

State of Maryland

State Board of Elections Meeting – July 28, 2011

Attendees: Robert Walker, Chair
Bobbie Mack, Vice Chair
David McManus, Member
Rachel McGuckian, Member
Charles Thomann, Member
Linda H. Lamone, Administrator
Jeff Darsie, Assistant Attorney General
Donna Duncan, Election Management Director
Nikki Trella, Election Reform Director
Mary Wagner, Voter Registration Division Director
Stacey Johnson, Project Manager, MDVOTERS
Jared DeMarinis, Director, Candidacy and Campaign Finance Division
Paul Aumayr, Director, Voting Systems

Also Present: Barbara Sander
Douglas Armstrong
Joan Floyd
Lynn Garland
Joel Foster
Stan Boyd
Anthony Gutierrez

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:02 pm and declared that a quorum was present.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes of the June 30, 2011, board meeting were presented for approval as amended. Ms. Mack made a motion to approve the minutes, and Mr. McManus seconded the motion. The motion was approved unanimously.

ADMINISTRATOR'S REPORT

Nikki Trella presented the Administrator's Report.

1. Announcements

Ms. Trella reported that SBE is very pleased to have Paul Aumayr return to work after a successful surgery. Michael Kortum is no longer employed at SBE. We wish him well in his future endeavors.

2. Meetings and Important Dates

U.S. Election Assistance Commission's Technical Guidelines Development Committee (TGDC)

The TGDC met on July 26th and July 27th at the National Institute of Standards and Technology (NIST) in Gaithersburg, Maryland. Ms. Trella reported that there were discussion with representatives of the Federal Voting Assistance Program (FVAP) about the technical requirements for an online voting demonstration project and updates on common data format for election systems. UOCAVA voters may have remote electronic voting come the 2016 Presidential election.

3. Election Reform & Management

Federal Voting Assistance Program Grant

On July 8th, SBE submitted a grant proposal to the FVAP. This proposal requested funding for an online voter registration system and improvements to the online absentee ballot delivery system. According to the FVAP, the technical review committee is meeting this week and will make recommendations to FVAP staff. FVAP staff will forward its final list to the grants officer next week for processing. FVAP's goal is to be finished the review and processing by the end of October, at the latest.

Election Judges' Manual and Forms

The election judges' manual for the 2011 City elections has been finalized, and Rick Urps is reviewing the local boards' customizations. The 2012 manual is nearing completion and will be distributed to the local boards for customization when it is complete.

Election Preparedness and Professional Development Program

Two courses were offered at the MAEO/Biennial meeting and were well received by the participants. SBE will be offering one new course and three repeat courses this year. The subject of the new course is redistricting, and the target audience will be those local board staff members who will be making the changes in MDVOTERS to accommodate the new congressional and legislative district lines. Three other courses – Voter Registration, Pre-Election and Post-Election – will be reoffered to give new employees and other employees who have not yet taken these courses the opportunity to attend. Local board members may be invited to attend the repeat courses.

Chairman Walker inquired as to the timeline for congressional and legislative redistricting. Ms. Lamone responded that a special legislative session will be convened on October 17, 2011, to address congressional redistricting, and legislative redistricting will be addressed at the beginning of the 2012 legislative session.

4. Voter Registration

Mary Wagner reported on the status and work of the Voter Registration Division.

Online Voter Registration/MVA Interface

On July 21st the first Joint Application Design (JAD) session for the online voter registration project was held. Participants included The Canton Group, Sidus and members of SBE. The JAD for the hardware and networking took place on July 26th. The next session will be held August 1st.

Petition – Senate Bill 167, Public Institution of Higher Education – Tuition Rates - Exemptions

On July 20th, the local boards of elections completed the verification and counting of signatures on the June 30, 2011, filing of referendum petitions. On July 22nd, Ms. Lamone certified the verification and provided the following total statistics: 108,923 – accepted signatures and 23,148 – rejected signatures. The number of accepted signatures met and exceeded the requirement of the Maryland Constitution for placing this Act on the November 2012 ballot in Maryland.

