

December 20, 2007

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

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Andrew V. Jezic, Member
David McManus, Member
Mark Davis, Assistant Attorney General
Ross Goldstein, Deputy Administrator
Donna Duncan, Director of Election Management
Mary Wagner, Director of Voter Registration
Donna Wiltshire, Voting System and Procurement Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Paul Aumayr, Acting Voting System Project Manager
Elizabeth del Castillo, Budget and Personnel Director
John Clark, Voter Registration System Project Manager
Karen Simpson, Candidacy and Campaign Finance Deputy Director
Stacey Johnson, Voter Registration System Deputy Project Manager
Roger Stitt, Voter Registration Division
Janet Smith, Voter Registration Division

Also Present: Jonathan Sacks, University of Maryland College Democrats
Holly Joseph, Save Our Votes
Stan Boyd, Save Our Votes
Richard Boltuck, Maryland citizen
Sarah Boltuck, Maryland citizen
Douglas Thiessen, Maryland Republican Party
Sarah Martin, Maryland GOP volunteer
Adam Fogel, Fair Vote
Jennifer Kramer, Young Democrats of Maryland
David Paulson, Maryland Democratic Party
Marcus Afzoli, Maryland Democratic Party
Mike Cryor, Maryland Democratic Party
Nancy C. Krashoc, Anne Arundel Co. Democratic Central Committee
Tracey Hartman, Anne Arundel Young Democrats
Richard L. Andrews, candidate in upcoming GOP Primary Election

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 1:47 p.m. and declared that there was a quorum present.

APPROVAL OF THE NOVEMBER 29TH BOARD MEETING MINUTES

Ms. Mack made a motion to approve the minutes, and Mr. McManus seconded the motion. The minutes of the November 29, 2007, Board meeting were approved unanimously.

ADMINISTRATOR'S REPORT

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Mr. Goldstein presented the Administrator's Report, as Ms. Lamone was unable to attend the meeting.

1. Announcements

Mr. Goldstein introduced Donna Wiltshire who began working on December 17th as the new agency procurement and contract manager. Donna has fifteen years of public procurement experience starting with the Department of Human Resources, Child Care Administration, and most recently, as the Director of IT Procurement and Contract Administration with the Department of Public Safety and Correctional Services.

2. Meetings and Important Dates

Board of Public Works

During the December 12, 2007, meeting of the Board of Public Works (BPW), two State Board of Elections (SBE) support contracts were approved. The first contract was to continue operations and support services from Saber Corp., for the voter registration system. The second contract was for continued project management support from EDS for the voting system project. One final item to exercise the hardware warranty and software maintenance for election pollbooks will be presented to BPW on January 2, 2008.

Election Directors' Meeting

An election directors' meeting was held on December 13, 2007. The primary topic at the meeting was planning for bad weather on election day. The election directors shared a variety of strategies that they will be using to ensure that polls open on time, that election judges are able get to the polls, and that sufficient services are available to remove snow and ice. Mr. Goldstein noted that he was pleased with the number of plans already in place and that the local boards have been communicating with the appropriate agencies about this issue.

Mr. Goldstein reported that John Droneburg, Director of the Maryland Emergency Management Agency, Andrew Lauland, Director of Maryland's Department of Homeland Security, and Christine Wellons, the Governor's deputy counsel, attended the meeting. They provided useful information and pledged their support in working to ensure a successful election regardless of the weather. Mr. Goldstein explained that SBE typically has pre-election conference calls with State emergency management agencies, and Ms. Duncan noted that the authority to change the date of an election rests with the Governor.

Miscellaneous

Mr. Goldstein reported that Ms. Lamone has been asked to brief the members of the House of Delegates' Ways and Means Committee on January 17th. The voter registration deadline is 9:00pm on January 22, 2008, for the 2008 Presidential Primary Election.

3. Election Management and Reform

Candidates and Ballots

The candidate filing deadline has passed, and SBE is in the process of creating ballots. Ballot proofs for some counties were completed the day of the meeting. In response to a question from Mr. Walker, Ms. Duncan responded that she expects all ballot proofs will be completed by Friday, December 21st, with the audio ballot proof coming later.

