

State of Maryland 

State Board of Elections Meeting – February 23, 2012

Attendees: Bobbie Mack, Vice Chair
Rachel McGuckian, Member
David J. McManus, Member
Chuck Thomann, Member
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Jeffrey Darsie, Assistant Attorney General
Donna Duncan, Election Management Director
Nikki Trella, Election Reform Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Stacey Johnson, Project Manager, MDVOTERS
Paul Aumayr, Director, Voting Systems
Keith Ross, Assistant Deputy for Project Management

Also Present: Mary Ann Keefe, Montgomery County Board of Elections President
Mary Kiraly, Montgomery County
Lynn Garland, Montgomery County
Barbara Sanders, League of Women Voters of Maryland
Holly Joseph, Montgomery County
William Edelstein, Baltimore City
Sara Harris, Montgomery County Board of Elections

DECLARATION OF QUORUM PRESENT

Vice Chairman Mack called the meeting to order at 2:03 pm and declared that a quorum was present.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes of the December 19, 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

NASED Winter Conference

The National Association of State Election Directors held its annual winter conference in Washington D.C. January 26th through January 28th. Linda Lamone attended the conference and had the opportunity to gain valuable information on a variety of topics including the MOVE Act, impact of postal service changes, and briefings from Congressional staff on upcoming federal elections legislation.

Election Directors' Meeting

On February 14th, SBE hosted an election directors' meeting. Twenty-one local boards of elections participated in the conference call. At this meeting, there were discussions on election night reporting, L&A testing, tasks related to transmitting absentee ballots to military and overseas voters, availability of MDVOTERS, ballot accounting and voting supplies certification, and inventory. A summary of the meeting was provided in the board meeting folder. The next election directors' conference call is scheduled for Tuesday, March 13th.

2. Election Reform & Management

Absentee Ballots

SBE and the local boards transmitted by the 45th day before the election (February 18th) absentee ballots to requesting military and overseas voters. The local boards started mailing and faxing to military and overseas voters absentee voting materials on February 14th, and on February 16th, SBE emailed those voters who requested electronic ballots information on how to access their absentee voting materials. The local boards provided SBE with certifications on the number of ballots to military and overseas voters transmitted by the 45th day before the election.

Three counties are participating in a pilot program to automate the absentee ballot mailing process by utilizing the services of a vendor, Runbeck Election Services, which has equipment capable of printing ballots and compiling ballots instructions and return envelopes into the voter's properly addressed outgoing envelope. The ballots for the military and overseas absentee voters were sent by Runbeck by the 45th day deadline.

Absentee voting materials for domestic, civilian voters will be transmitted on or about March 6th. SBE has learned from other jurisdictions that sending absentee ballots too early and before voters are focused on the election leads to an increase in requests for replacement ballots.

3. Voter Registration

MVA Interface

Over the weekend of February 18th, the MVA interface was successfully loaded into MDVOTERS. This interface will streamline the process of accepting voter registration data from MVA. Training for the local boards began Tuesday, February 21, 2012. The training will consist of how the local boards are to process the data provided by MVA.

This software release also includes enhanced features for managing election judges.

Pew Center on the States

Pew released its report called "Inaccurate, Costly, and Inefficient" regarding state voter registration lists. The report highlights the need for states to share information for a more accurate voter list as well as the need to reduce the cost and time for processing new voter registration applications. One recommendation to alleviate high costs and inaccuracies is the implementation of online voter registration. Maryland will be moving forward with this initiative in July of 2012. The other recommendation is more sharing of voter registration information among the states. That effort is being addresses through the Electronic Registration Information Center (ERIC) project.

ERIC (Electronic Registration Information Center)

Stacey Johnson has been working with the ERIC technical committee to develop the methods of data transfer as well as the reports that will be generated. It is expected that ERIC will be up and running in the spring of 2012.

4. Candidacy and Campaign Finance

On February 6th, ELECTrack EFS was disconnected making MD CRIS the only method a political committee may use to file campaign finance reports. We are on track for the final data conversion of all outstanding filed reports in ELECTrack into MD CRIS.

