

State of Maryland

State Board of Elections Meeting – December 6, 2012

Attendees: Bobbie Mack, Chair
David McManus, Vice Chair
Rachel McGuckian, Member
Chuck Thomann, Member
Patrick Murray, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Jeffrey Darsie, Assistant Attorney General
Donna Duncan, Election Management Director
Nikki Charlson, Election Reform Director
Paul Aumayr, Director, Voting Systems
Keith Ross, Assistant Deputy for Project Management
Mary Wagner, Voter Registration Director
Victorica Smith, Campaign Finance

Also Present: Barbara Sanders, League of Women Voters of Maryland
Lynn Garland, Montgomery County
J.H. Snider
Anthony Gutierrez, Wicomico County

DECLARATION OF QUORUM PRESENT

Chairman Mack called the meeting to order at 2:00 pm and declared that a quorum was present.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes of the October 25, 2012, board meeting were presented for approval. The minutes were approved unanimously.

ADMINISTRATOR'S REPORT

Ross Goldstein presented the Administrator's Report.

1. Announcements

Congratulations and Thanks

Linda Lamone recognized the hard work and dedication of all of the SBE staff and the staff at the local boards of elections. This election posed some new and unique challenges, and she was impressed by the ability of all involved to quickly and creatively address the issues created by Hurricane Sandy. Ms. Lamone also recognized the Governor and his staff for the important contributions they made towards managing the response to Hurricane Sandy. In addition, Ms. Lamone specifically recognized Steve Fratz, Election Director for Garrett County and Joanna Emely, Election Director for Somerset County. Both of their counties experienced the most significant damage as a result of the storm and they both were personally impacted. Nonetheless, both individuals worked tirelessly to overcome the many obstacles they were presented with and still conducted a flawless election.

On behalf of the Board, Chairman Mack also extended thanks and appreciation for a job well done by all of the State and local board staff.

Departure

Christine Oswald who has been serving as a fiscal officer in charge of accounts payable is leaving later this month for a job at the Motor Vehicle Administration. Christine has been with SBE for 7 years. She started as a contractual employee working as a receptionist for the campaign finance division and through her own initiative got trained on the fiscal duties and moved into that position when it became vacant. We wish Christine the best of luck in her new position, but she will be missed.

2. Meetings and Important Dates

Bi-Partisan Policy Center

Ross Goldstein and Ms. Lamone attended a meeting hosted by the Bi-Partisan Policy Center to discuss the 2012 election, with a focus on issues concerning lines at the polling place. The meeting included the election director for Virginia, county election officials from Maryland and Virginia, and several academics and

policy experts. The meeting highlighted various causes of long wait times, general challenges of administering an election, and other issues that occurred during the election. Except for a general consensus that more funding is needed, there were no practical solutions or policy conclusions that came out of the meeting.

Ms. Mack noted that lines were a significant concern both during early voting and on election day in several counties. She noted that during early voting, local boards added equipment that helped address the lines. However, space limitation at some centers did not allow for the line problems to be fully remedied. Mr. Goldstein stated that staff is reviewing the election data in an effort to determine the cause of the lines in Maryland. Hopefully the analysis will lead to conclusions about what changes, if any, are needed for early voting and election day.

National Conference of State Legislatures (NCSL)

Ms. Lamone moderated a panel at NCSL's 2012 Fall Forum in Washington D.C. on December 6th. The panel discussed early voting and the factors that affect turnout, including the number of days, hours, parking and the proximity of the days of early voting to election day.

Conference on Governmental Ethics Laws (COGEL)

From December 2nd to December 5th, Jared DeMarinis attended the COGEL conference in Columbus, Ohio. COGEL consists of campaign finance and ethics regulators from the United States and Canada. It was a very informative conference on the recent developments in those fields. Super PACs and independent expenditures were a major focus. Mr. DeMarinis also gave a presentation on Maryland's regulations on the use of social media and authority line disclosure requirements and noted that British Columbia has adopted Maryland's regulations.

Conference: Voting in America 2012

On December 10th – 11th, the Pew Charitable Trusts is hosting a conference in Washington, DC about the 2012 General Election. Ms. Lamone, Mary Wagner, Stacey Johnson, and Nikki Charlson will be attending on Monday, December 10th. The following topics are scheduled to be discussed: technology, social media, and election administration, election day participation, military and overseas voting, the cost of elections, voter ID, and voter registration.

State Certification of Election Results

On Tuesday, November 27, 2012, the Board of State Canvassers met to canvass the votes cast at the November 6, 2012 Presidential General Election. The Canvass Board members present were Secretary of State John P. McDonough, Comptroller Peter Franchot, State Treasurer Nancy Kopp, and Bessie M. Decker, Clerk of the Court of Appeals. Attorney General Doug Gansler was absent. The State Administrator served as Secretary to the Board. After electing Nancy Kopp to serve as Chairman of the meeting, the Board reviewed the tabulation of results and declared the winners for each state filed candidate office and various ballot questions. A copy of the results was provided in the meeting folder.

