

State of Maryland 

State Board of Elections Meeting – December 19, 2011

Attendees: Robert Walker, Chair
Bobbie Mack, Vice Chair
Rachel McGuckian, Member
David J. McManus, Member
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Jeff Darsie, Assistant Attorney General
Donna Duncan, Election Management Director
Nikki Trella, Election Reform Director
Stacey Johnson, Project Manager, MDVOTERS
Paul Aumayr, Director, Voting Systems

Also Present: Barbara Sanders, League of Women Voters of Maryland
Holly Joseph, Montgomery County
William Edelstein, Baltimore City
Sara Harris, Montgomery County Board of Elections
Rebecca Weir Nelson, Citizens for Rebecca Weir Nelson

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:04 pm and declared that a quorum was present.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes of the November 10, 2011, board meeting were presented for approval. The minutes were approved unanimously.

ADMINISTRATOR'S REPORT

Ross Goldstein presented the Administrator's Report.

1. Meetings and Important Dates

Election Directors' Meeting

On November 15th, SBE hosted an election directors' meeting. An update was provided to the election directors on SBE's various projects, the redistricting litigation, the need for the provisional oath on extended hours envelopes, and how to meet the sample ballot requirement for the primary election. Twenty-one local boards were represented. December's election director's meeting was held on December 13th. A copy of the November and December meeting summaries will be provided in the board meeting folder. January's election directors' meeting is scheduled for Tuesday, January 17th.

Delegation from Kenya

On December 6th, a delegation consisting of four representatives from Kenya – a Commissioner with the Independent Electoral and Boundaries Commission and three other government/party officials – visited the State Board of Elections to learn about election administration in Maryland and the roles and responsibilities of SBE. The delegation was interested in the absentee voting process, especially for U.S. citizens who reside overseas, as Kenya nationals who reside overseas will be permitted to vote for the first time in 2012.

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

The TGDC, of which Ms. Lamone is a member, met on December 15th and 16th at the National Institute of Standards and Technology. The agenda included updates on the EAC's recent activities, presentations on common data format and voting system testing and software assurance, and updates on the UOCAVA risk assessment efforts.

Automated Absentee Ballot Mailing Project

The Request for Proposals for a vendor to provide automated absentee ballot delivery services was completed, and Runbeck Election Services was awarded the contract. Runbeck is an Arizona firm that specializes in ballot printing and mailing services. Runbeck currently has a contract with Maricopa County, Arizona (which is the eighth largest county in the country) to provide the same services as SBE has contracted for. The RFP evaluation committee was impressed with Runbeck's experience, price proposal, and focus on election services. The next step is project planning followed shortly by a complete test of the mailing process using data from Montgomery County. In response to a question by Ms. Mack, Mr. Goldstein stated that the rates being charged by Runbeck would create a cost savings. The cost for all of the supplies and labor associated with putting together each absentee ballot packet is approximately \$1.00 per packet. The cost for post will be dependent on a variety of factors, but should be between \$.089 and \$.168 per packet.

2. Election Reform & Management

Federal Voting Assistance Program (FVAP) Grant Project Update

SBE is working on several procurements to support the work of the grant projects – online voter registration and enhancements to the online absentee ballot delivery system. Two separate requests for resumes for technical consultants have been issued – one for a technical consultant to assist with the online voter registration portion of the grant proposal and the one to support the online absentee ballot delivery system. The technical consultant to the online voter registration system is expected to begin work this month, with the other consultant likely to begin in January 2012. Stacey Johnson and Cheré Evans are working on a request for proposals for a security consultant who will assist SBE with identifying and integrating security enhancements and planning for security audit and penetration testing in 2012. SBE intends to conduct in 2012 two penetration tests on the online voter registration system and the voter look-up website (which includes the online absentee ballot delivery system). SBE has finalized its contract with the Overseas Vote Foundation, the entity SBE proposed as its research and reporting consultant. Lastly, SBE is working on the procurement of the ballot-on-demand printers for the local boards of elections.

Meanwhile, Ms. Evans continues to develop the online voter registration system and integrate the existing voter look-up website into SBE's website. In the coming month, testing on the technical infrastructure and the new voter and polling place look-up will begin. SBE will develop test cases for the new voter and polling place look-up and will task the local boards of elections to test the redesigned website.

Election Preparedness and Professional Development Program – Redistricting Course

On Wednesday, November 30th, SBE hosted the second class on processes related to congressional redistricting. Guy Mickley, Election Director of Howard County Board of Elections, and Ms. Johnson and Mary Jo Waite of SBE were the instructors. Representatives from the Baltimore City, Frederick, Howard, Prince George's and Montgomery Counties boards of elections attended. Evaluation ratings from attendees indicated that the class information was relevant, useful, and well organized. SBE will schedule classes for the rest of the State to take place in January and February.

