

**State of Maryland** 

**State Board of Elections – December 15, 2016 Meeting**

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Attendees: David McManus, Chair  
Patrick Hogan, Vice Chair  
Michael R. Cogan, Member  
Kelley A. Howells, Member  
Gloria Lawlah, Member  
Linda H. Lamone, Administrator  
Jeff Darsie, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Donna Duncan, Assistant Deputy for Election Policy  
Jared DeMarinis, Director, Candidacy and Campaign Finance  
Mary Cramer Wagner, Director, Voter Registration and Petitions  
Paul Aumayr, Director, Voting Systems  
Vincent Omenka, IT Director

Also Present: John Rowe, Prince George’s County Board of Elections  
Alisha Alexander, Election Director, Prince George’s County Board of Elections  
Alysoun McLaughlin, Deputy Director, Montgomery County Board of Elections  
Jessica White, Montgomery County Board of Elections  
Tom Feehan, Project Manager, New Voting System Replacement  
Rachel Rachfel, Voter Outreach Coordinator, New Voting System Replacement  
Brett Daniels, Business Analyst, New Voting System Replacement  
Ralph Watkins, League of Women Voters  
Lynn Garland  
Poorvi Vora, George Washington University  
Amanda La Forge  
Holly Joseph  
Larry Moore, President, Clear Ballot Group  
Bill Murphy, Director of Sales, Clear Ballot Group  
Ted King, Department of Legislative Services  
Jeremy Baker, Speaker’s Office

**DECLARATION OF QUORUM PRESENT**

Mr. McManus called the meeting to order at 2:01 pm and confirmed that a quorum was present. He stated that the meeting was being recorded.

**RATIFICATION OF MINUTES FROM OCTOBER 28, 2016 MEETING**

Ms. Charlson noted that the meeting date in the minutes was incorrect. Mr. Hogan made a motion to ratify the minutes with the correct meeting date, and Ms. Lawlah seconded the motion. The motion passed unanimously.

**ADMINISTRATOR’S REPORT**

**1. Announcements & Important Meetings**

National Council of State Legislatures (NCSL) Conference

On December 6<sup>th</sup>, Ms. Lamone attended a conference in Washington D.C. hosted by NCSL. The conference was entitled “Legislative Lessons from Election 2016” and included the topics of:

- Elections are a Shared Responsibility: Local, Feds, and Especially States
- Three Top Topics: Contingency Planning, Early Voting and Election Dispute Resolution

- Cybersecurity for Elections
- Legislative Options: What's on the table in your state?

## 2. 2016 General Election Overview

### Voter Turnout

For the 2016 General Election, there were 3,900,900 eligible voters, and 2,796,567 (72%) of them participated in the election. Turnout was less than the last four presidential general elections. We saw record turnout during early voting, with over 875,000 voters voting during this period. Tables and graphs with turnout data were included in the meeting folder, and Ms. Charlson reviewed the various tables and graphs.

### Absentee Ballot Delivery

Runbeck Election Services mailed approximately 123,469 ballots to both overseas and domestic voters from September 23<sup>rd</sup> to November 4<sup>th</sup>. SBE sent emails to over 88,000 voters requesting to download their absentee ballot from SBE's website. Approximately 72,000 of these voters logged into their online account. 74% of all access attempts were successful, and about 6,800 voters used the online password reset process.

	Domestic, Civilian Voters	UOCAVA Voters	Total Voters
Blank Ballot Delivery	42,929 (60%)	9,504 (55%)	52,433 (59%)
Online Ballot Marking Tool	28,317 (40%)	7,582 (45%)	35,899 (41%)
Total	71,246	17,086	88,332

### 2016 General Election Equipment.

For early voting, there were 480 electronic pollbooks, 175 ballot scanners and 69 ballot marking devices used.

On election day, 5,860 electronic pollbooks, 2,293 ballot scanners, and 1,800 ballot marking devices were deployed. Eleven ballot scanners and a similar number of ballot marking devices were replaced, and it is widely thought that the equipment performed well, although there were reports of ballots jamming in the scanners.

From the scanner logs, SBE was able to determine that there were 2,062 jams out of 2.7 million pieces of paper scanned on election day – a rate of 0.076%. The vast majority of jams were quickly cleared and voting continued.

Election night results reporting also went well, with the last counties reporting at 12:45 am on November 9<sup>th</sup>. This is an improvement on the previous voting system.

In the eight largest counties, absentee and provisional ballots were scanned using the DS850 high speed scanner. In other counties, DS200 scanners – the same scanners used during early voting and on election day – were used to tabulate absentee and provisional ballots. While the scanners generally performed well, the following concerns were noted:

1. Ballot preparation for ballots scanned by the DS 850 is very important. Absentee ballots – folded for up to 6 weeks – must be “reverse folded” before scanning. ES&S provided a refresher video on how to prepare ballots as the local boards reported jams with the DS 850 scanners. In response to a question, Mr. Aumayr stated it does not seem that the thickness of the paper was the cause of the jams.
2. Certain marks in the write-in block were considered potential votes. The marks were caused by a ballot fold or a scratch or mark on the camera lens and resulted in a higher than expected number of overvotes in the contest with the fold through the write-in block.

Three local boards of elections – Anne Arundel, Garrett, and Prince George’s Counties – rescanned some or all of their absentee and provisional ballots and issued revised election results. Other local boards – Baltimore and Harford Counties – re-reviewed the write-in export spreadsheet and tabulated votes that were originally treated as overvotes.

3. During Clear Ballot’s ballot tabulation audit, they identified 41 ballot images in Baltimore City with two ballots, instead of one. In reviewing the image, the top ¼ inch of the ballot below the top ballot could be seen. This would occur if two ballot pages were scanned together. To correct this issue, the Baltimore City Board of Elections rescanned all of their absentee and provisional ballots and issued revised election results.