Governor O'Malley attended the meeting and expressed his appreciation for hard work of all the election officials and the election judges. In turn, we thanked the Governor and his staff for the assistance provided during Hurricane Sandy.

Following certification, numerous documents must be created. To date, the following have been prepared and sent:

- Commissions of Election for all winning candidates (signed by Governor and Secretary of State)
- Certificates of Election for all state-level winning candidates (signed by State Administrator)
- Proclamations on ballot questions (signed by Governor and Secretary of State)
- Proclamations on US Senate and US Congressional winning candidates (signed by Governor and Secretary of State)
- Declarations on US Senate and US Congressional winning candidates (signed by State Administrator)
- Declaration on ballot questions (signed by State Administrator)

Each of these documents is generated through the Election Management System and prepared by Natasha Walker and staff of the Candidacy and Campaign Finance Division.

Electoral College

The Electoral College will be held on Monday, December 17th at 10:00 am in the State House. There are many formal documents needed for this meeting and staff is hard at work pulling it all together.

3. **Election Reform & Management**

Post-Election Reports

After each election, SBE is required to submit to the U.S. Election Assistance Commission and the Federal Voting Assistance Program election-related data. Nikki Charlson is reviewing data from the 2012 General Election that will eventually be submitted. Ms. Charlson provided three draft reports in the meeting folder. The reports for the 2012 General Election were:

- Absentee voting data, including the number of ballots sent, received, accepted, and rejected (by reason and by county).
- Absentee voting data for domestic, civilian voters and military and overseas voters. Ms. Charlson noted that domestic, civilian voters were able to receive their ballots electronically because of one of the Governor's Executive Orders. The percentage of military and overseas voters who receive their ballots electronically is dramatically increasing. In the 2010 elections, 29% and 37% of these voters received their ballots electronically; in the 2012 elections, 67% and 74% received their ballots electronically. Ms. Charlson explained that the 2012 elections were the first election since 2002 without the 2-cycle absentee ballot request requirement. As a result, the 2012 General Election provides a baseline return rate for ballots issues to military and overseas voters; it was 74.20% for this election.
- Provisional voting data, including the number of provisional ballots cast, accepted in full, accepted in part, and rejected (by reason and by county). Ms. Charlson noted that there were more provisional ballots cast in the 2012 General Election than in any other election; the number of provisional ballots cast in the 2012 General Election was almost 50% more than the highest election to date. She noted the high percentages of accepted in part ballots for Somerset and Allegany Counties and attributed this to college students registered elsewhere in Maryland but voting a provisional ballot at a polling place by their college campus. Ms. Charlson also explained that there is a downward trend in the number of provisional ballots rejected for lack of a signature. This is due increased emphasis in election judges' training and a minor change to the provisional ballot application. A further decrease is expected in future elections as a redesign of the application will be made.

Ms. Charlson noted that the final versions of these reports will be posted on the website and provided to the local boards. She expects that the final versions will not be substantially different from the draft reports.

4. **Voter Registration**

MDVOTERS Certification of the Election

The process in the statewide voter registration system (MDVOTERS) to complete the election and apply the appropriate voting credit to each voter was completed on Wednesday, December 28th. The process was difficult due to data entry errors by the local boards. For example, there were instances where an absentee ballot was not properly accepted into the system and incorrect fields were used when processing provisional ballots. The Canton Group, along with the voter registration staff, tested every possible scenario and corrected records to allow the process to be completed.

Software Release

Testing is currently taking place on an upcoming release of software for MDVOTERS. The release will deal with election judge enhancements as well as software updates.

5. **Candidacy and Campaign Finance**

Candidacy

A request for proposals (due on December 10th) for the maintenance and operation of the agency's elections management system was released last week. The contract will include tasks related to the transition and migration of historical candidate filing data into MDVOTERS.

MDVOTERS will take over the functions of candidate filing starting with the 2014 Gubernatorial Election. Staff is working closely with MDVOTERS developers to complete the module and be ready for the beginning of candidate filing in June 2013.

Campaign Finance

On December 7th, the Commission for Campaign Finance is scheduled to meet one last time and release its recommendations. All of the recommendations were reached on a unanimous, bipartisan process.

On November 27th, the 2012 Post General Presidential Report was due. Currently, 18% of the required committees have failed to file.

The 2012 General Election was the most expensive election in Maryland's history. The proponents and opponents to ballot Question 7 raised and spent nearly \$100 million. This figure more than doubles the next most expensive race in Maryland's history.

