

November 29, 2007

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

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
David McManus, Member
Charles Thomann, Member
Andrew V. Jezic, Member (by conference call starting at 2:40 p.m.)
Mark Davis, Assistant Attorney General
Ross Goldstein, Deputy Administrator
Jared DeMarinis, Candidacy and Campaign Finance Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Patrick Strauch, Voting System Project Manager
Paul Aumayr, Voting System Division
Roger Stitt, Voter Registration Division
Donna Duncan, Director of Election Management
Peggy Wilkerson, Campaign and Candidacy Division
Ruth Maynard, Campaign and Candidacy Division
Jaimie Jacobs, Election Reform Deputy Director

Also Present: Lynn Roserman

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:31 p.m. and declared that there was a quorum present.

APPROVAL OF THE OCTOBER 18th BOARD MEETING MINUTES

Ms. Mack made a motion to approve the minutes, and Mr. Thomann seconded the motion. The minutes of the October 18, 2007, Board meeting were approved unanimously.

STAFF RETIREMENT

Chairman Walker recognized Ms. Joan Mobley who is retiring this week and presented her with the Governor's Citation for Service for her almost thirty years of service at the State Board of Elections. Ms. Duncan added words of appreciation for Ms. Mobley's involvement through the years as technology for voter registration evolved from punchcards.

ADMINISTRATOR'S REPORT

Mr. Goldstein presented the Administrator's Report, as Ms. Lamone and Ms. Wagner were attending a conference in Charleston to discuss voter registration data sharing with other states.

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1. Announcements

Tracy Dickerson, Election Director of Charles County, was selected as the Election Official of the Year at the Biennial Meeting.

Congratulations to Jared DeMarinis, Candidacy and Campaign Finance Director, who recently became a new father.

Patrick Strauch, Voting System Project Manager, has informed us that he will be leaving SBE at the end of this month. Patrick has accepted a new position with the Department of Transportation. Mr. Strauch has worked for SBE for the past 3.5 years. His hard work will be missed. It should be noted that the voting system team is now comprised of one person – Paul Aumayr.

After Ms. Lamone, Liz del Castillo, and Ross Goldstein met with DBM to emphasize the importance of filling specific vacant positions before the next election, DBM gave SBE permission to fill both Mr. Strauch's position and the position of Procurement Officer. An offer was made to someone for the Procurement Officer position the morning of the meeting.

The candidate filing deadline is Monday, and a large number of people have been coming to the office in the last few days to meet this deadline.

2. Meetings

The Biennial Meeting was held on October 19th here in Annapolis. The meeting was well attended, and generally, the feedback about the conference was positive. Mr. Goldstein thanked those board members who were able to attend.

3. Budget and Personnel

Budget

The budget, meeting the general fund target, was submitted. Mr. Goldstein reported that the budget included a reduction of 3%, as required by DBM. Generally, the proposed reductions were in the areas of IT and voting system support services. For each proposed reduction, a detailed analysis of the burden the cut would create in a presidential election year was provided. Mr. Goldstein also noted that the agency is in the process of educating DBM on certain aspects of the budget and the critical services that must remain funded.

Conference with County CFOs

Liz del Castillo is preparing to host a teleconference with County Chief Financial Officers (CFOs). The purpose of the conference will be to discuss past and upcoming financial issues that will impact the counties.

Contract Renewals

Four important contracts are up for renewal.

- Voting System Support Services (Premier). The cost to renew this contract is \$9.6 million which will be paid by State and local governments. The services under this contract include project management, regional technicians, county techs, warehouse, transportation, and election day support. This contract is necessary for

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- supporting an election and would be necessary regardless of the type of voting system used. The Department of Budget and Management (DBM) has delegated authority to renew this contract without it going before the Board of Public Works (BPW). DBM has already provided the approval for the renewal. In response to a question from Mr. Thomann, Mr. Goldstein noted that, regardless of the voting system used, there are costs that do not go away, such as warehouse facilities and transportation.
- Renewal of Saber Operations and Maintenance (Saber, Inc.). The cost to renew this contract is \$1.3 million, which will be paid from HAVA federal funds. Operations and maintenance services include maintenance of the database, operation of the data centers, maintenance of interfaces with different agencies (MVA, vital statistics, administrative office of the courts), further development of the software, help desk, and onsite technical support and maintenance for LBEs. This contract renewal has been submitted to DBM for review and will be presented to BPW on December 12th.
 - Project Management Support (EDS). The estimated cost to renew the project management support contract with EDS is \$600,000. This is a shared State and county cost (a 50/50 split). The support includes all facets of management of the voting system project including developing project plans and schedules, drafting procedures and processes, and generally supporting the voting system team. Given the turnover in the Voting System Division and proximity of the Presidential Elections, the need for this contract is considerable. There are plans to bring on a third support staff as soon as possible. This contract renewal has been submitted to DBM for review and will be presented to BPW on December 12th.
 - Electronic Pollbook – Hardware Warranty and Software License Maintenance (Premier). The cost to continue renew the warranty and software license maintenance is \$70 per pollbook, which Mr. Goldstein noted is a total of about \$350,000. This will provide us with new versions of software and repair and replacement of any malfunctioning pollbook units. The warranty does not include the printers or batteries. The cost for warranty and maintenance will be assumed by the LBEs. This renewal will be presented to BPW in January 2008.

