

State of Maryland

State Board of Elections Meeting – July 25, 2013

Attendees: Bobbie Mack, Chair
David McManus, Vice Chair
Chuck Thomann, Member
Patrick Murray, Member
Linda Lamone, Administrator
Jeffrey Darsie, Assistant Attorney General
Keith Ross, Assistant Deputy for Project Management
Nikki Charlson, Director, Election Management & Reform
Mary Wagner, Director, Voter Registration
Jared DeMarinis, Director, Candidacy and Campaign Finance

Also Present: Ralph Watkins, League of Women Voters of Maryland
Bill Edelstein
Lynn Garland
Lilly Datcher, Common Cause Maryland
Holly Joseph

DECLARATION OF QUORUM PRESENT

Chairman Mack called the meeting to order at 2:05 pm and declared that there was a quorum.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes from the May meeting were approved by the Chairman in advance of the meeting and posted on SBE's website. Mr. Thomann made a motion to approve the minutes, and Mr. Murray seconded the motion. There was no further discussion on the minutes, and the motion was approved.

ADMINISTRATOR'S REPORT

1. Announcements

Ross Goldstein has taken a position as Executive Director of the Maryland Longitudinal System Center in Baltimore. Mr. Goldstein began his 16 years with SBE as the Deputy Director for the Candidacy and Campaign Finance Division and then the Director of the Division. His natural leadership talents were evident and undertook a leading role in the development of the RFP for a new statewide voting system, all aspects of the legislative process and regulation development. It was a natural transition for him to fill the Deputy State Administrator role. He continued to show us all leadership during the purchase of the electronic pollbooks, development of the State and Local Board By-laws and guidance to all local board members and staff. He will be greatly missed. Linda Lamone stated that we have all benefited from his time with us. We wish him well in his new endeavor. On behalf of the State Board, Ms. Mack wished Mr. Goldstein well and noted that he did much work to improve elections in Maryland.

2. Meetings and Important Dates

Pew Conference

On July 16-17, Ms. Lamone and Stacey Johnson attended a conference hosted by the Pew Charitable Trust in Seattle, Washington. The topic was innovations in voter registration. While there, a meeting of ERIC (Electronic Registration Information Center) was held for member states as well as recruitment for new members. Maryland's online voter registration system is open source code. As such, we are able to offer this code to other states interested in joining ERIC and developing their own online voter registration system.

National Association of State Election Directors (NASED) Conference

Ms. Lamone noted that her notes from the NASED Summer Meeting that she recently attended were provided in the meeting folder. She stated that was a good meeting and highlighted some of the topics that were discussed.

3. Election Reform and Management

HAVA Accessibility Funds

SBE has established an accessibility review committee whose primary purpose is to review requests for expenditures from the federal HAVA Accessibility Grant funds. This grant has been a great resource for the local boards of elections and SBE. Funds have been used to purchase a variety of equipment used to

enhance the accessibility of the election process in Maryland. As examples, SBE has purchased handicapped parking and entrance signs, folding chairs, brochures, sign language interpreting services, permanent and temporary wheelchair ramps, and wheelchair accessible voting booths for provisional and absentee voting. The challenge for the committee will be to prioritize purchases as funds are depleted and to find new sources of funding.

FVAP's Effective Absentee Systems for Elections 2.0 Grants

In May, the Federal Voting Assistance Program (FVAP) announced that they would fund proposals for online ballot delivery tools and a single office for military and overseas voters (UOCAVA voters). For the single office project, the FVAP's hypothesis is that UOCAVA voters are more likely to cast a ballot successfully in a jurisdiction with a single UOCAVA office than in a jurisdiction with multiple offices.

As SBE already has an online ballot delivery system (funded by a previous FVAP grant), SBE decided to submit a proposal to create a single point of contact for UOCAVA voters. SBE's proposal addressed four areas:

- a. Voter Information - Direct UOCAVA voters to SBE for information. This includes a more prominent webpage for UOCAVA voters, directing the local boards' websites to SBE's website, and displaying SBE's contact information in publications and websites aimed at UOCAVA voters.
- b. Voter Registration and Absentee Ballot Requests - SBE will process all voter registration and absentee ballot requests from UOCAVA voters. SBE requested funds for personnel for this effort.
- c. Blank Ballot Delivery - SBE will print its address as the mailing address on return envelopes, handle requests for replacement ballots, and research and resend ballots to voters whose email or initial mailing was returned.
- d. Return of Voted Ballots - Voted ballots will be returned to SBE and forwarded to the appropriate local board for canvassing.