6. **Voting Systems**

Early Voting

Due to Hurricane Sandy, early voting was cancelled for the Monday and Tuesday of early voting, and time was made up by extending it to the Friday and adding 3 hours to each day. In the end early voting was only cut by one hour. Despite the changes, 430,000 voters cast their ballots during early voting, approximately 15% of all ballots cast. Some 750 voting units and 250 electronic pollbooks were used for early voting. Due to long lines, a number of local boards added equipment.

The additional day of early voting also meant that the bulk update of the pollbooks for election day had to be postponed by one day. The bulk update process loads each pollbook with the early voting data, ensuring voters cannot cast a ballot both during early voting and election day. The loss of one day meant staff at SBE had to work overnight on the last day of early voting to compile the bulk update file and local board staff had to work overnight on Saturday to complete the update in time for delivery to polling places.

Election Day

Election Day saw the use of 16,700 voting units and 5,500 electronic pollbooks. In general, the day was busy, with heavy use, but the equipment worked well – with only a few cases of equipment issues. Where issues were reported, additional and replacement equipment was sent out where necessary. The Voting System team and the local boards are currently following up with reported issues.

Canvasses

The counting of absentee and provisional ballots this election was particularly busy. Due to the length of the ballot, six local boards had two-page ballots. Mr. Goldstein referred to Ms. Charlson's reports for absentee and provisional ballot data. SBE leased additional optical scanner voting units in anticipation of high turnout.

Post Election

It is expected that voting equipment will be released on Monday, December 10th, so the local boards may commence post election maintenance. SBE is still compiling data on reported election issues, but we anticipate this will be finished shortly. There have been two requests for public inspection of voting equipment. In both cases, the request is from a voter who is concerned that the equipment changed the voter's selection. In each of these reported instances, the voter was able to correct the vote and the summary screen properly showed voter's selection. Paul Aumayr will lead the test in Carroll County on December 11th.

Parallel Testing

On election day, SBE staff and other volunteers conducted "parallel testing" of a touchscreen voting unit from Cecil County. During voting hours, a total of 190 ballots were voted on the voting unit, while those were simultaneously hand-tallied. After the polls closed, the hand-tallied results were compared to the voting unit totals report; confirming that the voting unit accurately tabulated all votes cast in all contests.

7. **Project Management (PM) and Information Technology (IT)**

SBE General Election Helpdesk

SBE successfully completed the use of the cloud based Election Ally Helpdesk system from Dynamic Path, LLC. Staff used the system to help manage calls and issues. There were a number of process improvements identified by staff that will be forwarded onto the vendor for future release of their system. Expectations are that the system can be used again in future elections.

General Election Call Center Support

The Call Center support for the 2012 General Election ended on November 7th. There were 111,539 calls that came into the Call Center from the start of support on October 1st through November 7th. In addition to providing support for SBE, five local boards were also supported: Anne Arundel, Baltimore City, Baltimore County, Harford, and Prince George's. The number of calls received for 2012 General Election was the greatest ever experienced with call center support. The majority of calls were in regards to the mailing at the beginning of the October, voter registration questions, absentee ballot questions, questions pertaining to what is on the ballot, and the impact of Hurricane Sandy. We are now in the process of analyzing the detailed call center data.

Regional Manager Transition

SBE is in the process of transitioning the Regional Manager support from the current services contractor to SBE which will take place in January 2013. This month, SBE will be conducting interviews for the six Regional Manager positions and one Regional Manager Supervisor position.

Google Apps Migration

SBE will fully migrate to the State of Maryland's Google Apps environment on or around January 15, 2013. As a result, SBE will join the ever growing number of agencies that have already migrated (Governor's Office, Department of Information Technology, State Police, Department of Agriculture). In addition to the SBE migration, there are three local boards (Caroline, Queen Anne's, and Worcester) that migrated earlier this year onto maryland.gov. The remaining local boards have been offered the opportunity of being part of the January migration. The option of migrating is open-ended so when and if a local board decides to migrate is completely up to them.

New Workstations for Worcester County

Worcester County requested the purchase of four new workstations through SBE. The workstations have since been purchased and delivered to the county. The county's IT staff has begun the deployment of the new workstations in their elections office.

New Audio Conference Account

Maryland's original audio conferencing account which SBE used has expired. Maryland chose InterCall as the new audio and web conferencing vendor that will bring enhanced teleconferencing capabilities and provide significant cost savings to the State. InterCall, has replaced the previous vendor (Verizon) with a "reservationless" teleconferencing system that combines on-demand flexibility with a set of new, powerful and easy to use features.