4. Election Management and Reform

Baltimore City Final Vote Count

On Friday, November 16, 2007, the final vote count for the Baltimore City Mayoral General Election was received. With the import of this data into the State election management system (EMS), the Baltimore City Board of Canvassers was able to print, verify, and complete the official certification of the election. EMS will now be used to produce the formal Commissions of Election to be signed by the Governor and Secretary of State and used to swear in each winning candidate. The final election results, including all write-in vote totals, were then posted on the SBE website.

Polling Places

Tuesday, November 13, 2007, was the deadline for local boards to create precincts or change polling places for the upcoming presidential election. In conjunction with this deadline and to assure that the data used to produce the 2008 ballots are accurate, Natasha Walker and Donna Duncan have been working with the local boards in updating the EMS

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polling place database as well as performing a final verification of 2008 office or contest titles, methods of election and the numbers to be elected. Any new or changed polling place must be reviewed to determine accessibility status. Jaimie Jacobs has been working with the LBEs to obtain new survey data and establish what issues can be corrected. The Voter Registration staff has also assisted many LBEs make these changes in MDVOTERS.

Voluntary Voting System Guidelines

Review of the draft Voluntary Voting Systems Guidelines is on-going. The U.S. Election Assistance Commission (EAC) recently posted the draft guidelines on its website for public comment. This public comment period will run through February 2008, at which time the EAC will review the comments, make any changes it deems necessary, and issue the guidelines for a second public comment period.

The EAC's Advisory Board and Standards Board are meeting in Austin, Texas in mid-December to discuss and adopt resolutions concerning the draft guidelines. Nikki Trella, a member of the Standards Board, will be attending this meeting.

Election Judge Recruitment

The use of Craig's List and mySpace.com to recruit election judges seems to be working. To date, approximately 100 individuals have responded to the information posted on the Internet, and the information provided by these individuals has been forwarded to the appropriate local board of elections.

Election Judges' Manual

Ms. Jacobs has received all or a portion of election judges' manuals from 21 local boards of elections. (As of November 20th, Dorchester, Talbot & Wicomico Counties had not submitted chapters for review.) Eleven local boards' manuals are complete and approved, and the remaining are being reviewed. An index for the manual and training curricula has been distributed to the local boards.

Post Election Analysis

Ms. Jacobs assisted the Baltimore City Board of Elections with unpacking election day supplies and preparing for the canvasses. Based on what she learned, she will be developing additional "cheatsheets" and stressing hands-on practice during judges' training (specifically for completing a provisional ballot application). Mr. Goldstein added that Ms. Trella, Ms. Jacobs, and John Willis, the director of the professional training group for the University of Baltimore, discussed specific training issues to be focused on in upcoming training sessions, in particular, the provisional ballot procedures.

Absentee and provisional voting statistics for the Baltimore City Primary and General Elections have been compiled and were distributed to the board members. After reviewing the absentee statistics, it appears that election judges need to be reminded to sign their absentee oaths and not to take their voted ballots to the polling place to which they are assigned. (Absentee ballots submitted at a polling place will be rejected for being untimely because they will not be returned to the election office by 8:00 p.m. on election day.) With respect to provisional voting, provisional ballot judges need to be reminded during training to make sure that provisional voters sign their applications and put their ballots in the

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envelope and seal it. The impact of the Court of Appeals in *Lamone v. Capozzi* (requiring voting in the voter's election district or ward) can be seen in the increase in rejected provisional ballots in the City's provisional voting statistics. For the upcoming presidential election, State and local election officials will need to emphasize the importance of voting in the correct precinct and using the on-line polling place locator to find out the correct place to vote.

5. Voter Registration

Software customization:

User acceptance testing and a mock election on MDVOTERS software release version 2.19 were completed on Friday, October 9, 2007. MDVOTERS software version 2.20—the final upgrade for 2007—is scheduled for installation in the second week in December. Prior to that time, user acceptance testing and a successful mock election will be completed on the software by SBE.