Administrative Complaints

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Under the Help America Vote Act, each state is required to establish an administrative complaint procedure to resolve alleged violations of the Act. In Maryland, the procedure is also available to (a) individuals who feel aggrieved by an action of a local board regarding voter registration; or (b) a local board with reason to believe that a registration has been erroneously added to or omitted from the statewide voter registration list.

In November, we received two administrative complaints. The first complaint was filed by a Harford County voter alleging that another voter was not registered at his residential address. Judy Arnold, the agency's former Assistant Attorney General, served as the Administrator's designee and issued the final determination in this matter on December 17, 2007. In her determination, she determined that the residence address provided by the voter was not his *bona fide* residence. A copy of the final determination was provided in the board members' folder.

The second complaint was filed by the Howard County Board of Elections against 35 voters who allegedly provided a non-residential address for voter registration purpose.

Voluntary Voting System Guidelines

Ms. Trella reported that the U.S. Election Assistance Commission's (EAC) Advisory Board and Standards Board meet last week to discuss the draft Voluntary Voting System Guidelines (VVSG). Representatives of the National Institute of Standards and Technology briefed members of both boards on the key changes from prior versions of the guidelines. The Standards Board passed resolutions that recommend that the EAC make "software independence" an optional requirement, remove the requirement for open ended vulnerability testing, allow voting systems certified under the 2005 VVSG to be upgraded under the 2005 VVSG and only require new systems to be certified to the draft standards, and remove all requirements that are election administration requirements (instead of performance requirements). The public comment period on the draft VVSG continues until early March 2006.

RIGHT OF 17 YEAR OLDS TO VOTE IN THE PRIMARY ELECTION

Mr. Goldstein stated that, in December 2006, the Attorney General's Office issued advice on the ramifications of the Court of Appeals' decision in *Capozzi v. Lamone*. As required, SBE staff implemented the Attorney General's Office's advice. Mr. Goldstein noted that this was not a Board policy but was advice from the Attorney General's Office. Changes were made to the State's voter registration system, and voters who were 17 year olds but would be 18 by the 2008 General Election were notified. Some comments, including some by interested parties present for the meeting, were received after the local boards of elections mailed the notices and there were communications with at least one member of the General Assembly concerning this issue. Mr. Goldstein reported that the Attorney General issued an opinion on December 19, 2007, stating that the political parties can chose to allow 17 year olds who will be 18 by the general election to vote in a primary election.

Mr. Walker noted that the Board members received a timeline of events surrounding this issue and asked that the timeline be made part of the record.

12.18.2006	Advice memo from the Attorney General's Office on the impact of the Court of Appeals' decision in <i>Capozzi v. Lamone</i> . Memo states: In any event, only individuals who will turn 18 before the next election should be permitted to
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	register.
3.23.2007	Article in <i>The Registrar</i> (Vol. 2, No. 6) reminding the local boards of elections of the advice of the Attorney General’s Office and informing them that SBE has requested Saber to make the necessary changes to MDVOTERS.
4.4.2007	Distributed memo to election directors explaining how to identify individuals who were registered to vote but, based on the Attorney General’s Office, should not be. Included sample letter to customize and send to appropriate voters.
4.11.2007	After receiving Saber’s proposed solution, SBE and Saber staff had a requirements definition meeting, the outcome of which was a table showing how to handle various scenarios of underage voters.
5.24.2007	Distributed to State Board members copy of 12.18.2006 advice memo
6.15.2007	Montgomery County Board of Elections forwards email from Mr. Richard Boltuck (father of 17 year old who received letter).
6.18.2007	Received voicemail message from Ann Rider of Fair Vote regarding the “change in policy concerning 17 year olds and voting.” Spoke with her and sent her the advice memo when it was received.
6.19.2007	Advice memo from Attorney General’s Office to Linda Lamone restating advice and interpretation of <i>Capozzi</i> decision.
6.26.2007	Montgomery County responds to Mr. Boltuck’s email and refers him to SBE and the 6.19.2007 memo from Mark.
6.29.2007	Article in <i>The Registrar</i> (Vol. 2, No. 13) informing the local boards of elections that the changes to MDVOTERS will be in the July release.
7.16.2007 & 7.17.2007	GoTo meetings for the local boards of elections on the release were held.
12.2.2007	<i>The Washington Post</i> prints an editorial from Mr. Boltuck entitled “In Maryland, a Quiet Loss of Voting Rights.”
12.17.2007	Senator Raskin requested advice from the Attorney General on whether, in light of the parties’ rule changes, the parties had a First Amendment right of association that 17 year olds who will be 18 on or before a general election can participate in the primary elections.
12.19.2007	Attorney General issues advice stating that the political parties, under their right to freedom of association, may allow 17 year olds who will be 18 by a general election to vote in a primary election.

