

January 24, 2008

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

Attendees: Robert L. Walker, Chairman
Andrew V. Jezic, Member
David McManus, Member
Mark Davis, Assistant Attorney General
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Mary Wagner, Director of Voter Registration
Jared DeMarinis, Candidacy and Campaign Finance Director
Donna Wiltshire, Voting System and Procurement Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Paul Aumayr, Acting Voting System Project Manager
John Clark, Voter Registration System Project Manager
Karen Simpson, Candidacy and Campaign Finance Deputy Director
Roger Stitt, Voter Registration Division
Jaimie Jacobs, Election Reform Deputy Director

Also Present: Holly Joseph, Save Our Votes
Stan Boyd, Save Our Votes
Richard L. Andrews, candidate in upcoming GOP Primary Election
Brigitta Mullican, Montgomery County League of Women Voters
John Schneider, Election Integrity Coalition

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:37 p.m.

APPROVAL OF THE NOVEMBER 29TH BOARD MEETING MINUTES

Mr. McManus made a motion to approve the minutes, and Mr. Jezic seconded the motion. The minutes of the December 20, 2007, board meeting were approved unanimously.

ADMINISTRATOR'S REPORT

1. Announcements

Ms. Lamone informed the Board that Jaimie Jacobs has announced that she will be resigning at the end of February. Ms. Lamone recognized Jaimie's many contributions to the agency, her hard work, and conscientious work ethic. The Board recognized Jaimie and all wished her luck in her future endeavors.

2. Meetings and Important Dates

Meeting with Senator Kramer

Ms. Lamone reported that on January 14th, she and several staff were called to a meeting convened by Senator Rona Kramer at the request of Montgomery County Board Chairman Sam Statland and alternate Democratic Member Jerome Garson. The purpose of the meeting was for Mr. Statland and Mr. Garson to report to the Senator and other members of the Montgomery County delegation concerns that they have about MDVOTERS. Mary Wagner provided the Senator and members of the delegation with detailed information about the functionality of the system, the fact that it is successfully used by 23 other jurisdictions, and that improvements and enhancements are continuing. Mr. Walker asked for clarification on the concerns raised by Mr. Statland. Ms. Lamone stated that the primary problem was that

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Montgomery County left a highly customizable main frame system. This system has to satisfy all 24 LBEs and therefore we cannot accommodate everything that Montgomery County wants. Ms. Lamone noted that work is being done to continually improve the system through a detailed and structured process that includes all LBEs.

Ways and Means Briefing

Ms. Lamone reported that on January 17th, she gave a briefing to the House Ways and Means Committee. During her remarks, she strongly encouraged committee members not to pass legislation that will impact the 2008 Presidential Election because it will impact materials that have already been printed, plans that have already been developed, and training that has already been conducted. The committee was also briefed on the Post Election Audit project being funded by Pew Charitable Trusts. Mr. Walker commended the staff for their efforts in obtaining this grant. In addition, the committee was provided with updates on other activities conducted including MDVOTERS enhancements, the implementation of the voter merge function, and the development of the Challenger and Watcher Manual. There were several questions about Campaign Finance filing issues, the implementation of the new voting system, and the ability to obtain data from electronic pollbooks.

MEMA Conference Call

Ms. Lamone reported that a conference call was hosted by John Droneburg, Director of the Maryland Emergency Management Agency, on January 18th. The participants included county emergency managers, county election directors, and state officials. The purpose of the meeting was to ensure all local emergency personnel understood the importance of election day and the need to cooperate with local election administrators. Mr. Walker asked what would happen in the event of a major weather event. Ms. Lamone responded that we will do all we can to move forward with the election. The Governor has the authority to declare a state of emergency and reschedule the election. Nonetheless, the goal is to ensure that services are available to conduct the election. Meetings have been held with Verizon to make sure they are aware of the election schedule, and a future meeting is planned with the power companies.

3. Election Management and Reform

Administrative Complaints

Ms. Lamone reported that a final determination was issued on January 8, 2008, in response to the administrative complaint filed by the Howard County Board of Elections. In this complaint, the Board alleged that 34 voters provided a non-residential address as part of the voter registration or update process. In the determination, the Board was ordered to change addresses for those voters who provided residential addresses and designate the non-residential addresses as "invalid" addresses in MDVOTERS. A copy of the final determination was provided to the Board members.

A final determination was issued on December 21, 2007, in response to the administrative complaint filed by Carl Snyder, a 17 year old voter in Frederick County. Judith Arnold, the Administrator's designee for the complaint process, determined that the complaint was moot because the complainant achieved the result sought due to the Board's actions regarding 17 years olds at the December 20th meeting. A copy of the final determination was provided to the Board members.