2012 Election Judges' Manual

To date, 17 local boards have submitted their Elections Judges' Manual chapters and appendices for review. Rick Urps has reviewed and approved 206 chapters and appendices. Chapter 8 and the Early Voting Supplement will be available soon for local modifications.

Existing Voter and Polling Place Look-Up Website

The University of Maryland College Park recently updated the existing voter look-up website with a message about congressional districts and the redistricting process. The website currently shows the voter's pre-redistricting congressional district, not the voter's district under the recently enacted redistricting plan. SBE asked College Park to add a message explaining that the congressional district shown may not be the voter's congressional district under the new redistricting plan and that the voter's new district should be available in January 2012.

3. Voter Registration

Mini-Joint Application Design (JAD) Session

A mini-JAD session was held December 8th through the 12th at SBE to cover development and enhancements to MDVOTERS that will be released in February and June 2012. The primary scope was to finish the fine details for the release. The big picture ideas came from the previous JAD session with local board participation.

Upcoming software release

User testing was completed on December 2nd, followed by a mock election test conducted December 5th through 19th. The new software will be released later this month. This release is focused on upgrading MDVOTERS to a 64-bit operating system, implementing a new document scanning interface, and resolving a variety of old issues. Upgrades to the server sites have begun. The final upgrade to include installation of the release will occur the week before the New Year holiday.

Maryland Motor Vehicle Administration (MVA) Interface

The MVA interface is on schedule to go into production the weekend of February 17th. SBE will assist MVA in testing prior to the release.

Online Voter Registration (OLVR)

OLVR is on schedule to be released by July 2012.

Audits

The voter registration division staff completed audits of the voter registration data as part of the Critical Data Oversight Program through November. This program requires each local board to review certain transaction types such as voters who have been added to the rolls and those who have been cancelled. These reports are submitted to SBE monthly. SBE then audits these reports for any variances.

4. Candidacy and Campaign Finance

Candidacy

As of December 16, 2011, 113 candidates have filed for office for the 2012 Presidential Election.

Campaign Finance

On November 29, 2011, the 2011 Baltimore City Post-General campaign finance report was due for all political committees participating in that election. The Candidacy and Campaign Finance (CCF) Division has received reports from 84% of the committees required to file (78% were timely). The maximum late fee penalty is \$250.

On November 21st, the CCF Division went live with MD CRIS (Maryland Campaign Reporting Information System). It has been met with great reviews by the users, press and general public. The Division has held five training seminars on December 12th in Crownsville (Anne Arundel); December 13th in Myersville (Frederick County); December 15th in Upper Marlboro (Prince George's); and December 20th in Gaithersburg (Montgomery). Currently, the seminars have been attended by over 150 people.

On December 14th, the Commission to Study Campaign Finance Laws met for the first time. Bruce Marcus is the Chair. The next scheduled meeting is January 13th at 1:00pm.

On December 21st, the Board of Public Works is scheduled to approve the one year extension of the CSC support contract on the candidacy and ballot systems.

5. **Voting Systems**

Electronic Pollbook Software Upgrade.

SBE has finally received the release version of the upgraded electronic pollbook software. After satisfactory initial testing at SBE, the software has been distributed for further testing by the local boards of elections. After feedback from the local boards, the new software will be used in the mock election in January.

Voting System Servers

SBE has finished the installation of the new GEMS servers throughout the State. The 50 servers replaced those that were initially acquired in 2004 and were at the end of their useful life, and their continued use would be a risk.

Statewide Signal Testing.

Signal strength testing has been taken throughout the State over the last the month, to test the signal strength and quality at early voting centers. This is to verify that the early voting centers can continue to update the pollbooks with real-time information on who has voted.

Automated Absentee Ballots Mailing Testing

As part of the Automated Absentee Ballot Mailing project, the division tested thousands of ballots that were submitted by the bidders. Those ballots were the same as those used in the 2010 Primary and General Elections, and were scanned and tabulated with 100% accuracy.

6. **Project Management and Information Technology**

Project Management Strategy

Continued the development and refinement of project management templates and other resources used by SBE. This includes the responsibilities of the Information Technology Strategy Board that will provide oversight for SBE's short and long term information technology strategy and goals.

Contract Compliance

Performed interviews with the Voting System, Voter Registration, and Campaign Finance divisions to learn their current process and procedures for managing and handling their time and material and deliverable based contracts. Next steps are to ensure the proper storage of artifacts and that minimal levels of procedures are being followed.