On February 6, 2012, the semi-annual Contribution Disclosure Form was due. The form is required to be filed by any person who either: (1) does business with the State involving consideration of \$100,000 or more and makes campaign contributions of \$500 or more; or (2) provides lobbyist compensation and makes campaign contributions greater than \$500. The Candidacy and Campaign Finance Division received over 260 disclosure forms from qualifying persons.

5. Voting Systems

Ballot Printing

Two vendors – ES&S and Single Point (formerly Digital Ink) – printed over 500,000 absentee and provisional ballots and test decks. Each printer was allocated a similar quantity of ballots, and all of the local boards received their ballots by the established deadline. Rick Urps coordinated the ordering process with the local boards and the vendors.

Electronic Pollbooks.

The local boards of elections have continued to upgrade the software on all of their pollbooks. Approximately 80% of the 6,300 pollbooks have been upgraded, and this effort is on target to be completed by early March. SBE has also been working with ES&S with regards to future upgrades to the pollbooks.

Staff has been engaged in ongoing work on evaluating the signal strength and quality for the early voting centers. SBE has worked with Verizon to improve signal quality where necessary.

Election Night Results

There has been further testing on the new election night unofficial results reporting process. The new process, which will periodically and automatically upload results from the local boards to SBE, was

first tested in January as part of the mock election. At that time, there were some issues with exporting the results and posting those results to the SBE website. SBE has made some changes and is continuing to test the new election night results reporting process. SBE has also been working with the standard results reporting process that has been used for the last several years to ensure that it is ready in case we are not satisfied with the performance of the new process.

Pre-Election Preparation

SBE has ordered election supplies and materials for the primary election, and many of those have been delivered – this includes items such as touchscreen and electronic pollbook printer paper rolls, new headsets for voters using the audio ballot, and tamper tape. Staff has also completed the process of changing the encryption keys to the voting system, which is done prior to every election.

Logic & Accuracy testing has begun in a number of local boards. The local boards are being assisted by the temporary County Technicians who start eight weeks before election day and stay until two weeks after the election. Each local board has a County Technician.

6. Project Management (PM) and Information Technology (IT)

PM - Mock Election

The statewide mock election was completed. The mock election provided a meaningful test of the upgraded pollbook software and connectivity. Lessons learned were completed using Survey Monkey for the local boards in addition to a separate SBE focused session with SBE and Cirdan resources. As a result of the feedback, staff has and will continue to identify improvements for the upcoming primary election. Updates identified and made include changes to the *Conducting the Election Guide* and deciding to have open conference lines throughout the entire day during early voting and election day. This was something that was tried for the first time during the mock election, and everyone who replied shared that this was a great communications vehicle.

PM - Inventory

Work continues on the Inventory Management Project. Staff is in the process of preparing for the 2012 physical inventory at both the local boards and at SBE. The inventories are expected to take place between April and June. In addition, staff is in the planning phases for the efforts required to implement a new inventory system in the summer of 2013. Keith Ross visited the Department of Public Safety and Correctional Services to learn more of their inventory workflow.

PM - Call Center

Staff is preparing for the implementation of the call center support for the upcoming 2012 Presidential Primary Election. The call center vendor will support five local boards in addition to two SBE phone lines (toll free and local numbers). The five local boards include Anne Arundel County, Baltimore City, Baltimore County, Prince George's County, and Queen Anne's County.

Other Project Management Tasks

- Continued the development and refinement of project management toolbox templates and other resources that are used for the agency.
- Continued the work on the Information Technology Strategy Board.
- Continued work on the development of the contract monitoring requirements.

IT - Ballot Production

Natasha Walker has completed ballot production for the 2012 Presidential Primary Election. In this primary election, there are 122 county specific ballot styles and 16 federal only ballots across the State. For every county specific ballot style, there are 6 different variations - a Touchscreen ballot, an Optical Scan ballot, a Web ballot, a contingency ballot, a screen shot of the touchscreen for local board's specimen ballots, and an audio ballot. This means that Ms. Walker managed 732 versions of the ballots with the assistance of a ballot programmer from ES&S.