Baltimore City Election

On July 27th, the Baltimore City ballots were loaded into MDVOTERS. This allows Baltimore City to begin processing absentee ballots.

Call Center

CRDynamics will be hosting the call center for the Baltimore City election. Meetings have been held with Mr. Armstead Jones and Ms. Abigail Goldman of the Baltimore City Board of Elections, along with members of Cirdan and SBE.

5. Candidacy and Campaign Finance (CCF)

Jared DeMarinis reported on the status and work of the CCF Division.

Candidacy

As of July 25, 2011, 12 candidates have filed for office for the 2012 Presidential Election.

The deadline to file for the Baltimore City election as a Democratic, Republican or petition candidate was 9 pm on July 5, 2011. The CCF Division stayed open to provide the necessary backup and processing of any Statements of Organization received that day.

Campaign Finance

July 15, 2011, was the deadline for the 2010 Annual Audit campaign finance report for all political committees that received a deficiency notice. The CCF Division received reports from over 80% of the committees required to file. Reports from the remaining committees are late, and the committees are accruing late fees. The maximum late fee penalty is \$250.

Twice a year, persons who do business with the State involving consideration of \$100,000 or more and make campaign contributions in excess of \$500 or a person who provides lobbyist compensation and makes campaign contribution greater than \$500 must file a Contribution Disclosure Form. On August 5, 2011, the semi-annual filing is due. The CCF Division received over 265 disclosure forms from qualifying persons from the last filing.

The development of the browser-based campaign finance reporting and management system is on schedule and on budget. Mr. DeMarinis has met with the PCC Technology project management team several times

during the month of July to define the Maryland business practices and process. PCC's Project Manager, Mr. Greg Amato, was introduced to the Board Members.

Enforcement

The CCF Division has completed its review of the 2010 Election Cycle for potential over-contributors based upon the reports filed. In accordance with our understanding with the Office of the State Prosecutor, we will be contacting the individuals in order to determine if a violation occurred. There are potentially over 65 individuals who exceeded the \$4,000 contribution limit to a single political committee.

Mr. McManus asked whether calls to individuals who exceed the limit are made. Mr. DeMarinis stated that letters are sent to the committee and the contributor. Ms. McGuckian asked if it is correct that if the money is paid back, then the committee or contributor is not subject to prosecution. Mr. DeMarinis stated that decision is up to the State Prosecutor but does inform the State Prosecutor whether the individual was cooperative or not.

6. Voting Systems

Baltimore City Ballots

Instead of using an outside ballot programmer, Natasha Walker performed the ballot development tasks for the 2011 Baltimore City Mayoral Primary Election, including recording the audio version of the ballot. She is working closely with the Baltimore City Board of Elections to get final approval of the ballots and expects to have the final ballot database ready by the end of the week. In-house ballot programming – instead of using a third party programmer and recording studio – should save SBE and the Baltimore City Board of Elections several thousand dollars.

Ms. Mack asked if the ballot printer is from Maryland, and Ms. Trella responded that the current printer is located in Pennsylvania, just over the Maryland border.

TSX Units

As part of the settlement with ES&S, SBE and the local boards received 300 AccuVote-TSX units to download data and upload election results. Although TS units and TSX units use the same software, TSX units are significantly faster at uploading election results to the GEMS server than the Accuvote-TS units. These units were used, on a limited basis, for upload of election results for the 2010 General Election. All local boards have received their TSX units and are performing acceptance testing.

Batteries

The Accuvote-TS batteries will be shortly delivered to the Baltimore City Board of Elections for its upcoming Mayoral election. All other local boards will receive their batteries shortly thereafter. In addition, the batteries in all 73 optical scan units will be replaced.

Conducting the Election Guide

The Conducting the Election Guide, the manual that documents voting system processes and procedures, is being updated for the Baltimore City Mayoral Election and the 2012 Presidential Elections. It is currently undergoing final review and has been a collaborative effort between SBE, local boards representatives, and Cirdan. It is anticipated that it will be released very shortly.