SBE's budget was about \$375,000, with the majority of the funds for personnel and an MDVOTERS redesign to make state-level processing of voter registration and absentee ballot requests more efficient. Although FVAP did not provide a timetable for award, SBE expects to receive word on the grant proposal soon.

Voter Services - Software Release

In June, SBE released a software update for the voter look-up, polling place locator, and online voter registration system. The update included security enhancements (requiring the user to provide a partial social security number and the date the user's driver's license was issued) and usability improvements. The rollout of the new software version was successful. The next software version is scheduled for August, and internal testing is expected to begin shortly.

MOU with University of Baltimore's Schaefer Center for Public Policy

SB 279/HB 224 of 2013 Legislative Session requires that SBE conduct two studies and two system reviews. SBE must study the feasibility and costs of conducting early voting through the Sunday before election day and polling place wait times and how state and local boards can ensure wait times do not exceed either 15 or 30 minutes. SBE must also conduct additional usability and accessibility testing on the online ballot marking tool and hire a security consultant to review and report on online voter services.

SBE recently entered into an MOU with the University of Baltimore's Schaefer Center for Public Policy to perform the studies and conduct a usability review of the online ballot delivery system. (UB will also conduct a usability and accessibility review of any voting systems submitted for certification.) UB has extensive experience with conducting studies like these and has a lab designed to assess the usability of computer systems for individuals with disabilities. Reports associated with the studies and the review of the online ballot delivery system are due in December.

4. Voter Registration

ERIC

The first set of reports has been generated and will be distributed to the local boards next week. The reports include cross state matches, potential in-state duplicates, social security administration death matches and in-state updates. Any change to a voter record from these reports will be identified with a new code of "ERIC" in MDVOTERS. This will allow us to identify and track the success of ERIC matching capabilities. Business processes have been developed to assist the local boards with the reports. In response to a question from Ms. Mack, Ms. Wagner explained that SBE will distribute the ERIC reports to the local boards outside of MDVOTERS. SBE will be able to run reports to capture the number of transactions generated from ERIC reports, and processing of ERIC transactions will be part of the local board audits.

Field Support

The MDVOTERS Field Support contract was recently awarded to Expericon (Mary Jo Waite). Ms. Waite is a valuable resource for the MDVOTERS community.

Critical Oversight Program (COP) Training

MDVOTERS critical data requires careful oversight by the Election Directors. Each month, the local boards are required to submit audits of this data to SBE. There are six key areas where data changes must be reviewed. They include cancelling a registered voter, adding registered voters, processing death records reported by Department of Health and Mental Hygiene (DHMH) and felony records received by Administrative Office of the Court (AOC), processing absentee ballots, and for primary elections, changing of party affiliation.

In the past, these have been local board self audits. As a result of an Office of Legislative Audit's recommendation, each local board will not be required to audit the transactions of another local board. SBE created a randomly selected audit assignment schedule through December 2014. As of now, the self audit process will no longer be used. Janet Smith and Mary Wagner are holding regional trainings on the new guidelines.

MDVOTERS - Candidacy Development

User acceptance testing (UAT) on MDVOTERS release 5.1 is coming to a conclusion. This will be followed by conducting a mock election. A final approved release is expected to be placed in production in mid-August. Key areas of development in this release include candidacy, enhancements to online voter registration, petitions and provisional ballot processing.

5. Candidacy and Campaign Finance

As of July, 18th, 74 candidates have filed at SBE. The deadline for filing a Certificate of Candidacy or Declaration of Intent to appear on the 2014 Gubernatorial Primary Election ballot is February 25, 2014.