Local Board Visits

Keith Ross is close to completing the local board visits with 23 completed and the last one (Caroline County) scheduled for December 21st. This was an excellent experience with a lot of lessons learned.

Projects

There are several projects in progress. They include:

- The statewide mock election scheduled for January 9 – 12, 2012. Planning and coordination is well underway working with each of the local boards. This effort includes the upgrade and testing of the electronic pollbooks.
- Staff is currently in the Initiation Phase for Optical Scan Voting System implementation. Expect to continue the detailed work on the project in the next couple of weeks focusing required SDLC documentation, refining the project schedule, and the defining the roles and responsibilities.
- Started discussions and planning for the Maryland Cloud initiative that includes the implementation of Google Apps. There are several go-live dates in the next year of which SBE will need to determine which period best fits our schedule.

CFRMS Project

Kurt Snyder has been working with PCC (MD CRIS vendor) to refine the file format provided by PCC to third party vendors. Some campaign committees use third party software to complete and submit their campaign finance reports. A file format is provided to those vendors so that the data they submit can be integrated into the State campaign finance database. The file format description has not been sent out to the vendors yet. The expenditure file needs to be revised to include administrative expenditures, and PCC needs to validate and accept the other recent changes made by Mr. Snyder.

Website Recognition

The Pew Charitable Trusts Center on the States issued a report last week which provided a state-by-state review and analysis of election websites. One of the findings of the report was that Maryland had the second best website in the country. Assessments were based on three categories: content, lookup tools, and usability. The report also includes recommendations for improving each site to better inform voters, and provides a list of best practices adopted by many states to maximize their election office's online presence. Staff is reviewing the recommendations and best practices.

ASSISTANT ATTORNEY GENERAL'S REPORT

Jeffrey Darsie, Assistant Attorney General, provided an overview of the lawsuit over the State's redistricting plan. The plaintiffs are a group of nine African-American voters who allege in part that the congressional redistricting plan adopted by the General Assembly during its special session discriminates against racial minorities in violation of the 14th Amendment. Specifically, they contend that there should be three – not two – majority, minority districts. The litigation raises concerns about the election schedule. The Assistant Attorneys General working on the case have submitted an affidavit and other evidence explaining the critical need of the State Board and other State elections officials to have an immediate ruling in the case in order to prevent disruption of primary elections.

Mr. Darsie also provided updates on two petition-related lawsuits. The first suit is a challenge to Frederick County Board of Elections' decision to reject a charter board nominating petition. A hearing is scheduled for March 2012. The second suit is a challenge to SBE's decision to certify a petition to refer the Maryland DREAM Act to the voters at the November 2012 General Election. The issue of whether the signatures that were submitted using partially pre-printed forms generated through a website was dismissed with prejudice. The only remaining issue is whether the DREAM Act is non-referable as an appropriations bill.

APPROVAL OF REGULATIONS

Nikki Trella presented for final adoption new and proposed changes to campaign finance regulations:

1. 33.13.02.02 – Campaign Finance Report – Required Content
2. 33.13.03.02 – Electronic Filing of Reports – Filing Requisites
3. 33.13.05.01 &.02 – Electronic Signature Requirements
4. 33.13.06.03 - .05 – Campaign Accounts
5. 33.13.08.01 - .05 – Independent Expenditure Requirements
6. 33.13.09.01 - .05 – Electioneering Communications Requirements

There was one public comment from Common Cause Maryland. Common Cause recommended one correction and language to establish a clear standard for how a person who makes an independent expenditure or electioneering communication must provide “clear and conspicuous notice” of the expenditure. Ms. Trella requested the Board approve the regulations for final adoption. Once the regulations are effective, staff will present new proposed regulations to incorporate Common Cause’s comments.

Ms. Mack made a motion to approve the presented regulations for final adoption, and Ms. McGuckian seconded the motion. The motion was unanimously approved.