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Regulation Review

Ms. Lamone reported that under Executive Order 01.01.2003.20, each State agency with authority to adopt regulations is required to review current regulations periodically and submit a report to the General Assembly's Administrative, Executive, and Legislative Review Committee. The review process includes the development of a work plan, review of existing regulations, and the submission of an evaluation report. The work plans for two sections of the regulations (Title 33 has been divided into five sections for this review process) have been submitted and approved by the legislative committee, and SBE and LBE review of the first section is on-going. As the evaluation reports are completed, the proposed changes to the applicable regulations will be presented to the State Board members for discussion and approval. The first set of proposed changes will likely be submitted for discussion and approval in April or May 2008.

Pre-Election Conference Calls with Local Board Counsel

Ms. Lamone reported that there have been two pre-election conference calls with the counsel to the local boards of election were held. At least fifteen LBE attorneys participated in each of the calls and discussed voting rights of 17 year olds, the impact of voting a provisional ballot in the wrong precinct, requesting an absentee ballot on election day, emergency weather contingency plans, and challengers and watchers. The final call is scheduled for February 6, 2008.

Mr. Walker stated that he had received a question about what contingencies are in place in case voting equipment does not work on election day. Ms. Lamone responded that there is a contingency plan that the Board approved. The plan involves using paper ballots if all voting units in a polling place become inoperable. There is also a plan in place for an electronic pollbook failure that requires the use of a paper precinct register.

Election Judges' Recruitment and Training

Ms. Lamone reported that SBE's effort to recruit election judges through Craig's List, MySpace.com, and the agency's website has continue to generate interest. Since we posted information on these websites, we've received over forms from over 100 individuals interested in serving as election judges. These forms are immediately forwarded to the appropriate local board of elections for follow-up.

Ms. Jacobs has been observing election judges' training. To date, she has observed 10 trainings and one train-the-trainer session and will be summarizing her observations. Ms. Lamone stated that generally Jaimie has been pleased with training but has noted some inaccuracies and improper training.

Press Releases

Ms. Lamone reported that a press release announcing the deadline to register to vote and request reassignment to an accessible polling place for the Presidential Primary Election was distributed to media outlets around the State and to the local boards for customization. Generally, SBE provides a customizable press release to the local boards for them to distribute to local media outlets. The statewide version of the press release is posted on SBE's website under "Press Room," and the customizable version is posted on the Online Library under "LBE Resources." Upcoming press releases include information about the deadlines to request an absentee ballot and general election information.

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4. Candidacy and Campaign Finance

Candidate Filing

Ms. Lamone reported that a total of 839 candidates have filed for the 2008 Presidential Primary Election. This represents one of the largest number of filings in a presidential election year.

Report Filing

Ms. Lamone reported that on January 16, 2008, the 2008 Annual campaign finance report was due. The transaction period ended on January 9th. From preliminary reports, the Candidacy and Campaign Finance Division has received reports from 70% of the committees required to file. The remaining filers are late and are being assessed late fees. The maximum late fee penalty is \$250.

Prohibition on Fundraising

Ms. Lamone reported that the prohibition on fundraising during the legislative session began on January 9th at noon for all current office holders. This prohibition on raising or depositing funds includes the Governor, Lieutenant Governor, Attorney General, Comptroller and members of the General Assembly.

Contribution Disclosure

On February 4, 2008, 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 or a person who provides lobbyist compensation and makes campaign contribution greater than \$500, is due. The Candidacy and Campaign Finance Division received over 170 disclosure forms from qualifying persons from the last filing.

5. Voter Registration

Preparations for the Presidential Primary

Ms. Lamone reported that the Voter Registration Division is preparing for the Presidential Primary. Staff members are supporting the local boards of elections (LBEs) when they call in with questions on registration, absentee balloting and provisional voting. The night of January 28th, staff will run the processes in the statewide voter registration system (MDVOTERS) that generate precinct registers for the 24 LBEs. This data is then loaded into the electronic poll books by the Voting System Division for use at the polling places.

17 Year Old Voting

Ms. Lamone reported that since the change in the Attorney General's ruling, the Voter Registration Division has been working steadily, printing and mailing letters for all 24 local boards of elections to their registered underage voters. The letters explain to each voter the process by which they will have the opportunity to vote in the Primary Election, if they are affiliated with the Democratic or Republican Party. As of January 22, 2008, a total of 8,480 letters have been mailed by the State Board and are averaging over 600 letters per day. Roger Stitt reported that at last count there were 12,599 17 year olds registered. Mr. Walker asked how this compared to prior years. Mr. Stitt responded that it is definitely higher – by several thousands.

