

October 18, 2007

State Board Meeting
151 West Street, Suite 200, Annapolis, MD 21401

Attendees: Robert L. Walker, Chairman
Andrew V. Jezic, Member
David McManus, Member
Charles Thomann, Member
Linda Lamone, Administrator
Mark Davis, Assistant Attorney General
Ross Goldstein, Deputy Administrator
Mary Wagner, Voter Registration Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Roger Stitt, Voter Registration Division

Also Present: John Schneider
Raymond Rankin

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 3:15 p.m. and declared that there was a quorum present.

APPROVAL OF THE AUGUST 23rd BOARD MEETING MINUTES

Mr. Thomann made a motion to approve the minutes, and Mr. Jezic seconded the motion. The minutes of the August 23, 2007, Board meeting were approved unanimously.

ADMINISTRATOR'S REPORT

1. Meetings and Other Activities

Senate Education, Health & Environmental Affairs (EHEA) Committee Briefing

Ms. Lamone informed the Board that the Elections Subcommittee of the EHEA Committee held a briefing on October 10, 2007, and requested information from her as well as the local boards of elections on various election administration issues. She briefed them on the Baltimore City Election and our on-going preparation for the 2008 Presidential Elections and requested that the General Assembly refrain from passing legislation in the 2008 Legislative Session with an effective date before the November 2008 election. Katie Brown, Deputy Director of the Baltimore County Board of Elections, discussed her board's relationship with the University of Baltimore's Schaefer Center for Public Policy for election judges' training. Stuart Harvey, Election Director for the Frederick County Board of Elections, discussed the advantages of the electronic pollbooks. Josh Loh of the Department of Legislative Services summarized the Department's recent report on false and deceptive campaign advertising.

Mr. Walker inquired on the committee's reaction to Ms. Lamone's request that no new legislation be passed. Ms. Lamone responded it was favorable. Mr. Thomann asked

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what kinds of changes were being proposed by the legislature. Ms. Lamone stated that there were a lot of bills considered last session, such as rotating names on the ballot. Mr. Goldstein noted that there were also several bills last year that required posting certain information at polling places. This would require additional signs or alterations to signs currently designed and set for printing. Accordingly, last minute changes to signs is costly and administratively difficult.

Election Official from the Philippines

Ms. Lamone stated that Ross Goldstein, Mary Wagner, and Nikki Trella met with Gregorio Y. Larrazabal, Provincial Election Supervisor from the Philippines, to discuss election administration in Maryland. Topics of discussion included voter registration, voting technology, and election judges. Mr. Larrazabal explained that, in the Philippines, no precincts can have more than 200 voters and there are three election judges in each precinct, one of whom is a public school teacher and the precinct is in his or her classroom.

2. Voter Registration

Software customization:

Ms. Lamone informed the board that following user acceptance testing on software release version 2.18 for MDVOTERS, a successful mock election was completed during October 1st through 5th using the new software. The mock election tested the integration of the 70 new items into the elections process from creation of the election to posting of voter history to the database. The new software was placed into production on October 8, 2007.

User acceptance testing on software release version 2.19 began on October 9, 2007. This release has approximately 9 issues mostly concentrating on reports.

Training

Ms. Lamone stated that “Go To” meetings continue to be conducted. Staff from 22 local boards of elections participated in the most recent session which covered the following topics:

1. Using the new MDVOTERS version 2.18; and
2. Procedures for managing absentee voting.

Voter registration records matching

Ms. Lamone stated that Ms. Wagner (in person) and Roger Stitt (by telephone) attended a conference in Atlanta, Georgia, on sharing voter registration information among the southern states for the purpose of finding duplicate registrations. Topics included what data needs to be shared and what legal and technical roadblocks to data sharing exist. One outcome of the conference was that South Carolina offered to host the exchange of data among the states, because it already has a database set up to do this. If this occurs, it may save participating states the cost of paying a commercial vendor for the hosting service. Under the proposal, Maryland would be able to check our registrations against South Carolina’s voters, as well as each of the other states in the database. This is the

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second conference that SBE has attended on this topic (an earlier August 6, 2007, meeting in Washington, DC, was hosted by the National Academy of Sciences) so momentum is growing for the matching of voter registration records among the states.

Mr. Thomann asked if the Federal Election Commission has undertaken any similar efforts. Ms. Lamone responded that the Election Assistance Commission has established a committee and is looking at inter-operability. Mr. Walker asked for a further explanation of the matching process. Mr. Clark responded it is to determine if a voter has two registrations. In that case, it would be up to the states to determine where the voter is domiciled and therefore entitled to be registered.