Electronic Pollbooks

SBE continues to monitor the local boards' progress on CMOS battery replacement and internal leg-stand reinforcement on all electronic pollbooks statewide. The process is now about 60% complete.

ES&S has made significant progress on the ExpressPoll software upgrade for 2011, completing development on 9 of the 35 fixes and enhancements submitted by SBE. The pre-production interim release for the first iteration will be delivered to SBE on Friday, July 29th.

The primary and backup EPIC servers have reached the end of their life cycle and are being replaced. These servers are used to process the voter databases for electronic pollbooks, host database connections for early voting, and support a wide variety of reports and analytical functions. The new servers utilize Windows Server 2008 operating system and SQL Server 2008 database

In response to a question, Paul Aumayr updated the board members on the status of the testing of the voting units with a "dead zone" on the screen. Mr. Aumayr explained that testing was complete and that 65-70 units were identified with this issue. To fix the issue, SBE is replacing the glass that sits over the screen.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Jeff Darsie reported that on July 19, 2011, the Attorney General's Office filed a Notice of Appeal on behalf of defendants Lamone and State Board of Elections in *Libertarian Party, et al, v. Maryland State Bd. Of Elections*, Case No. 02-C11-160371 (Cir. Ct., Anne Arundel County, Md.). In addition defendants expect to petition the Court of Appeals to ask that Court to hear the appeal directly, without first submitting the case to the Court of Special Appeals. To date, defendants have not requested a stay pending appeal and there are no immediate plans to do so. In consequence, Judge Lerner's order in the circuit court approving the new party petition of the Libertarian and Maryland Green parties can be expected to remain in effect at least through the Baltimore City elections. Mr. Darsie stated that both he and Assistant Attorney General Kathleen Wherthey will be representing SBE in the appeal.

PRESENTATION BY EMMETT DAVITT, STATE PROSECUTOR

Mr. Davitt provided a brief overview of his responsibilities and the types of referrals he receives from SBE. In response to Mr. Davitt's comment that one staff member investigates election law and campaign infractions, Mr. McManus asked how much of that individual's work is the result of referrals from SBE. Mr. Davitt stated that it depended upon the time of year, but on the average, it was approximately 20%. Ms. Mack asked what percentage ends up being prosecuted, to which Mr. Davitt responded that percentage is very small as most cases get resolved.

In response to a question from Mr. McManus about where recovered funds go, Mr. DeMarinis stated that the money first comes to SBE to be deposited into the State's general fund.

Ms. Mack asked if individuals are contacted notifying they are being investigated, to which Mr. Davitt responded that his office sends each a notification. Mr. McManus asked if SBE contacts them, and Ms Trella responded that she contacts by letter most voters with multiple voting credit. Mr. DeMarinis explains that campaign committees are sent at least 4 letters. The last letter is a show cause letter which is the referral to the state prosecutor.

Mr. Thomann asked if it is easy to find out whether someone is in fact a double voter. Ms. Trella stated there are many times when there is no intent to vote twice. Mr. McManus asked the name of the investigator, and Mr. Davitt responded that her name is Ms. Sharday Lamback.

Ms. McGuckian inquired about any statistics regarding cases referred to the state prosecutor. Mr. DeMarinis responded that he will provide reports.

APPROVAL OF FINAL REGULATIONS

Ms. Trella presented to the members of the State Board the following regulations for final adoption:

1. 33.16.02.01: Provisional Voting Documents and Supplies – Provisional Ballot Application
2. 33.17.02.01: Early Voting Centers – Number of Early Voting Centers
3. 33.17.04.03: Early Voting Centers Equipment and Materials – Allocations of Equipment and Supplies
4. 33.17.07.04: Non-Voting Hours Procedures – Post Early Voting Activities

The proposed changes were published in the June 3, 2011, edition of the *Maryland Register*. The public comment period closed on July 5th, and no comments were received. Ms. Mack commented how amazed she is by so much interest in elections, and yet no comments on regulation changes. Ms. Trella noted that she includes information in the County Bulletins for the local boards to provide comment.