Mr. Walker noted that there were several individuals who had previously requested the opportunity to speak to the Board members. Sarah Boltuck presented her statement to the Board members. Ms. Boltuck, a 17 year old who will be 18 by the general election, stated that SBE had actively discouraged similarly situated 17 year olds from submitting voter registration applications by its information on the agency website and instructions, outreach to high school students, and rejection of other individuals’ applications. Ms. Boltuck proposed that SBE engage in a public education campaign to reach young voters who have not submitted voter registration applications and include advocacy and educational organizations in the effort.

In response to Ms. Boltuck’s statement, Mr. Walker asked if staff members would like to respond to her statement. Ms. Wagner responded that SBE has not actively discouraged any individuals from submitting voter registration applications and that both SBE and the local boards of elections worked and continue to work to promote voter registration drives for high school

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students. Ms. Wagner highlighted SBE's production in June 2006 of 1,263 certifications for Prince George's County graduating high school seniors who submitted applications to register to vote and noted that all of the applications were processed. Ms. Wagner also noted that the only change made to the agency's website and voter registration application was the removal of the word "general" before "election" and that the number of 17 year olds registered to vote is similar to prior election years.

Richard Boltuck, Ms. Boltuck's father, requested the opportunity respond and noted that Ms. Boltuck did not state that SBE actively discouraged voter registration but noted that the agency may have passively discouraged voter registration of individuals in this category.

Michael Cryor, Chairman of the Maryland Democratic Party, stated his party's support of young people in the State to vote in the February 12th primary election and introduced three members of the Young Democrats. Mr. Cryor noted that this is an issue of freedom of association for the political parties and represents the official policy of the Maryland Democratic Party. Mr. Walker noted that a copy of the Maryland Democratic Party's resolution on this issue was included in the board members' folders.

Adam Fogel of Fair Vote's Right to Vote Program questioned SBE's delay of consideration of this issue and stated that he has a letter of support from a number of nonprofit organizations supporting this effort. Mr. Fogel proposed providing all 17 year olds with the opportunity to register to vote by using the information on the school systems' databases and sending voter registration applications to those 17 year olds who will be 18 by the next general election.

Mr. Walker stated that 17 year olds who will be 18 on or before the general election have until January 22, 2008, to register for the February Primary Election. In response to a question from Mr. Walker, Ms. Wagner reported that accommodating this change means that everything will have to be done outside the State's voter registration system. She also stated that a notice will be sent to each voter registration applicant who is now 17 years old and will be 18 on or before the general election, and SBE staff will monitor daily any new applicants.

Mr. Walker noted that the number of 17 year olds that this impacts is low but is reflective of the trends of the last four to five years. He also stated that SBE has not actively discouraged voter registration of the impacted individuals and was required to follow the advice of the Attorney General. Mark Davis rebutted Mr. Fogel's statement that SBE delayed consideration and noted that, until recently, there were no issues concerning the implementation of the Attorney General's initial advice.

Mr. Jezic asked about the statutory authority requiring SBE to follow the advice of the Attorney General, to which Mr. Davis responded that it is required by the State Government Article of the *Annotated Code of Maryland*. Mr. McManus noted that SBE is obligated, absent any unusual circumstances, to follow the advice of the Attorney General, and now that the Attorney General has responded to new concerns, SBE is obligated to follow the most recent advice. Ms. Mack noted that the political parties' rights of association were not previously raised.

Mr. McManus made a motion to accept the advice of the Attorney General, and Ms. Mack seconded the motion. The motion passed unanimously. Mr. Walker noted that Mr. Thomann

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supported the decision to allow 17 year olds to vote in a primary election if they will be 18 on or before the general election.

OLD BUSINESS

There was no old business.

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 for the 4th Thursday in January (January 24th) 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 approximately 3:30 p.m.