3. Help America Vote Act

Federal Legislation

Ms. Lamone stated that Congressman Hoyer invited her and representatives of several organizations (National Association of Secretaries of State, National Conference of State Legislatures, National Association of Counties, & National Association of Election Officials) to a meeting to discuss H.R. 811 - Voter Confidence & Increased Accessibility Act of 2007. He asked us to provide him with amendments that would address our concerns with the legislation. After further review of the Manager's Amendments, Ms. Lamone reported that she, along with the National Association of State Election Directors' Executive Committee, informed Congressman Hoyer that H.R. 811 was fundamentally flawed and needed a comprehensive rewrite to achieve the intent of the bill.

Mr. Walker asked how the Congressman reacted to her assessment of H.R. 811. Mr. Thomann inquired if timing was the problem. Ms. Lamone responded that the fact that the effective date is November 2008 is certainly a part of the problem.

Voluntary Voting Systems Standards

Ms. Lamone stated that the National Institute for Standards and Technology (NIST) hosted a workshop on the recently released draft Voluntary Voting System Standards for certain members of the Election Assistance Commission's (EAC) Advisory Board and the Standards Board. She and Ms. Trella were invited to attend, and Ms. Trella attended the workshop held from October 15 - 17, 2007. The purpose of the workshop was to explain and discuss the draft requirements with the principal authors of the draft standards. The next meeting is scheduled for Mid-December in Austin, Texas. Review by the advisory board is mandatory under the Help America Vote Act.

EAC Audit

Ms. Lamone informed the board that the EAC recently issued its final audit report for federal funds expended through December 31, 2006. In its report, the EAC identified two issues, one dealing with accounting procedures and the other concerning equipment management. SBE provided a timely response, detailing current activities and near-term action plans, including deadlines and key contact persons. Ms. Lamone noted that copies of both the EAC report and the SBE response are available in the Board folders.

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Election Judge Recruitment

Ms. Lamone stated that to supplement the recruitment efforts of the local boards, we have recently expanded our presence on the Internet. Mary Heath has created an account on myspace.com and posted recruitment information on Craig's List, and over 50 individuals have responded. Other efforts will include developing, with input from the local boards, an "adopt-a-precinct" program for businesses and organizations and targeting schools and universities.

Election Judges' Manual

Ms. Lamone stated that thirteen local boards have submitted chapters for review and approval. The index, "cheatsheets," and curricula will be distributed by mid-October.

4. Candidacy and Campaign Finance

Candidate Filings

Ms. Lamone informed the board that as of October 10th, 26 candidates have officially filed for office.

Campaign Finance Reports

On October 26, 2007, the 2007 Baltimore City Pre-General Campaign Finance Report covering transactions from August 27, 2007 to October 21, 2007 is due. Some committees have already filed their reports. Pre-report notices will be mailed to the chairmen and treasurers 10 days prior to the due date as a reminder. Compliance with the pre-primary 1 and 2 campaign finance reports is increasing. Currently, 87.7% of the committees have filed their pre-primary 1 reports, and 80.3% of the committees have filed their pre-primary 2 reports. The first late fee bill notice for the pre-primary 2 report was sent out on October 3rd. The remaining committees are still required to file the report and are accruing late fees. The maximum late fee for a failure to file is \$250. Mr. Walker asked when the last time the fee was adjusted. Staff indicated that the fee had not been adjusted for many years.

LBE Training

Ms. Lamone informed the board that Ruth Maynard, Karen Simpson and Jared DeMarinis will be traveling to the local board of elections to conduct ELECTTrack training and refresher class for candidate entry. The first training was held on October 11, 2007, at Baltimore County. This project will be completed within the month.

Satellite Candidate Filing Locations

Ms. Lamone stated that both Washington and Wicomico Boards of Elections have agreed to be satellite offices for SBE for National Party Convention Delegate filings from November 26th through December 3rd. This information is posted on our website. Ms. Lamone and Board thanked Washington and Wicomico for their assistance in what may be a very busy filing period.

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5. Voting System

Baltimore City Election

Ms. Lamone stated that Baltimore City is preparing for the November 6th Mayoral General Election. All activity is being completed on schedule. Baltimore City has approved the general election ballots, including the audio ballots. The ballot images have been sent to the printer to print 76,000 absentee and provisional ballots. Baltimore City will have all of the paper ballots by October 16th processing absentee ballot requests.

