election judges' compliance with procedures and their general performance. Nikki Trella wrote and distributed a Polling Place Evaluation Form to be used during both the Primary and General Elections in 2006.

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Jaimie Jacobs is in the process of entering data from Polling Place Evaluation Forms received for the last Primary and General Elections. Data will be used to identify areas for increased focus during Election Judges' training. LBEs will also be informed of evaluators who turned in multiple incomplete forms to reduce this occurrence for future elections. Jaimie is also drafting suggested revisions to the Form to reduce incomplete or conflicting responses from evaluators.

#### Election Judges Manual

Staff has begun to identify changes that may need to be made to the Election Judges' Manual for the next election. However, many changes will depend on the outcome of legislation. Guy Mickely, President of MAEO, submitted two names of LBE staff who want to be on the Manual Review Committee and will be submitted additional names.

#### **4. Candidacy and Campaign Finance Division**

The Candidacy and Campaign Finance Division received 206 Contribution Disclosure Forms from qualifying persons on February 5<sup>th</sup>. The semi-annual Contribution Disclosure Form, a required filing by either a person who does business with the State involving consideration of \$100,000 or more and makes campaign contributions of \$500 or more to a candidate or a person who provides lobbyist compensation and makes campaign contributions greater than \$500, covered the period from August 1 to December 31, 2006.

#### **5. Electronic Poll Books**

##### Project Update

A comprehensive review of the EPIC server and electronic poll book documentation has been conducted and document revisions are in progress.

Staff has re-configured the EPIC server #2 disk array for improved reliability. In addition, staff has re-installed the Windows Server 2003 Operating System and SQLServer2005 database to be entirely compliant with Maryland state security guidelines.

Database Queries and automated test scripts have been completed for conducting exhaustive electronic poll book data integrity and limit testing. This should eliminate the possibility of the isolated data-related problems experienced in past elections.

Hourly Turnout profiles from the General Election, based on data from the electronic poll book transaction logs, have been completed for all polling places in the state. Precinct data for each of the Board members' precincts were provided in their folders. Ms. Mack noted that she was concerned about lines when turnout is high and the number of voters who, because of the lines, leave without voting. Ms. Lamone noted that there was an inadequate number of voting units assigned to precincts in Prince George's County in the recent election.

Finally, the SBE has provided electronic poll book support for municipal elections in Annapolis in January 2007 and in Salisbury on February 27<sup>th</sup>.

##### Required Tasks

Status of tasks remaining to be completed by Diebold under the electronic poll book contract:

- Electronic poll book and EPIC Server documentation: 80% complete. Estimated completion February 28, 2007.

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- Root cause analysis of electronic poll book errors experienced in the General Election: of the 16 error types documented, 8 have been evaluated and corrected. The remaining error types were extremely infrequent (an average of only 2 occurrences each) and Diebold has not been able to replicate them.
- Demonstrate Wide Area Network connectivity between electronic poll books: an early voting emulation stress test is scheduled for the week of March 12<sup>th</sup>. The test plan calls for 800 voters to be checked in at each of 15 electronic poll books located at 3 remote sites (5 per site) connected via a WAN.

## **6. Voting System**

### Maintenance

The voting system team is rolling out the new equipment repair process to the local boards. The process has been introduced to Baltimore and Charles Counties. They have received instructions on the shipping procedures, installation of software, and the full acceptance process. SBE voting system team is scheduling the remaining counties for training.

The voting system team is finalizing the Post-Election Maintenance procedures for the voting equipment. These procedures have been enhanced from the 2005 procedures and include maintenance on the memory card, UPS batteries and other peripherals. The voting system team will start to rollout these procedures to the local boards in March.

### Schedule

The voting system team is developing the schedule for the 2008 Presidential Election cycle. The SBE voting system team is working with Baltimore City to determine a schedule and the necessary support required for the Baltimore City Mayoral Election in September 2007.

### Ballots

The voting system team submitted the names of three Maryland printing companies to DESI. The voting system team has requested DESI to provide the printing companies with the requirements for printing optical scan ballots and to verify that the printers have the capability to print the ballots. Ms. Lamone noted that having in-state printers will reduce the wait for ballots coming from the West Coast.

The voting system team has contacted the National Federation of the Blind (NFB) to use their recording studios to produce the audio ballots. Last week, DESI said they would provide the NFB with the requirements.

The voting system team will monitor these initiatives in their weekly status meetings.

## **7. Budget and Personnel**

### Election Director Recruitment

The personnel office is working hard to fill current and upcoming Election Director vacancies. Three are currently vacant (Baltimore City, Dorchester County, and Prince George's County), and three are anticipated (Anne Arundel County, Carroll County, and Kent County). The Dorchester County Board is in the middle of the interview process and hopes to make a decision and fill the position in March. Baltimore City is preparing to advertise for the position. Pat Matsko and Florence Sutton, from Carroll and Kent Counties, respectively, are retiring on March 1<sup>st</sup>. Barbara Fisher's retirement date is May 1<sup>st</sup>, and she has already been appointed to the Anne

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Arundel County Board of Elections. We are anticipating one more retirement this year but do not have definitive information yet. All of these people have dedicated so much energy to elections, and they will leave big shoes to fill.