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In-house Field Support Program Launched

Ms. Lamone reported that the Voter Registration Division has moved the Field Support Program in-house this year, allowing significant savings to the local boards of elections (LBEs). Mary Jo Waite and Michael Hinton—key support members under the Saber contract in 2006 and 2007—are working under contract to provide MDVOTERS support services to the LBEs. Their responsibilities include assisting local board staff with questions they have on using MDVOTERS; training users; producing the voter registration newsletter (The Registrar); and testing new software developed for MDVOTERS. Mr. Walker asked what saving was realized by moving field support in house. Ms. Wagner reported that the saving is approximately \$2 million.

2008 Planning Session Conducted

Ms. Lamone reported that staff, Saber and local board representatives from Baltimore City and Montgomery County met on January 9th to develop the MDVOTERS 2008 Work Plan. Three new software releases are planned: one in March, one in late June and one in December after the Presidential election. The Voter Registration Division is continuing its best practice, started in 2004, of not making major changes to the MDVOTERS software prior to a statewide election. Mr. Walker asked what the releases cover. Ms. Wagner stated that they provide added customization to the system. The first release is already completed but is being held until after the primary.

6. Voting Systems

Presidential Primary Preparation

Ms. Lamone reported that the primary focus for the Voting System Division has been ballot production for the 24 LBEs, assisting them with Logic and Accuracy testing, ensuring they have the necessary supplies, and making sure that their voting equipment is ready to conduct a successful election on February 12th. The supplies for the election include batteries and extra voter access cards. All of these supplies have been delivered to each LBE.

Logic and Accuracy Testing

Ms. Lamone also noted that Logic and Accuracy testing has been taking place in each LBE. This involves loading the appropriate ballot styles as well as testing approximately 16,000 touchscreen units to ensure that they are counting properly, as well as 5,000 electronic pollbooks, as well as optical scanners and the GEMS servers. Logic and accuracy testing has been going very smoothly.

County Technicians

Ms. Lamone reported that the Premier County Technicians have been deployed to the LBEs. These technicians started on January 2nd and will stay with their jurisdiction until 2 weeks after the election. Their duties are to assist the LBE with equipment preparation and their work is overseen by the Election Director in their county. Mr. Walker asked how many county technicians are hired, to which Paul Aumayr responded that there are 24 - one per county and that the cost is split between the State and the LBEs.

Ballots

Ms. Lamone reported that printing of absentee and provisional ballots is complete and delivery has taken place. About 375,000 ballots have been printed. Test Decks have also

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been printed and are being distributed; these are pre-marked ballots that are used to test the optical scanners to ensure that they are counting correctly.

The Voting System Division has also been working with Premier to prepare for any issues that may arise as a result of severe weather on February 12th. The power management plan has been modified to ensure that extra touchscreen batteries are in place in the event of major outages taking place on election day.

Electronic Pollbooks

Ms. Lamone reported that preparation for the electronic pollbooks is proceeding on schedule. With the assistance of EDS, a comprehensive quality control plan has been established. The document details the various types of testing that will be conducted prior to delivering data to LBEs. Mr. Goldstein stated that a volume test was being conducted on the pollbooks tomorrow. This test is being conducted pursuant to a detailed quality control plan developed by EDS.

7. Budget and Personnel

Personnel News

Ms. Lamone reported that final interviews are being held for the Voting System Project Manager position this week.

Budget

Ms. Lamone also reported that the Governor's budget contains funds for the existing voting system and its original maintenance program, as well as \$515,000 to support software upgrades.

In addition, funds for a new voting system are included to facilitate any potential transition. These funds include \$6.05 million for the first lease payment for the new equipment, and \$748,000 to cover contractual services to help manage/implement a new system. Mr. Walker asked whether the amount was sufficient procure a new system, to which Ms. Lamone answered yes. Mr. Walker also asked about the disposition of the current system. Mr. Goldstein stated that it remains to be seen; however, finding a buyer for the system seems very unlikely.

SBE will have two web conferences to discuss the budget and related impacts with county financial managers and LBEs.

8. Information Technology

Technical Upgrade

Ms. Lamone reported that there have been upgrades to two components of the internal election management system, ELECTTrack and Ballot Production, were implemented. In addition, SBE firewall enhancements and upgrades were completed. SBE's network and firewall are now significantly strengthened against intrusion. Additionally the enhancements now provide much needed management aids that vastly improve our network's efficiency.

Other efforts include the following.

-Several intermediate patches and script corrections were applied to the Election Management System (EMS).

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- MDVOTERS update was applied as well as several application script changes and data corrections.
- System and application testing has been completed for Microsoft Vista operating system. It has been determined that Vista is largely incompatible with SBE systems and conversion is not feasible.
- Microsoft office 2007 primary testing has also completed. Some minor compatibility experienced with existing systems. 2007 will be deployed only to users whose requirement is demonstrated.
- Software upgrades included: Crystal Reports, Symantec Antivirus, Visio and Oracle.