WAIVERS OF CAMPAIGN FINANCE LATE FEES

Vicki Smith presented 40 campaign finance late fee waiver requests that the State Administrator had recommended for approval. The following committees requested a late fee waiver:

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| 1. A.A. County FOP Lodge 70 PAC, A1556 | 23. A.A. County FOP Lodge 70 PAC, A1556 |
| 2. Adams, Matthew Friends of, A7712 | 24. Adams, Matthew Friends of, A7712 |
| 3. Almond-Cooper, Sandra Friends of, A7717. | 25. Almond-Cooper, Sandra Friends of, A7717. |
| 4. Baker, Terry Citizens for, A7367 | 26. Baker, Terry Citizens for, A7367 |
| 5. Barnes, Earl W. Committee To Elect, A7939 | 27. Barnes, Earl W. Committee To Elect, A7939 |
| 6. Berliner, Roger Friends Of, A4406 | 28. Berliner, Roger Friends Of, A4406 |
| 7. Bland, Marilynn Marylanders For, A2033 | 29. Bland, Marilynn Marylanders For, A2033 |
| 8. Bowling, Scott Friends Of, A7983 | 30. Bowling, Scott Friends Of, A7983 |
| 9. Burris, Rodney C. Friends Of, A7032 | 31. Burris, Rodney C. Friends Of, A7032 |
| 10. Carroll County FOP Lodge 20 PAC Fund, A6808 | 32. Carroll County FOP Lodge 20 PAC Fund, A6808 |
| 11. Cicoria, Anthony for Delegate, A7770 | 33. Cicoria, Anthony for Delegate, A7770 |
| 12. Currie, Ulysses Friends Of, A378 | 34. Currie, Ulysses Friends Of, A378 |
| 13. Dewberry, Tom Friends Of, A328 | 35. Dewberry, Tom Friends Of, A328 |
| 14. Fritz, Richard D. Bi-part.Comm For The Re-election of, State, A1707 | 36. Fritz, Richard D. Bi-part.Comm For The Re-election of, State, A1707 |
| 15. Harris, Ertha Committee To Elect, A4917 | 37. Harris, Ertha Committee To Elect, A4917 |
| 16. Hawkins, Reba Friends To Elect, A6519 | 38. Hawkins, Reba Friends To Elect, A6519 |
| 17. Henderson, James Friends Of, A6286 | 39. Henderson, James Friends Of, A6286 |
| 18. Janor, Stan Friends Of, A6890 | 40. Janor, Stan Friends Of, A6890 |
| 19. Kasemeyer, Ed For Senate Committee, A33 | 41. Kasemeyer, Ed For Senate Committee, A33 |
| 20. Kennedy, Darlene Friends Of, A8373 | 42. Kennedy, Darlene Friends Of, A8373 |
| 21. Landis, Cheryl Summers Friends Of, A8393 | 43. Landis, Cheryl Summers Friends Of, A8393 |
| 22. Lozupone, Jerry Friends Of, A8418 | |

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

OLD BUSINESS

There was no old business.

NEW BUSINESS

Chairman Walker granted William Edelstein time to address the Board regarding his concerns about the online absentee ballot delivery system. First, Mr. Edelstein stated that the online absentee ballot delivery system uses a barcode to generate a copy of the voter's ballot that can be read by the optical scan voting unit. Mr. Edelstein notes that the voter cannot read the barcode or see the copy of the ballot that will be counted. Mr. Edelstein further asserts that staff's assertion that the canvassing board will compare the voter's ballot with the copied ballot is not credible. Second, Mr. Edelstein noted that software connected to the Internet is subject to viruses and other interference. Mr. Edelstein cited examples of such issues and asserted that the software for creating the bar code could be compromised. Third, Mr. Edelstein cited Election Law Article § 9-101 in support of his position that the software being developed must be certified. Fourth, Mr. Edelstein proposed a preferable option of finding a scanner that can read hand-marked downloaded ballots. Finally, Mr. Edelstein urged more transparency in development of the online absentee ballot delivery system.

In response, Ms. Trella reminded the Board that the use of the ballot marking wizard and the resulting barcode was an option for absentee voters who use the online delivery system. The voter is not required to use it, but it would help with issues such as voter intent and ease of use. Ms. Trella also noted that the U.S. Election Assistance Commission's certification program has previously determined that ballot marking devices are not voting systems and do not require certification. Finally, Ms. Trella reiterated the fact that the canvassing boards will be comparing the voter's ballot against the barcode generated copy. Generating the ballot with the barcode and checking it is significantly faster than manually duplicating a ballot.

Mr. McManus asked whether there were opportunities for more transparency. Ms. Trella noted that staff has been briefing the Board throughout the grant process. The project is in its earliest phases, and staff will continue to provide updates as we move forward.

Ms. Rebecca Weir Nelson asked permission to address the Board. Mr. McManus noted that the issue she raised regarding her request for waiver of late fees had been sent to the State Prosecutor and therefore it is out of the Board's jurisdiction.

SCHEDULING OF NEXT MEETING

The next meeting is scheduled for January 26, 2012 at 2 pm.

ADJOURNMENT

Mr. Walker adjourned the meeting at 2:40 pm.