On August 5, 2013, the semi-annual Contribution Disclosure Form, a required filing by either a person who does business with the State involving consideration of \$100,000 or more and makes campaign contributions of \$500 or more or a person who provides lobbyist compensation and makes campaign contribution greater than \$500, is due. The Candidacy and Campaign Finance Division received over 260 disclosure forms from qualifying persons during the February 2013 filing period.

6. Voting Systems

Electronic Pollbooks

While we do not expect the final updated pollbook software to be ready until September, SBE has been testing progressive releases to verify changes. There have been no major issues thus far, and there will be more testing throughout August including testing with the Regional Managers and some local boards. Although same-day registration for early voting will not take effect until 2016, much of the required software updates have been taking place as part of the current update. In response to questions from Ms. Mack, Mr. Ross stated that the pollbooks will be used with the new voting system and the new software will address reported issues.

Voting System Certification

In anticipation of a new voting system for 2016, SBE has invited voting system vendors to submit voting systems for Maryland certification. The certification requirements have been reviewed and updated to reflect this effort. It is hoped that interested vendors will submit systems later on this year. SBE would like to have voting systems certified prior to the RFP for the new system being released next year.

Paul Aumayr attended the State Certification Testing of Voting Systems National Conference last month in Harrisburg, PA.

Voting Units

While the vast majority of the voting units have undergone maintenance this year, the units for phase one counties (Allegany, Dorchester, Montgomery and Prince Georges County) will require new batteries, and this purchase has been initiated. At the same time as performing the maintenance, the local boards have been updating the SSL encryption certificate.

Early Voting Centers

With the expansion of early voting, the local boards have been researching additional sites, and the voting system team has been assisting them in locating new sites. It is anticipated that there will be 62 or 63 early voting centers for the 2014 elections, up from 46 used in 2012.

7. Project Management and Information Technology

The Project Management Office continues to work on several initiatives. Highlights include:

New Voting System Project

SBE continues its work on many tasks and deliverables in the project planning phases of the project. For this reporting period, a number of events have taken place. Since the last Administrator's Report, we were able to bring onboard a Contract Technical Writer who has made a tremendous impact on helping us fulfill our documentation requirements. We are still working with DoIT on the Project Management Resources RFP.

There were two New Voting System presentations made during the 2013 Biennial and MAEO conferences in June. The first presentation provided a status update of the project and the work being performed by the Core Project Team. The second covered the plans for increasing the participation of the local board Election Directors and Deputy Directors by requesting input to various project documents such as the Stakeholder List. We are using the Google Apps system for our collaboration efforts.

There have been a number of communications with the local boards concerning the project. We are in the process of conducting three regional meetings with all the local boards. The meetings are being held at local board locations and are intended to be collaborative working sessions that will help us identify additional issues, risks, and other considerations in several areas of focus. The first meeting was held on July 24th and, representatives of ten local boards attended. The next meeting is scheduled on the Eastern Shore the last week of July. As a result, we will be able to be proactive in addressing questions and issues.

In the weeks to come we will be working with the local boards in several project areas including detailed requirements definition, project scheduling and timelines, workgroup assignments, budget estimating, continued work on the State certification process, and meeting the DBM and DoIT documentation and reporting requirements.

Google Apps Migrations

All local boards now have at least one Google Apps account. We now have approximately 135 active Google Apps accounts between SBE and the local boards. Keith Ross continues to conduct Google Apps "Nuggets" training sessions for new local board account holders either onsite at the local boards or using GoToMeeting. In the past few weeks, training was held for management and staff of Anne Arundel, Carroll, Frederick, Howard, Harford, Calvert, Charles, Prince Georges, Washington, St. Mary's, Wicomico, and Somerset Counties.

Other

During the Biennial, Mr. Ross presented a summary of the 2012 General Election Lessons Learned. He covered several areas noting what was done well and identifying possible process improvements. Areas summarized included but was not limited to Voting Systems, Ballot Production & Printing, Voter Services, Call Center Support, Provisional Processing, MDVOTERS Training, Petitions, and Communications.

Information Security Consultant

SBE hired a contract security consultant for a six month period starting on June 25, 2013. The security consultant started with the review of various documentation that include the Department of Information Technology Security Policy, Visio diagrams of SBE's network and connectivity, existing SBE system documentation and plans, etc. The expectations at the end of the contract, in December 2013, are for SBE to have improved security controls on systems and processes, improved vulnerability management for our systems, and refined system security documentation and plans.