Montgomery County

At the invitation of the Montgomery County Board of Elections (MCBOE), Ms. Lamone and members of the SBE Voter Registration Division attended the Board meeting held on November 19, 2007. The topic was the statewide voter registration system (MDVOTERS). At this meeting, Ms. Lamone commended Bobbie Payne and Michele Gonda of the MCBOE on their assistance with the absentee balloting procedures used in the system. Ms. Wagner presented responses to several questions that had been submitted in advance to SBE regarding the operation of MDVOTERS. Overall, the Board members appeared satisfied with the responses given by the Voter Registration Division staff and the Division's plan to provide a forum for further discussion of a couple of the Montgomery County voter registration topics in a Joint Application Design session to be held in 2008. Since the system is used statewide, the requirement exists for any changes recommended by Montgomery County to be beneficial (or at least not detrimental) to all 24 local boards of elections.

Merge Voter Process Opened

In preparation for the 2008 Presidential Primary Election, the Merge Voter process is being activated from November 26th to December 7th to allow the 24 local boards to check statewide for voters who are registered more than one time in the voter registration system (MDVOTERS). As of November 19th, the number of potential duplicate registrations that need to be checked has grown to over 900. If two registrations are truly duplicates, the local boards coordinate to merge the records of the voters into their correct jurisdiction. Not all apparent duplicates will result in a merge; in some cases, data entry errors have been made (name, birth date) and when the records are corrected, they are valid for different individuals.

6. Candidacy and Campaign Finance

Candidate Filings

As of November 20th, 180 candidates have officially filed for office. Mr. DeMarinis noted that the total was near 400 as of the day of the meeting. On November 26, 2007, the Secretary of State provided a certified list of the Presidential candidates for the Democratic and Republican primary election. Seventeen names were received, nine Republicans and

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eight Democrats. Furthermore, during this week and including December 3, 2007, Washington and Wicomico Boards of Elections will be accepting filings for National Party Convention Delegate.

Campaign Finance Reports

On November 27, 2007, the 2007 Baltimore City Post-General campaign finance report covering transactions from October 22, 2007 to November 20, 2007, was due. As of November 20, 2007, only 2.62% of the committees have filed the Post-General campaign finance report. Filings for the Pre-General campaign finance report have increased to 76%. Fee running notices for the Pre-General campaign finance reports were sent on November 14, 2007, and the first bill notice was sent out on November 26, 2007. 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.

Audit

The Candidacy and Campaign Finance Division has finished its audit of the 2006 election-related campaign finance reports. Peggy Wilkerson does the majority of the auditing process. On November 9, 2007, 573 committees have received deficiency notices. During our review, the most common deficiencies were missing or incomplete address, incorrect entries for reimbursements, and a lack of explanation for expenditures. The committees have until December 21, 2007, to amend their campaign finance reports. Failure to amend the report will result in charged late fees.

Training Seminar

On December 13, 2007, the Candidacy and Campaign Finance Division will be conducting an ELECTrack EFS filing seminar from 6:00pm to 8:00pm. The seminar will focus on how to use ELECTrack EFS and file both a report and an amended report.

7. Voting Systems

Baltimore City Election

The November 6th Mayoral General Election in Baltimore City was successful. 1,804 voting units were deployed to the 290 precincts. No major issues were reported with the voting units. All units were transported to and from the polling places with out incident.

GEMS Servers

The voting system team has procured six (6) replacement GEMS servers. The servers are being configured for use at Allegany, Dorchester, and SBE. These servers replace old servers that are being taken out of service because their warranties have expired. Allegany and Dorchester Counties will each receive two servers. The remaining two servers will be kept at SBE. These servers are used to produce the ballot definition, download the ballots to the touchscreen memory cards, and accumulate and tabulate election results. In response to a question, Michael Kortum said that servers typically need to be replaced ever four to five years.

Primary Election Preparation

The voting system team continues to prepare for the 2008 Presidential Primary Election. The team is collecting and updating the security keys on the supervisor and central

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administrator smartcards. Per our standard operating procedures, the key is unique for each county for each election. After the cards are updated, they are returned to their respective LBE for keying the electronic pollbooks and touchscreen voting units.

Electronic Pollbook - Rockville Election

As reported to the board members on November 6th, there was a problem with the electronic pollbook database that was sent to Rockville for use in City's general election. The problem occurred when a member of the staff mistakenly sent a test copy of data instead of the correct copy. The result was that certain voters were flagged as having received an absentee ballot. Since the electronic pollbook is programmed not to issue a voter access card to a voter who has received an absentee ballot, the voter could not vote on the voting unit. Since provisional ballots are not used in the City elections, that alternative was also not available. Fortunately, Rockville and Montgomery County officials quickly identified the problem and began using encoders to create voter access cards for the affected voters. Rockville officials estimate that approximately 10 voters were asked to go to city hall to vote before the work around solution was reached. Voting proceeded smoothly the rest of the day.

A copy of Mr. Goldstein's letter to Rockville explaining the problem, why this type of problem would not have occurred in a State election, and steps undertaken to ensure this type of error does not reoccur was provided to the board members.