This year, the process of recording the audio ballot was faster, more efficient and had fewer issues than in previous years. This was mostly due to ES&S bringing the audio ballot studio in-state and using local voice talents. In the 5 elections that we have been recording audio ballots, this is the first time that we have had local boards approve their audio ballots without needing a single correction. We expect to use the same studio and voice talents for recording the audio ballot for the general election.

CRIS File Format

Kurt Snyder will be working to create two automated processes to convert both ELECTTrack and Vendor files to the new Campaign Reporting Information System format.

Other IT Related Events

- Successfully renewed several SBE hardware/software licenses and support agreements
- Successfully applied Microsoft Security updates for the month of February 2012 on SBE Server Systems
- Disabled SFTP access for all EFS/Electrack committees accounts.
- Assisted Cecil County with setup and configuration of new Windows 7 client workstations.
- Retrieved 2 Old GEMS servers from Cecil County for disposal.

7. **Legislation**

The following election law bills have been introduced this year:

HB 173 – Election Law – Voter Registration Agencies – Electronic Signatures - This bill authorizes an applicant registering to vote at a voter registration agency (such as the Department of Health and Mental Hygiene or the Department of Human Resources) to consent to the use of an electronic copy of the applicant's signature that is on file with the voter registration agency as the applicant's signature for the application being submitted. Currently, registering to vote at a voter registration agency is paper based with applications being submitted either to the assisting agent or mailed in by the applicant. MVA will be electronically transmitting voter registration data to SBE beginning mid-February. This bill will authorize the other voter registration agencies to transmit the applicant's signature which will facilitate in the accurate and timely submission of voter registration applications.

HB 127 – Maryland Referendum Integrity Act - This bill requires petition signers to complete the required information on the petition in their own handwriting. It requires that the petition circulator have each petition signature page notarized and prohibits an individual from being a petition circulator if convicted of an election related crime. This bill also lengthens the deadline to seek judicial review from 10 days to 30 days and prohibits a petition circulator from receiving any form of compensation based on the number of signatures collected. Testimony by staff noted that providing 30 days to seek judicial review could conflict with the local board's ability to send absentee ballots 45 days before the election.

HB 138 – Carroll County - Polling Places - Electioneering Boundaries - This bill restores the no-electioneering boundary back to 100 feet in Carroll County as opposed to the option for the no-electioneering boundary to be 25 feet. In testimony submitted on this bill, we noted that restoring uniformity would help avoid confusion for statewide campaigns and the political parties which, have to inform election day workers of the rules for electioneering. Further, restoring the traditional 100 foot no electioneering zone will be beneficial for voters who have an expectation of a meaningful no-electioneering zone to allow them easy access to a polling place.

HB 225 – Election Law – Special Elections – Voting by Mail - This bill authorizes, but does not require, the use of voting by mail for a special election. The determination to hold an election by mail is made by the Governor in the case of a special election to fill a vacancy for the office of Representative in Congress or the county council or commissioner in the case of a vacancy in local office (county council, commissioner, or school board). The bill specifies that the local board of election shall provide a vote-by-mail ballot to each eligible voter at least 14 days prior to the special election (no application is required) and provide an opportunity for in person accessible voting at one voter center for six days. Testimony noted that the voter turnout for special elections is extremely low.

- 6.0% - 2011 Prince George's County Council 6th District Special Election
- 10.14% - 2009 Montgomery County Council 4th District Special Election
- 6.7% - 2008 4th Congressional District in Montgomery County; and
- 4.4% - 2008 4th Congressional District in Prince George's County

Despite the low turnout, the cost of holding a special election is considerable and includes hiring election judges, setting up polling places, deploying equipment, and other associated election costs. In comparison, vote-by-mail avoids those costs and the associated administrative burden while potentially increasing voter turnout for the special election by providing the opportunity to vote directly to the voter.