Website

Ms. Lamone also reported that several visual enhancements have been completed to local user and public pages including contrast adjustments and resolution improvements for greater accessibility. In addition, numerous enhancements to candidate and election displays and results have been implemented.

Network

Ms. Lamone reported that network latency has continued to be minimal statewide. Local DNS server adjustments have been completed throughout the LBEs that share computer tasking with local county governments. This action reduces individual user downtime.

Local Board Services

SBE has completed collection of all excess equipment and validated the IT material database. This is the first step in the inventory management conversion. Staff also completed equipment and system installations and set-ups in Frederick, Worcester, Wicomico and Anne Arundel Counties. Calvert and Charles Counties have completed network and service relocations to new offices.

Security

Annual application and user password audits have been satisfactorily conducted at SBE and the LBEs.

9. Updates from Prior Meeting

Finally, Ms. Lamone followed-up on an issue from the last meeting regarding one final contract item to be presented to the Board of Public Works. The item was the exercise of an option for hardware warranty and software maintenance for electronic pollbooks. This was presented to BPW on January 2, 2008 and was approved. Mr. Walker asked whether there were any questions or issues raised. Ms. Lamone stated that except for the Comptroller asking for clarification on an issue, there were not questions or issues raised.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Davis informed the Board that on January 31, 2008, the Board of Public Works will consider paying the judgment of \$344,000 entered by the Circuit Court in the *Maryland Green Party v. Maryland Board of Elections*. Mr. Davis also noted that Richard Bowers has filed a petition for judicial review appealing the Administrator's determination that he may not petition to referendum revenue raising bills enacted by the General Assembly during the special session. Finally, Mr. Davis discussed the two cases filed involving the right of 17 year olds to vote. The cases, filed by Richard Boltuck on behalf of his daughter and Clifford Snyder on

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behalf of his son, both allege challenge the Board's decision not to allow 17 year olds to cast votes in nonpartisan contests and to require 17 year olds to cast provisional ballots in jurisdictions where a nonpartisan contest is on the ballot.

Mr. McManus asked about advice Mr. Davis had provided to Anne Arundel County on that Board's authority to require proof of citizenship. Mr. Davis explained that his advice was that the county could not require proof of citizenship since the county cannot act differently from the rest of the State.

CHALLENGER/WATCHER REQUEST

Nikki Trella explained that, under the Election Law Article, the State Board has the authority to designate a registered voter as a challenger or watcher. An individual from Caroline County requested that the State Board designate him as a challenger or watcher in Caroline County, and an organization requested that the State Board designate representatives of the organization as watchers for designated precincts in Montgomery County.

In light of these requests, Ms. Trella suggested that the State Board consider only requests from registered voters who are part of a coordinated effort to observe polling place activities in two or more jurisdictions or requests from officials from other jurisdictions or organizations with an interest in observing elections. Ms. Trella explained that a designation by the State Board may give the challenger or watcher credibility and possibly the ability to influence the actions of an election judge. Ms. Lamone noted that the State Board may receive numerous requests for designation if it begins designating individual registered voters, and Mr. Goldstein stated that the State Board's interest is in ensuring polling place procedures, rather than challenging the identify of voters. Mr. Walker noted that, since there were not four board members present, no action could be taken.

WAIVER OF CAMPAIGN FINANCE LATE FEES

Since there were not four board members present and no action could be taken, the Board requested that the waivers be held until the next meeting.

CONSIDERATION OF LEGISLATION

Since there were not four board members present and no action could be taken, the Board requested that the issue be tabled until the next meeting. Mr. McManus asked whether the Board generally takes positions on legislation. Ms. Lamone responded that generally no position is taken. However, testimony is submitted to explain bills and the impact they will have on election administration.

REVIEW OF BY-LAWS

Since not all of the members were present to discuss the by-laws, the Board tabled consideration of the by-laws until the next meeting.

OLD BUSINESS

Mr. Walker inquired about the status of federal legislation. Ms. Lamone reported that H.R. 811 is not moving and the Congressman Holt, the sponsor of H.R. 811, is expected to introduce legislation that would reimburse jurisdictions which move to paper-based voting for the 2008 General Election.

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NEW BUSINESS

Mr. Goldstein requested that two Board members pick a number out of a basket for the purpose of selecting voting units for election day parallel testing purposes. Mr. Jezic selected Calvert County, and Mr. McManus selected Allegany County. A voting unit from each of those counties will be randomly selected by a member of the public at the public demonstration of logic and accuracy testing. The unit will be delivered to Annapolis where it will be set up and tested throughout election day.

FEBRUARY MEETING DATE

Mr. Walker announced that the next meeting of the State Board of Elections is scheduled for the 4th Thursday in February (2/28) 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.