8. Information Technology

Technical Upgrade

Version upgrade 9.0 was implemented to Electrack.

New security and management software to support the SBE infrastructure enhancements has been received and is in the process of being installed. The process will continue for several weeks without interruption to user services (all outages will be conducted after normal working hours). Upon final implementation, the SBE network and firewall will be significantly strengthened against intrusion as well as internal accidents. The enhancements will also provide much needed management aids to vastly improve network efficiency.

Several intermediate patches were applied to the Election Management and MDVOTERS software.

System and application testing is underway to determine compatibility of new PC operating system (Microsoft Vista and Office 2007).

Network

Network latency has continued to be minimal. Coordinated testing between SBE, Saber, Network Maryland, and Verizon has concluded with all LBEs reporting functionality without issue. Verizon has closed the last open trouble ticket.

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Local Board Services

SBE has collected the excess equipment from the LBEs. This equipment will be audited and compared to our master inventory. The equipment will be evaluated for further usage. Most equipment will be available to turn in as salvage while a few items will be rebuilt to provide back-up services. SBE IT staff is making visits to several LBE to assist with new equipment set-up and office moves or reorganizations.

Security

As part of the Governor's new *Consolidated Disaster Recovery Center Plan*, several security measures were introduced as changes or upgrades to the existing DBM Security policy. SBE will not be required to make any modifications to our existing security policy or procedures as we already enforce the new measures.

MDVOTERS data centers, VROC and COOP, have satisfactorily implemented all upgrades addressed on the 2007 facilities security audit.

SBE has improved its data back-up procedures and security of the data by implementing off-site data storage. Internal SBE data and MDVOTERS data are now relocated to other location secure storage. This task was accomplished at no additional cost.

9. Updates from Prior Meeting

Battery Replacement

As reported during the last meeting, efforts were underway to replace all of the batteries in Phase 1 (Montgomery Prince George's, Allegany, and Dorchester Counties) voting units. The project is complete.

Conducting the Election Guide

The conducting the election guide was updated for 2008 Presidential Election. The guide has been printed and distributed to all LBEs and is posted on the SBE online library.

ELECTrack Training

The Candidacy and Campaign Finance staff has completed regional training of LBE staff on the candidacy filing process using the ELECTrack system.

Mr. McManus inquired about the number of election judges who had their absentee ballots rejected. Ms. Trella responded that failure to sign the oath and bringing the absentee ballot to the polling place, instead of mailing it, are common reasons for an absentee ballot to be rejected.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mark Davis submitted his report and briefly discussed a few developments in litigation:

Mr. Davis informed the Board that oral arguments in *Stysley v. Carroll County Bd. of Election*, one of the Green Party cases, took place on November 19th in the Circuit Court for Carroll County,

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A new case, *Schultz v. State of New York, et al*, is a *pro se* lawsuit brought by 150 plaintiffs against all 50 states challenging the use of any machines to count and tabulate votes. The states will file a motion to dismiss. December 10th is the filing deadline.

CONTINGENCY PLANS

Mr. Goldstein stated that the *Election Day Contingency Plan* creates a Board policy for the LBEs to implement. The plan is the same as what was enacted in the 2006 General Election. The plan establishes back-up procedures in case either the electronic pollbooks or the voting units in a polling place become inoperable on election day. The electronic pollbook back-up plan requires the LBEs to deploy a paper precinct register and voter access card encoders to each precinct. The voting system back-up plan requires the LBEs to increase the number of provisional ballots supplied to each polling place to allow voting to continue for one hour after the voting units become inoperable and have photocopied paper ballots ready to be deployed within one hour of the voting system becoming inoperable so that voting can continue for the entire election day.

Ms. Mack asked whether this plan or any future plans will address weather related issues. Donna Duncan stated that there has been a lot of discussion among local election officials about preparing for inclement weather. There is an election director's meeting planned for mid-December to allow election directors to share ideas and best practices. Further, Ms. Duncan noted that SBE staff has contacted the Governor's Office on Homeland Security to work on coordinating plans for election day.

Mr. McManus made a motion to approve the *Election Day Contingency Plan* as a Board policy. Ms. Mack seconded the motion, and the policy was unanimously approved.

OLD BUSINESS

Regarding the discussion of bylaws that was deferred during the October meeting, Mr. Goldstein informed the Board that no feedback had yet been received. Mr. Walker suggested that the Board members send their feedback to Ms. Lamone and Mr. Goldstein during December and January.

NEW BUSINESS

There was no new business.

DECEMBER MEETING DATE

Mr. Walker announced that the next meeting of the State Board of Elections is scheduled tentatively for Thursday, December 20, 2007, at 2:30 p.m.

ADJOURNMENT

Ms. Mack made a motion to adjourn the meeting. Mr. McManus seconded the motion, and the motion passed unanimously. The meeting adjourned at 3:15 p.m.