HB 42 – Election Law Petitions – Resubmission of Signatures - This bill authorizes an individual whose petition signature is not validated and counted during the initial verification process to resubmit the signature under certain circumstances. To facilitate this, the bill requires SBE to provide public notice of the names of individuals whose signatures on a petition are not validated and counted. Testimony submitted on this bill

points out the administrative difficulties posed by this legislation – especially the impact on the various verification deadlines.

Ms. McGuckian asked whether any of the proposals submitted to SBE by the Attorney General's Office, based on the work of Commission were introduced during this legislative session. Mr. DeMarinis responded that the General Assembly had formed its own commission on campaign finance that has taken up a few campaign finance issues. However, the recommendations about slates were tabled for more in-depth review.

Ms. Mack took a moment to extend condolences to Mary Wagner on the loss of her father and noted his impressive accomplishments.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Darsie informed the Board that on February 17th the Circuit Court for Anne Arundel County awarded summary judgment to the State Board of Elections in *Doe v. Maryland State Board of Elections*. The case involves a challenge to the SBE's decision to certify a petition to refer the Maryland DREAM Act to the voters at the November 2012 General Election. The plaintiffs asserted that the DREAM Act was an appropriations bill and therefore could not be subject to referendum under Article XVI, §2 of the Maryland Constitution.

The Court of Appeals will hear arguments related to SBE's petition signature standards on March 2, 2012. The cases are *Maryland State Board of Elections v. Libertarian Party of Maryland* and *Burruss v. Board of County Frederick Commissioners*. The cases involve the correctness of the State Board's guidelines interpreting the *Doe* and *Fire-Rescue* cases as to petition signature standards and whether those requirements were constitutional.

Finally Mr. Darsie updated the Board on redistricting related lawsuits. Specifically, in *Fletcher v. Lamone*, a three-judge federal court panel unanimously upheld Maryland's redistricting plan finding that the lines were constitutionally drawn and did not intentionally discriminate against African-American voters. The court also upheld Maryland's application of the "No Representation Without Population Act" which corrects Census data by counting inmates at their last known residence instead of prison.

APPROVAL OF REGULATIONS

First, Nikki Trella presented the following proposed regulations:

1. 33.04.02.01 – .03 (Inspection and Copying of Public Records – Confidentiality of Certain Information)
2. 33.04.03.01 (Inspection and Copying of Public Records – Requests from Correctional Facilities)
3. 33.08.04.05 (Canvassing – Central Count Procedures)
4. 33.11.02.01 (Absentee Ballots – Applications)
5. 33.13.08.02 (Campaign Financing – Independent Expenditure Requirements)
6. 33.13.09.02 (Campaign Financing – Electioneering Communication Requirements)
7. 33.16.03.06 (Precincts, Polling Places, and Facilities – Polling Places)
8. 33.16.02.01 (Provisional Voting – Provisional Voting Documents and Supplies)
9. 33.16.05.03 & .05 (Provisional Voting – Canvass of Ballots – Procedures)

Ms. Trella referred the Board to her January 10th memorandum and provided an overview of the regulations. First, the regulations treat a voter's email address like other personal information that a voter may request to keep confidential. Second, the regulations adopt changes to the independent expenditure and electioneering communications provisions proposed by Common Cause that define how the required information in an entity's regular, periodic reports or website meet the statutory requirement that the information be provided in a "clear and conspicuous manner" or "posted." Specifically, the regulations provide that if an entity includes independent expenditures or electioneering communications disbursements in its regular, periodic reports to shareholders, members, or donors, the text must be at least 10 point font. If an entity posts these disbursements on its webpage, the link on the homepage must be labeled "Independent Political Spending." The proposed regulations also permit a helper of a voter with disabilities or elderly voter to seek a polling place reassignment to the polling place where the helper is providing assistance. Finally the proposed regulations make technical changes and corrections. Ms. McGuckian made a motion to adopt the proposed changes, and the motion was seconded by Mr. Thomann. The motion was unanimously approved.