Conducting the Election Guide

Ms. Lamone informed the board that the Conducting the Election Guide has been revised and is ready for printing. The guide contains instructions and checklists for the local board staff on Ballot Proofing, Logic & Accuracy Testing, Election Day Activity, and Canvassing. The guide will be distributed to the local boards in October. The guide was successfully used for the Baltimore City Mayoral Primary Election. This latest version of the Conducting the Election Guide is an update to the previous version implementing recommendations from lessons learned exercises.

Battery Replacement

Ms. Lamone stated that the battery replacement project for Phase I counties has been completed in all counties except Prince George's. Prince George's County is working diligently to complete this effort by the end of October. The voting system team will work with all necessary local boards of election to schedule the pick-up and recycling of the "old" lead acid batteries.

Inventory

Ms. Lamone stated that the voting system team is verifying and updating our voting equipment inventory records. This effort is focused on the touchscreen units, electronic pollbooks, and the electronic poll book printers. This information along with the active voter count for each county allows SBE to ensure that each county has the necessary equipment to conduct successful elections.

6. Information Technology

Training & Certification

Ms. Lamone informed the board that Michael Kortum recently completed a training seminar on contract reporting training and one on operational security environment. Natasha Walker, Kurt Snyder, and Thomas Queen all completed an online seminar that provided security training.

Technical Upgrade

- Upgrades/patches were applied to the primary SBE data server.
- A new server has been brought online to support FTP and SFTP processes. Campaign finance committees use the FTP process to submit their campaign finance report data. Eventually, all committees will be required to use SFTP due to the fact that it is more secure. However, in order to ensure sufficient time for users to switch and to ensure no disruption during reporting periods, both FTP and SFTP will be available to users.

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- Several intermediate patches have been applied to the Election Management Software. Patches were primarily for corrections to the data elements.
- Enhancement patches were applied to the Web server.
- The Voter Registration system's database continues to grow with voter activity. We have just completed our second storage expansion since the system went on line less than two years ago.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mark Davis reported that the current litigation activity involves three cases stemming from the Green Party lawsuits where the plaintiffs are seeking attorneys fees under a federal law (42 U.S.C. 1988). The court in *Hufnagel* denied the plaintiffs' motion, and the case is over. Additionally, the court in *Schaefer*, a non-Green Party case, affirmed the dismissal and is over. In two other cases, the State is contesting the amount of the fee being requested. Mr. Davis also reported that there has been no activity on the *Schade* litigation.

At the request of Mr. McManus, Mr. Davis elaborated on advice memoranda listed in his written report. One of the memoranda is standard advice issued by the AG prior to an election. Another issue involved a campaign finance filing issue. Another opinion responded to an issue of whether the Governor can vote in the Baltimore City election. Mr. Walker inquired about the status and progress of the Attorney General's Task Force on election issues. Ms. Lamone reported that the chair of the Task Force will address the report status at the Biennial Meeting scheduled on the following day.

ADOPTION OF BYLAWS

Mr. Goldstein provided an explanation about the development of the bylaws. Originally, model bylaws were developed for the local boards. Since the State Board does not have bylaws, the local board version was customized for State Board. The bylaws adopt current legal requirements and longstanding customs and procedures of the Board in an effort to create a guiding document. The model version developed for the local boards contained more specificity. However, it was determined that this was not necessary for the State Board due to the fact that there is more specificity under State law regarding roles and responsibilities.

Mr. Goldstein highlighted the major areas of the bylaws and then focused on the political activity section. There has been a lot of discussion on this subject. The bylaws represent an opportunity for a board to spell out standards by which members agree to adhere. These standards can go beyond what the law requires and address issues such as the use of yard signs. One possibility is to allow political activity but require disclosure to the Board. The board discussed this proposal. Mr. Thomann indicated that he did not think notification was necessary as long as all members are in compliance with the law. Mr. McManus stated that what the bylaws should do is interpret what the legislature intended by the restrictions under §2-301. Ms. Lamone state that the Board could chose to go

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beyond what the legislature intended. The question was asked whether there was any constitutional distinction between displaying signs and making contributions. Ms. Lamone reminded the Board that contributions are publicly displayed on the website. Further, Ms. Lamone stated that her policy and that of the senior staff is to refrain from all contributions or similar activities. Mr. Thomann and McManus both indicated that they had a similar personal policy.

Mr. Walker proposed to table the passage of the by-laws and that each board member should write comments to Mr. Goldstein. Mr. Goldstein stated that 4 or 5 local boards have returned their adopted by-laws, but others have been adopted and have not been sent in.