Long Distance Calling

SBE's existing contract for long distance calling through Verizon has expired. The new long distance calling contract is with AT&T. The transition from Verizon to AT&T has taken place but a few billing issues with the new contract are being resolved at the moment. This contract is for SBE's office landlines.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Darsie reported that a lawsuit challenging the certification of statewide Question 7 (Expansion of Gaming Act) from the recent general election was filed November 2, 2012. The lawsuit alleges that Article XIX requires a constitutional amendment to authorize additional forms or expansion of commercial gaming or, alternatively, that the majority of voters needed to approve Question 7 means over 50% of the registered voters in the State, rather than a majority of voters casting ballots on Question 7. *Canavan v. Maryland State Board of Elections*, No. 02-C-12-173637 (Circuit Court, Anne Arundel Co., Md.). Plaintiffs have named as defendants the State Board of Elections, Linda Lamone as State Administrator of Elections, Governor O'Malley, the Maryland State Lottery and Gaming Control Commission, and the State Lottery Agency and its director, Stephen Martino ("State Defendants"). Seeking to intervene as additional defendants are two groups favoring passage of Question 7, one representing residents and taxpayers of Prince George's County, the other persons or entities associated with MGM Resorts International and CBAC Gaming (Caesar's). Judge Silkworth has been assigned to hear the case. Assistant Attorneys General Julia Doyle Bernhardt and Jeff Darsie are representing all State Defendants and expect to file their dispositive motion shortly.

The Maryland Court of Appeals on November 9, 2012, upheld as constitutional the Governor's legislative districting plan and dismissed all petitions that were filed against it for reasons to be given later in a written opinion. *In the Matter of 2012 Legislative Districting of the State*, Court of Appeals Misc. Nos. 1, 2, 3, and 5 (September Term, 2012). Mr. Darsie noted that with this case settled, the State is done with legislative re-districting lawsuits.

WAIVERS OF CAMPAIGN FINANCE LATE FEES

Jared DeMarinis presented the Administrator's recommendation for approval of waiver of late fees for the following campaign finance committees.

1. Against Big Box Text Amendment
2. Baltimore Teachers Union
3. Braveboy, Aisha Friends of
4. Business and Commerce PAC
5. Camphausen, Lauren for School Board
6. Coca-Cola Refreshments USA, Inc. for Good Government PAC, MD
7. Eubanks, Patricia Friends of
8. Fiastro, John for Maryland
9. Hurley, Friends of Eric
10. Kauffman, Phil Friends of
11. Kirby, J. Brian for School Board
12. McLaughlin, for BOE
13. Nagle, John J. III Retain Judge

- 14. North County Dem Slate
- 15. People Politicians for Ballot Initiatives MD
- 16. Republican State Central Committee of Maryland

- 17. Smondrowski, Rebecca Friends of
- 18. Sprinkler Fitters Local Union #536 PAC

A motion to approve the recommended waiver was made by Ms. McGuckian and seconded by Mr. Murray. The motion was unanimously approved.

APPROVAL OF FORM

Mr. Goldstein presented a revised version of the *Confidentiality Request Form* for the Board's approval. The form was amended to clarify that a person may request to have personal information that is part of a campaign finance record kept confidential. The prior form implied that having one's name on such a record was grounds to request confidentiality, which is not correct (the grounds for requesting confidentiality are limited to law enforcement officials or other individuals that require confidentiality for their safety). The revised form also includes email address as personal information that would be kept confidential. Finally, due to the confusion created by the old form, the Board tabled the request for confidentiality from Mr. Smith. Mr. Goldstein informed the Board that Mr. Smith had been contacted by staff, but to date has not responded to requests to clarify his request for confidentiality.

A motion to approve the revised *Confidentiality Request Form* was made by Mr. McManus and seconded by Mr. Thomann. The motion was unanimously approved.

OLD BUSINESS

Ms. Duncan asked the Board to affirm the polling place relocation that was approved by the Board immediately prior to the election. The polling place was precinct 8-1 (Ryans Glade) in Garrett County. The precinct was moved due to lack of power to Southern High School cafeteria. Mr. Fratz issued a press release to local media and State Highway Administration and provided a message billboard at Ryans Glade directing voters to the new location. A motion to affirm the prior approval was made by Ms. McGuckian and seconded by Mr. Murray. The motion was unanimously approved.

Ms. Lamone noted that, in light of the widespread power outages in Garrett County, the responsiveness and efforts by Potomac Edison to prioritize and restore power to most of the precincts in Garrett County was very much appreciated. In general, Ms. Lamone noted that all of the power companies were very responsive as was the State Highway Administration, which provided several signs such as the one outside the closed precinct in Garrett County.

NEW BUSINESS

There was no new business.

SCHEDULING OF NEXT MEETING

The next meeting was scheduled for January 31st at 1:00 pm.

ADJOURNMENT

Ms. Mack adjourned the meeting at 3:50 pm.