Next, Ms. Trella presented the following regulations for final adoption:

1. 33.01.01.01 – Definitions; General Provisions – Definitions
2. 31.07.07.01 – .04 – Election Day Activities – Challengers or Watchers (new)
3. 33.07.08.01 & .03 – Election Day Activities – Challenging Voters
4. 33.17.06.08 (new) & .09 – Early Voting – Early Voting Activities
5. 33.11.03.08 – Absentee Ballots – Issuance and Return
6. 33.11.04.03 – Absentee Ballots – Canvass of Ballots – Procedures
7. 33.13.06.03 & .05 – Campaign Financing – Campaign Accounts

8. 33.13.10.01 & .02 – Campaign Financing – Prohibitions (new)

Ms. Trella referred the Board to her January 5th memorandum and provided an overview of the comments received on the regulations during the public comment period. On the regulations regarding challengers and watchers, a comment was received by Patti Jackson, Election Director for the Worcester County Board of Elections. Ms. Jackson commented favorably on the provision requiring the designating entity to provide the local board with copies of the completed challenger and watcher forms. Ms. Jackson notes that this information will help the local boards better determine the layout of the polling place and respond to complaints and questions. Robert Ferraro, Co-Director of SAVE Our Votes, also commented on the same provision. Mr. Ferraro wrote to oppose the provision because it is burdensome, restricts the flexibility of last minute recruitment and assignments, and would cause confusion and bad will. Ms. Trella noted that the requirement only applies to the designating entity. In other words, a challenger and watcher who has a completed form will always be granted access to the polling place. Ms. Mack stated that the provision in essence serves as an RSVP to allow the local boards to be able to plan for challengers and watchers. Ms. McGuckian asked why not simply require the challengers and watchers to provide a copy of their completed form if one of the goals was to have information about who was at the polling place, Ms. Trella stated that election judges are instructed to keep a log of challengers and watchers, but this does not always happen. Ms. McGuckian made a motion for final approval of the proposed changes, and the motion was seconded by Mr. Thomann. The motion was unanimously approved.

Finally, Jared DeMarinis presented one regulation for final adoption: 33.13.11.01 – .04 – Campaign Financing – Electronic Contributions. The regulation related to electronic contributions made via text messaging. Mr. DeMarinis noted that during the public comment period one comment was received in opposition to the regulations. The comment was from an attorney representing CTIA – The Wireless Association. The concerns raised were that it is not possible for the wireless carriers to determine who made the contribution if the contribution was made on an account with a family plan. Further, wireless providers cannot prohibit contributions from foreign nationals, and generally, providing the name and address of contributors is burdensome. Mr. DeMarinis responded that the regulations place the obligation on the political committees and provide a framework for them to receive contributions through text messaging. Mr. McManus asked for advice from the Attorney General's office to ensure that there is no conflict between the regulations and federal law. Mr. McManus proposed tabling the regulations until such advice is received. Mr. Thomann seconded the motion, which was unanimously approved.

WAIVERS OF CAMPAIGN FINANCE LATE FEES

Jared DeMarinis presented 36 campaign finance late fee waiver requests that the State Administrator had recommended for approval. Mr. DeMarinis noted that many of the waiver requests were a result of committees have difficulty using the new system. The following committees requested a late fee waiver:

1. A Shore Team Slate	22. Greater Capital Area Political Action Committee	43. Pappas, Jonathan Friends Of
2. Adams, Earl friends of	23. Guzzone, Guy Friends of	44. Parker, Lauren Friends Of
3. Ali, Saqib Friends Of, A4410	24. Hough, (Michael) For Delegate	45. Pena-Melnyk, Joseline Friends Of
4. Anderson, Curt Team	25. Hughes, Charlotte Council of Empowerment for, A7222	46. Plastic Surgery PAC MD
5. Anne Arundel County Republican Central Committee	26. Jennings, J. B. Friends Of	47. Progressive Maryland PAC, A4353
6. Barnes, Ben Friends of	27. Judges - Baltimore City Sitting Judges Committee Slate	48. Queen Anne's County Republican Central Committee, A159
7. Black, Lee For County Council, Dist. 9, Friends Of, A7971	28. Kitchen, Joseph Committee for	49. Ramos, Odette Friends Of
8. Brennan, Madonna For Maryland	29. Knotts, Tony Friends To Elect, A1919	50. Reed, Jeff Friends of
9. Catrino, David L. Citizens to Elect	30. Knowles, (Eric) For Governor, A8379	51. Safer Roads in PAC Maryland
10. Charles County Democratic Central Committee, A124	31. Kushnerick, Bill Citizens for, A7394	52. Savoy, Brenda Citizens for, A7429
11. Chester, Charles Citizens for	32. Lawler, Theresa A. Committee To Re-Elect Orphans Court Judge	53. Sigaty, Mary Kay Friends Of
12. Collyer, Eleanor Brd Of Ed, A8069	33. Mathias, Jim Friends Of	54. Smith, Will Friends Of
13. Donoghue, John Friends Of, A3473	34. McCann, Mary Citizens	55. Stallings, Sugar Friends of
14. Dorchester County Republican Central Committee	35. MCGEO United Food & Commercial Workers Local	56. State Law Enforcement Officers Labor Alliance
15. Easter, Jim Committee, Friends		57. Stukes, Melvin L. People For
		58. Theus, J'Neanne Friends of
		59. Thorpe, Lamar A. Citizens For,

<p>Of</p> <p>16. Estrada, Robert Citizens For, A8161</p> <p>17. F.O.P. Pac of Maryland</p> <p>18. Fleckenstein, Thomas Friends Of, A873</p> <p>19. Friends of Chimes PAC, The</p> <p>20. Goldberg, Scott for Maryland</p> <p>21. Greater Baltimore Board of Realtors PAC</p>	<p>1994 Active Bal</p> <p>36. McKay, (Tommy) For Southern Maryland, A3654</p> <p>37. McKay, Mike Citizens to Elect</p> <p>38. McMillan, Herb Friends Of</p> <p>39. Moore, Ethan Friends of, A7380</p> <p>40. Morgan, Todd Friends of</p> <p>41. Nottingham, Andre Friends of</p> <p>42. PAC For Metro Washington Chapter Of ABC</p>	<p>A6922</p> <p>60. Tracy-Soper, Nova Re-Elect Treasurer</p> <p>61. Tracy-Soper, Nova Re-Elect Treasurer, A4617</p> <p>62. Ulman, Ken Friends Of</p> <p>63. Volke, Nathan Friends of</p> <p>64. Waugh, Steve Friends Of</p> <p>65. Weinstein, Charlotte K. For County Council</p>
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Mr. McManus made a motion to approve the recommended waiver requests, and the motion was seconded by Ms. McGuckian. The motion was unanimously approved.

REQUESTS FOR CONFIDENTIALITY

COMAR 33.04.02 permits certain categories of individuals to request that their residence address and telephone numbers as contained in election records be kept confidential. Mr. DeMarinis presented 21 requests all on behalf of individuals who fall under the law enforcement category of individuals entitled to request confidentiality.

<p>1. Clarke Ahlers</p> <p>2. Anne Albright</p> <p>3. Krystal Alves</p> <p>4. Edward Andrews</p> <p>5. Alison Asti</p> <p>6. Elizabeth Bowen</p> <p>7. DaNeeka Cotton</p> <p>8. John Davey</p> <p>9. David Densford</p> <p>10. Hassan El-Amin</p> <p>11. Richard Jordan</p>	<p>12. Sherri Krauser</p> <p>13. Cheryl McCally</p> <p>14. William Nicklas</p> <p>15. Nancy Purpura</p> <p>16. Joseph Quirk</p> <p>17. Michael Reed</p> <p>18. Steven Salant</p> <p>19. Brian Shockley</p> <p>20. Joseph Stanalonis</p> <p>21. David Young</p>
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Ms. McGuckian made a motion to grant the request for confidentiality, and the motion was seconded by Mr. Thomann. The motion was unanimously approved.