ADOPTION OF FINAL REGULATIONS

Nikki Trella presented for final adoption changes to Regulation 33.16.05.05 (Canvass of Provisional Ballots - Rejecting Ballots) and for withdrawal changes to Regulation 33.11.05.04 (Canvass of Absentee Ballots - Rejecting Ballots). Mr. Jezic made a motion to adopt as final changes to Regulation 33.16.05.05 and withdraw changes to Regulation 33.11.05.04, and Mr. McManus seconded the motion. The motion passed unanimously.

APPROVAL OF CHALLENGER, WATCHER, AND ELECTION OBSERVER MANUAL

Ms. Trella presented for adoption *Information and Instructions for Challengers, Watchers, and Other Election Observers*. She explained that, shortly before the 2006 General Election, the State Democratic and Republican Parties issued separate instructions for their respective challengers and watchers. After reviewing the manual, it was evident that there were differing opinions on the roles and responsibilities for challengers and watchers, and it was clear that a manual from SBE would be helpful to clarify what challengers and watchers can and cannot do. Ms. Trella noted that she shared the draft manual with representatives of the State Democratic and Republican Parties and considered and where appropriate, incorporated their feedback. Mr. McManus made a motion to approve the *Instructions and Information for Challengers, Watchers, and Other Election Observers*, and Mr. Jezic seconded the motion. The motion passed unanimously.

APPROVAL OF FEE SCHEDULE FOR CAMPAIGN FINANCE INFORMATION AND DATA

Mr. Goldstein presented to the board for approval the new price schedule. Mr. McManus inquired what would constitute a non-standard request. Mr. Goldstein replied any request that could not be handled by the information posted on the website or requires the use of the outside vendor. Mr. Thomann made a motion to approve the new price structure for campaign finance information, and Mr. McManus seconded the motion. The motion passed unanimously.

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CONSIDERATION OF REQUESTS FOR WAIVER OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis provided an overview of the determining factors in granting or denying waiver requests.

The Board reviewed the requests for late fee waivers from the following campaign finance entities and the State Administrator's recommended action:

1. Citizens For Josh Cohen – grant request for waiver
2. Friends Of Nick Aragon – grant request for waiver
3. Friends Of Nora C. Keenan – grant request for waiver
4. Friends Of Roger Berliner – grant request for waiver
5. Citizens To Elect Richard Bowers – grant request for waiver
6. Friends Of Joan Cadden – grant request for waiver
7. Friends Of Ulysses Currie – grant request for waiver
8. Ebony Edwards Campaign – grant request for waiver
9. Committee To Elect Michael James – grant request for waiver
10. Citizens For Roger Lerner – grant request for waiver
11. Gerron Levi in 2006 – grant request for waiver
12. Friends Of Melissa Redmer Mullahey – grant request for waiver
13. Committee to Elect Theodore "Ted" Sophocleus – grant request for waiver
14. Maryland Conservative PAC – grant request for waiver
15. Maryland New Car and Truck Dealers Association PAC – grant request for waiver
16. Queen Anne's County Democratic Central Committee – grant request for waiver
17. Talbot County Democratic Central Committee – grant request for waiver
18. Team 21 Slate – grant request for waiver
19. Twenty Third District Team Slate – grant request for waiver
20. (David) Boschert Executive Committee – grant request for waiver
21. Pat McDonough For Delegate Committee – grant request for waiver
22. Friends Of Rik Forgo – grant request for waiver
23. Neighbors For A Better Maryland Slate – grant request for waiver

The Board also reviewed the requests for reconsideration from the following committees and the State Administrator's recommended action:

1. Caroline County Republican Central Committee – denied
2. Friends Of Henry Marraffa – denied

Mr. Thomann commented that failure to file timely reports would be less if there were assistant treasurers. Mr. Thomann noted that the Federal Elections Commission allows assistant treasurers and asked whether Maryland allows for assistant treasurers. Mr. DeMarinis stated that Maryland law does not currently allow for assistant treasurers and the sub-treasurer provision does not apply. Ms. Lamone noted that currently we are

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investigating into online filing where multiple users could input the data, but she noted that this will cost money to implement. Mr. Jezic made a motion, and Mr. McManus seconded the motion to approve the recommendation of the State Administrator. The motion passed unanimously.

OLD BUSINESS

Ms. Lamone informed the Board that any action taken by the board requires a supermajority vote. Each board member received a memorandum on the supermajority requirements.

NEW BUSINESS

There was no new business.

CONFIRM NOVEMBER MEETING DATE

Mr. Walker announced that the next meeting of the State Board of Elections is scheduled for Thursday, November 29, 2007, at 2:30 p.m.

ADJOURNMENT

Mr. Walker made a motion to adjourn the meeting. Mr. McManus seconded the motion, and the motion passed unanimously. The meeting adjourned at 4:39 p.m.