ASSISTANT ATTORNEY GENERAL'S REPORT

The Attorney General's Office of Opinions and Advice received two formal opinion requests on election-related matters. On July 8, 2013, the State Administrator requested an interpretation of §9-102(f) of the Election Law Article, which requires that a State-certified voting system must "provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities." The interpretation of this requirement may have an impact on what ballot marking device technologies for optical scan voting systems are eligible for SBE certification for use by voters with disabilities. The opinion request stated that an answer was needed before November 30, 2013.

The Opinions and Advice Office has also received requests for advice on the process necessary to add a municipal election to the State ballot. Interest in combining the State and municipal ballots has been expressed by local officials and legislators in relation to both the Ocean City and Annapolis municipal elections. In early June, Senator Mathias requested an Opinion of the Attorney General. Prior to that request, SBE had asked for an advice letter on the same question. The Opinions Office is considering what form of response would be most appropriate under the circumstances. Jeff Darsie noted that the answer to the municipal election question would likely be issued first.

PROPOSED REGULATIONS

Final Approval of Regulations

Nikki Charlson explained that proposed changes to various regulations in Title 33 are ready for final adoption. The proposed changes were adopted at the April meeting and amend the following Title 33 chapters:

1. 33.05.06.03 (Voter Registration – Change of Address Outside of Maryland)
2. 33.08.01 & .05 (Canvassing – Definitions & Post Election Verification and Audit)
3. 33.09.01 - .07 (Voting System – Certification and General Requirements)
4. 33.10.02 (Voting Systems – Pre-election Testing)
5. 33.11.01 – .04 (Absentee Ballots)
6. 33.13 (Campaign Financing – Definitions; Authority Line Requirements; Prohibitions)
7. 33.15.02.05 (New or Changed Precincts – Notice to Voters)
8. 33.16.05.02 (Provisional Ballots – Start of Canvass)

The proposed changes were published in the May 31, 2013, edition of the *Maryland Register*. The public comment period closed on July 1, 2013, and public comments from two individuals were received. Ms. Charlson referenced to a table showing the comments received and SBE's response and recommendation to each comment. Ms. Charlson recommended that the board adopt all of the regulations as published but noted that she will present later in the meeting proposed changes based on the public comment. There was a discussion about the role of the local boards and the public in the new voting system implementation. Mr. Ross explained the role of the local boards in the implementation, and Ms. Charlson explained that SBE will update the board on the implementation at public meetings. Ms. Mack noted her desire to keep the public informed to the extent we can considering the security implications of the information.

Mr. Murray made a motion to adopt the proposed regulations as published, and Mr. McManus seconded the motion. The motion passed unanimously.

Feedback on Allowing Phones and Tablet Devices in Voting Rooms

At the April board meeting, Ms. Charlson presented proposed changes that would authorize in voting locations smart phones and tablet devices for voter information purposes. This proposed change was prompted by a request from a local board. At the meeting, the members of the State Board asked for written input from the local boards before making a decision on the proposed changes.

Ms. Charlson presented a summary of the comments received from nine local boards, the Maryland Democratic Party, Maryland Republican Party, and Common Cause. All of the local boards providing comments opposed the proposed change. Ms. Charlson thanked Aditya Dilip, SBE's intern from the University of Maryland, for his work compiling the comments from the local boards and other organizations. There was no motion to move forward with the proposed changes.

Approval of Proposed Changes

Ms. Charlson presented changes to COMAR 33.08.05.04, 33.09.01.02 & .05, and 33.09.03.05. These proposed changes were prompted by public comments received. Mr. McManus made a motion to approve the proposed changes, and Mr. Murray seconded the change. The motion passed unanimously.

Mr. DeMarinis presented proposed changes to 33.13.01.01, 33.13.02.02, and 33.13.10.01 and new two chapters – 33.13.12 Legislative Party Caucus Committee and 33.13.13 Administrative Accounts. The proposed changes are in response to the enactment of House Bill 1499 (Campaign Finance Reform Act of 2013) of the 2013 Legislative Session. While most of the legislative changes will be effective January 1, 2015, there are some provisions of the bill that are effective October 1, 2013. The proposed changes deal directly with those provisions.