APPROVAL OF LOCAL BOARD BYLAWS

Ross Goldstein presented Montgomery County Board of Elections' bylaws to the Board for consideration and approval. Mr. Goldstein stated that the bylaws contained all the required provisions. The primary change to the bylaws was the provisions regarding permissible political conduct by board members. Specifically, Montgomery County Board took a more restrictive approach to political activity including limiting public support for or opposition to candidates or issues on the ballot. Ms. McGuckain made a motion to approve the Montgomery County Bylaws, and the motion was seconded by Mr. McManus. The motion was unanimously approved.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Vice Chairman Mack stated that three individuals had requested the opportunity to address the Board. First, Ms. Mack invited Mary Kiraly to speak. Ms. Kiraly discussed the changes being made to the online absentee ballot delivery system and the fact that it will include an online ballot marking tool. Ms. Kiraly asserted that it constitutes a new absentee ballot system and as such requires certification. Further the ballot marking tool raises privacy and security concerns. In support of her position that the absentee ballot delivery system requires certification, Ms. Kiraly notes that the ballot marking tool would work the same as an AutoMark unit which requires certification. Ms. Kiraly also stated that the AccuVote TS voting system was not certified when procured by SBE. The lack of certification was part of a citizens' lawsuit that is still in the courts and the failure to certify led the Administrator to withhold payments to Diebold in 2004. Finally, Ms. Kiraly stated that the contemplated system would create confusion about which ballot (the one created by the voter or the one duplicated using the barcode generated by the ballot marking tool) is the official ballot of record.

Next William Edelstein addressed the Board. He also believes strongly in the requirement for certification of the ballot marking tool. Mr. Edelstein cites the HAVA definition of "voting system." The definition includes "software, firmware, ... used to define ballots." Mr. Edelstein also cites various provisions of Title 9, Subtitle 1 of the Election Law Article. Mr. Edelstein stated that the fact that the EAC is refusing to certify just the ballot marking tool does not mean that certification is not required – instead it means that the ballot marking tool along with the rest of the system must be certified. Mr. Edelstein noted that the District of Columbia Board of Elections developed a supposedly secure system for downloading ballots to overseas voters. The system was hacked in two days by University of Michigan computer scientists. Finally, Mr. Edelstein urged the board to require the staff to publish all relevant information about the system including software design, who the designer is, security aspects, testing procedures and vendor lists. Ms. Mack noted that the system will not be implemented until November and that staff has been providing information.

Finally, Ms. Joseph spoke about the fact that funds still have not been appropriated for the procurement and implementation of a new optical scan voting system. She requested the Board to use its influence to persuade the Governor to provide funding for an optical scan system. Mr. McManus noted that the Governor sets the budget and determines the priorities for funding. The Board has no influence over the budget process. Mr. McManus also stated that as soon as funding is available SBE will move forward to implement the new system.

SCHEDULING OF NEXT MEETING

The next meeting is scheduled for March 29th at 2:00p.m.

ADJOURNMENT

Ms. Mack adjourned open session of the meeting at 3:05 pm.

CLOSED MEETING

Ms. Mack called for a motion to close the board meeting under State Government Article, §10-508(a)(13) to discuss information regarding the budget request submitted by the State Board of Elections to budget request. Mr. Thomann made a motion to close the meeting, and Mr. McManus seconded the motion. The motion passed unanimously.

During the closed session members were briefed by Valerie O'Connor, Chief Fiscal Officer, on specific aspects of SBE's budget request, why certain requests were made, and the corresponding 2013 budget allowance.

In addition to the board members, Ms. Lamone, Ms. O'Connor, Mr. Goldstein and Mr. Darsie were present.

No actions were taken.