#### Federal Fund Reports

Maryland was one of many states asked to resubmit reports to the EAC on federal fund spending. Amended reports have submitted for Section 101 funds (general election improvement) for 2003 through 2005. Amended reports for Section 251 funds (voting system and MDVOTERS) will be submitted at the end of the month. The only changes to the reports are the inclusion of the interest earned on the federal funds. Copies of the first set of amended reports were provided to the Board members.

#### Fiscal 2007 and 2008 Budget

Fiscal 2008 budget hearings were successful in both the House and the Senate. We restored \$400,000 in funding for the UMBC Election Center and have received a deficiency appropriation for the election judge refresher training and for the printing of additional absentee ballots prior to the General Election. The State will reimburse the local boards for about \$915,000 in costs related to those two items. Unfortunately, the Governor has continued the statewide hiring freeze and has made statewide budget reductions related to personnel in the current fiscal year. Administrative staff is currently re-evaluating fiscal needs in order to spend only as necessary.

### **8. Procurement - Election Management System Support**

Staff is in the process of conducting a procurement for software enhancements and modifications, trouble shooting and proactive system maintenance for the election management software (EMS). EMS includes (1) Candidate Registration and Campaign Finance System (ELECTTrack Agency System); (2) Campaign Finance Electronic Filing System (EFS); and (3) Pre and Post Election Management System (Ballot System).

A pre- proposal conference was held Friday, February 16, 2007 at 10:00am. Thirteen vendors attended and two Department of Budget and Management representatives attended the pre-proposal conference. The minutes of the meeting along with the first amendment was sent to all Master Contractors on February 21, 2007.

The contract with CSC ends March 31, 2007. SBE intends to award a new contract to the bidder that best meets the expertise qualifications and project specification within cost before February 28, 2007. The new contract will begin on March 7, 2007 to provide a transition period.

### **9. Legislation**

Ms. Lamone referred the Board members to the three page list of legislation in the Administrator's Report and the tracking chart showing the status of each bill.

Ms. Mack inquired about SB 417 (*Candidate and Other Outdoor Signs – Removal and Enforcement*), which requires the local Election Director to report to the State Administrator signs not removed within 24 hours of election. Ms. Mack noted that there was not a sufficient level of detail in the bill, and Ms. Lamone responded that it is likely that this bill will be studied during the summer. Mr. Burger noted that there was frustration that campaigns leave signs at polling places, and in response to Ms. Mack's question as to whether the county Public Works

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Department could pick up signs, Donna Duncan noted that the State Highway Administration testified at the bill hearing that the Administration was only responsible for signs on State highways.

Ms. Mack also noted that SB520 and HB 886 (*Every Vote Counts Act*) requires the State Board to issue election judges' training material six months prior to an election. Ms. Duncan noted that the local boards recognize that the six month timeframe is not feasible and that splitting precincts to meet the requirements of the bill would increase the number of precincts by 1300 precincts.

Mr. Jezic inquired as to whether SB 523 & SB 598 (*Telephone Solicitation – Prohibitions on Automated Calls/Political Telephone Calls*) and HB 589 & HB 652 (*Pre-Recorded Phone Message – Sponsor Identification*) were likely to pass. Ross Goldstein noted that HB 589 & HB 652 only require a sponsor statement, not a ban on the calls.

Ms. Lamone noted that the Assistant Attorney General's report was provided in the Board members' folders. Bill Varga, Assistant Attorney General, explained that he was attending the Board meeting in Mark Davis' absence and, if requested, was able to provide advice to the Board.

#### **WAIVER OF CAMPAIGN FINANCE LATE FEES**

Mr. DeMarinis presented twelve waiver requests.

1. Friends of Ron Alessi – first time applicant for a waiver;
2. Shane Mattingly – Personal Treasurer – first time applicant for a waiver;
3. Voting is Not Enough PAC – first time applicant for a waiver;
4. The 26<sup>th</sup> District New Leadership Team Slate – first time applicant for a waiver;
5. Chesapeake Environmental Coalition PAC – first time applicant for a waiver;
6. Friends of Judy Boggs – reported common filing mistake;
7. Citizens for Bellows – reported common filing mistake;
8. Anne Arundel Republican Legislative Slate – reported common filing mistake;
9. Citizens for Moonyene Jackson-Amis – waiver due to a sick treasurer;
10. People for Diane Nixon – disputed timing of filing;
11. Lynn Sklar for Maryland Citizens – disputed timing of filing; and
12. Antonio (Tony) Asa – Personal Treasurer – request for candidate only due to problems with the treasurer.

Mr. DeMarinis stated that each request met the standards for granting the waiver of late fees and recommended accepting the Administrator's recommendation. Mr. Burger inquired if any of the waiver requests were reconsiderations, to which Mr. DeMarinis responded that they were not. Ms. Beck made a motion to accept the recommendation as presented, and Ms. Mack seconded the motion. The motion passed unanimously.

#### **OLD BUSINESS**

No old business was discussed.

#### **NEW BUSINESS**

No new business was discussed.

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**SCHEDULING OF FEBRUARY MEETING**

The next meeting of the State Board is scheduled for Thursday, March 29, 2007, at 1:30 p.m.

Ms. Beck inquired why the local boards were instructed to reject an absentee ballot and provisional ballot cast by the same voter. Mr. Goldstein explained that the oaths on the absentee ballot envelope and on the provisional ballot application state that the voter will not vote again. Ms. Beck noted that she thought that this position is contrary to the stated position that every eligible vote should be counted and would like to look at this issue again.

**ADJOURNMENT**

The meeting adjourned at 2:30 p.m.