Mr. DeMarinis explained that the General Assembly created a new political committee – legislative party caucus – and recognized the existence of administrative accounts in the legislation and required SBE to adopt

regulations governing the establishment, structure and operation of a legislative party caucus committee and define permissible administrative disbursements and subsequent disclosure on campaign finance reports. The proposed regulations set forth a process allowing for the establishment and governance of a legislative party caucus committee and the limited permissible uses of administrative funds.

Additionally, the proposed regulations clarify an existing prohibition from individuals or business with 5% ownership in gaming interest from making contributions to political committee in support of a nonfederal candidate. The proposed definition specifies the exact political committees covered under the prohibition.

Mr. Murray made a motion to approve the proposed changes, and Mr. McManus seconded the motion. The motion passed unanimously.

APPROVAL OF CAMPAIGN FINANCE WAIVER REQUESTS

Mr. DeMarinis presented the following requests for waiver of campaign finance reporting late fees.

1. Cole, John Election Committee
2. Irvine, Don Friends of
3. Propherter, Frederick B. 2010
4. Slaughenhaupt, Evan Citizens to Elect
5. Southwest Baltimore County Dem Club

Mr. Thomann made a motion to grant the waiver requests, and Mr. Murray seconded the motion. The motion passed unanimously.

APPROVAL OF REQUESTS FOR CONFIDENTIALITY

Mr. DeMarinis presented requests for confidentiality from four registered voters. Two of the voters are judges, and there was a discussion about the grounds for the requests from the other two voters. Mr. DeMarinis will obtain more information about the two other voters and re-present their requests at a future meeting. Mr. Murray made a motion to approve the requests for confidentiality for the two judges, and Mr. McManus seconded the motion. The motion passed unanimously.

APPROVAL OF CONFIDENTIALITY FORM

Mr. DeMarinis presented a revised confidentiality form for approval. The only change was including "campaign finance reports" as documents where confidential information may be contained.

Mr. McManus made a motion to approve the revised form, and Mr. Murray seconded the motion. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Mack stated that William Edelstein had requested the opportunity to speak during today's meeting. Mr. Edelstein stated the following:

1. Computer simulations and available data indicate that Maryland should plan on at least 50% more ballot marking stations per precinct than the current voting units to reduce wait times.
2. The new voting system should be implemented in phases, with a few counties implementing for the 2014 elections.
3. Ballot on demand printers will simplify logistics and cut costs for early voting.
4. He is concerned with the security of the downloadable, bar coded ballots and eliminating the use and storage of signatures.
5. SBE has not provided the detailed report on the penetration testing of the ballot delivery system or published the source code for review.

Mr. Edelstein provided written comments on his remarks. In response to a question from Mr. McManus, Mr. Edelstein stated that early voting has not reduced lines.

SCHEDULING OF NEXT MEETING

The next meeting was scheduled for August 22nd at 2:00 pm.

ADJOURNMENT

Mr. Murray made a motion to adjourn the meeting, and Mr. McManus seconded the motion. Ms. Mack adjourned the meeting about 3:30 pm.

CLOSED MEETING

Ms. Mack called for a motion to close the board meeting under State Government Article, §10-508(a)(1) and (13) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction and to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. State law requires maintaining the confidentiality of the Office of Legislative Audits (OLA) information and discussions of the appointment of employees. Mr. Murray made a motion to close the meeting, and Mr. McManus seconded the motion. The motion passed unanimously.

During the closed session, the board members were briefed on the preliminary findings of the recently concluded legislative audit and discussed the process to hire and approve a Deputy Administrator. Ms. Lamone noted that one draft finding appears to be setting policy and should not be a finding, changes have already been made to address a repeat finding, and some of the recommendations are not realistic for a small agency.

In addition to the board members, Ms. Lamone, Mr. Darsie, and Ms. Wagner were present. No actions were taken. The closed meeting adjourned at 4:00 pm.