Ms. Mack made a motion to approve, and Ms. McGuckian seconded the motion. The motion was approved unanimously.

APPROVAL OF WAIVERS OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis presented waivers of late fees for the following political committees along with the Administrator's recommendation for approval.

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| 1. Barnes, Robert J. Citizens Of, A4509 | 11. Crizer, Ed Friends For, A8097 |
| 2. Brown, Ajile F. For Orphans Court, A8007 | 12. Dove, Ronnie Committee to Elect, A7227 |
| 3. Byrd, Catalina Friends Of, A8857 | 13. Falcinelli, Tom Friends of, A7515 |
| 4. Campos, Will Friends For, A4240 | 14. Frazee, Walter Citizens For, A8214 |
| 5. Cavey, Chris Friends Of, A8044 | 15. Friends of Chimes PAC, The, A1546 |
| 6. Cecil County Democratic Central Committee, A123 | 16. Hall, Kirkland Citizens to Elect, A8193 |
| 7. Chabot, Elliott Friends of, A7747 | 17. Hardesty, Timothy Campaign, A7638 |
| 8. Comeau, Joseph Campaign To Elect, A8072 | 18. Harris, Albert Committee to Elect, A8232 |
| 9. Conservatives For Maryland PAC, A8920 | 19. Imhoff, Alan for Commissioner, A7867 |
| 10. Crawford (James) 4 Maryland, A8095 | 20. Jackson, Arthur 2010, People For, A8311 |

21. Kovach, Russ Citizens for, A7473
22. Kretzer, Wayne Jr. Citizens For, A8384
23. Langer, (Andrew) For Maryland, A8395
24. McClinton, (Carla) Friends to Elect, A7644
25. McDowell, Ewing Friends Of, A4478
26. Milbourne, Michael C. Citizens to Elect, A8735
27. Mills, Phillip Friends for, A8723
28. Mirabile, Russell Election of, A8724
29. Phelps, Draper Citizens for, A7405
30. Poffenberger, Richard Citizens for, A4771
31. Prince George's County Republican Central Committee, A158
32. Redmer, Al Jr. Friends Of, A632
33. Santill, Ken Citizens For, A8667
34. Vaughn (Corrogon) 4 Maryland, A8572
35. Vohra, Arvin for Maryland, A7200
36. Windsor, Bill Citizens For, A8635
37. Yockey, David Citizens To Elect, A858

Mr. Thomann made a motion to approve, and Ms. Mack seconded the motion. The motion was approved unanimously.

REQUESTS FOR CONFIDENTIALITY

Mr. DeMarinis presented confidentiality requests for approval. COMAR 33.04.02.02 identifies individuals who may request to have their residence addresses and telephone numbers designated as confidential. The categories of individuals who may request confidentiality are law enforcement personnel, persons being threatened, victim of or witness to felony and others due to safety or serious invasion of privacy. In response to a question from Ms. Mack, Mr. DeMarinis confirmed that the protected information is available to SBE but not the public.

Mr. McManus made a motion to approve, and Ms. McGuckian seconded the motion. The motion was approved unanimously.

OLD BUSINESS

Ms. McGuckian asked that the State Board members be briefed on the outcome of the local boards' audits.

NEW BUSINESS

Ms. Duncan provided the board members with revised petition forms. She explained that language had been added explaining to signers that signing a petition and the information provided on the petition are public information.

SCHEDULING OF NEXT MEETING

The next meeting was scheduled for August 25, 2011, at 2:00 pm.

ADJOURNMENT

Mr. Walker adjourned the public meeting at 2:46 pm.

CLOSED MEETING

Ms. Mack asked for a motion to close the board meeting under State Government Article, §10-508(a)(13) to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosure about a particular proceeding or matter. During the closed meeting, there was a discussion about the budget recommendations for the Governor's Office to develop the FY 2013 budget. Ms. Mack made a motion to close the meeting, and Mr. McManus seconded the motion. The motion passed unanimously.