#### Post-Election Audit and Verification

The post-election audit and verification process in Maryland is extensive and includes reviewing a variety of different tasks and data from an election. The local boards provide data on the audits they perform and SBE uses other data to audit the election.

For each election, the Voting System Division supplies a worksheet for the local boards to compare for each voting location the number of ballots cast against the number of voter authority cards signed by voters who checked in to vote. The audit is conducted on randomly selected precincts as well as any precinct where a variance of greater than five has been identified by SBE. The local board must investigate these variances and report the finding in the worksheet. The local boards also compare for the selected precincts the ballots cast for each candidate, as displayed on the totals tapes against the precinct results reported by the Election Management System.

The Election Reform and Management Division also performs post-election audit tasks. Erin Perrone and Cortnee Bryant are collecting various documentation from the local boards to complete the post-election audit tasks, including the polling place evaluation forms and ballot accounting forms. An audit is also performed on absentee and provisional ballots from each local board and the canvassing minutes.

#### Recount for Hagerstown City Council

On November 30<sup>th</sup> and December 1<sup>st</sup>, the Washington County Board of Elections conducted a recount of votes cast for two candidates for a seat on Hagerstown’s City Council. When the local board certified the results of this “vote for five” contest, the difference between the candidates with the fifth and sixth highest number of votes was ten votes. The candidate with the sixth highest number of votes requested a manual recount of the paper ballots, and because the vote differential was less than 0.10%, the candidate was not liable for the costs of the recount.

The Washington County Board of Elections, with assistance from election officials from SBE and other local boards, conducted an efficient recount. Because the contest being recounted was a “vote for five,” each recount team needed four team members to recount the votes for the two candidates. There were ten teams recounting votes for these two candidates on 14,000 ballots. At the end of the second day, the candidate who requested the recount conceded. The final vote difference was seven votes, and the Washington County Board of Elections certified the revised results.

Ms. Perrone and Ms. Bryant assisted the Washington County Board of Elections with the recount. They participated on recount teams on the first day. On the second day, Ms. Perrone conducted time and motion studies, and Ms. Bryant recorded the process for a future recount training video for staff. Ms. Lamone and Ms. Charlson observed the recount on one day.

### MDVOTERS

The closing of the 2016 General Election in MDVOTERS was very successful. Thank you to the whole voter registration team who made this successful and seamless.

### Board of State Canvassers

On December 9<sup>th</sup>, the Board of State Canvassers convened to certify the results of the 2016 General Election. The Honorable Peter Franchot was elected Chair of the Board of State Canvassers. Other members in attendance were the Honorable Brian Frosh and the Honorable Bessie Decker. The two other members – the Honorable Nancy Kopp and the Honorable John Wobensmith – were not able to attend the meeting.

### Electoral College

On Monday, December 19<sup>th</sup>, the Maryland’s presidential electors will meet at the State House to formally cast votes for the next President and Vice President of the United States of America. With assistance from the Secretary of State, Mr. DeMarinis, Ms. Duncan, and Ms. Wagner are planning this event. The Governor’s Office will live stream the event so the public can watch it online.

### Administrative Complaint

Under the Help America Vote Act, each state is required to have an administrative complaint process to resolve alleged violations of the federal law. On November 28, 2016, SBE received a complaint from a Montgomery County voter alleging that he did not request an absentee ballot and his provisional ballot should have been counted. The voter requested a hearing. Ms. Charlson reported that the voter had withdrawn his administrative complaint, and as a result, there will not be a hearing.

## **3. Voter Registration**

### MDVOTERS

The mock election for release 6.3 is complete. The release is scheduled to go into production the weekend of December 17<sup>th</sup>. Enhancements include several candidacy reports, polling place accessibility, ability to accept more information from the Electronic Registration Information Center, and allowing entry of only the last four digits of an applicant’s social security number.

### Maryland Health Benefit Exchange

During the 2016 legislative session HB 1007/Chapter 287 (“Freedom to Vote Act”) passed. This legislation required certain voter registration agencies to implement electronic voter registration systems on or before July 1, 2017. The idea was to mirror the successful transmission of voter registrations as done with MVA. SBE is working closely with the Maryland Health Benefit

Exchange to meet this deadline. It is expected through this close collaboration, that the implementation will go live February 17, 2017. Other required agencies are expected to reach out to us in January 2017. Ms. Howells requested a list of the State agencies required to offer voter registration.

Military and Overseas Voters – Processing of Voter Registration and Absentee Voting Requests

Mr. McManus referenced the December 13, 2016, letter from the Montgomery County Board of Elections about the processing of Federal Write-in Absentee Ballots and requesting that the processing of all transactions for military and overseas voters be transferred back to the local boards of elections. This letter was included in the board meeting folder.

Ms. Wagner explained that the creation of a single point of contact for military and overseas voters was an initiative of the Department of Defense's Federal Voting Assistance Program to simplify the voting process for these voters. SBE received a grant to pilot this single point of contact initiative. While SBE has been processing these transactions for several elections, the volume of transactions for the 2016 General Election was too large for the SBE's resources. Ms. Wagner reported that since the grant is nearing its end, the processing of these transactions will be returned to the local boards. SBE understood that the Montgomery County Board of Elections would not finish canvassing on November 18, 2016, and the remaining ballots would be picked up the following week.

Mr. McManus asked Ms. McLaughlin and Ms. White of the Montgomery County Board of Elections to respond. Ms. McLaughlin stated that there was a miscommunication about when the Federal Write-in Absentee Ballots needed to be received and canvassed and cited examples where the paperwork associated with the ballot did not accompany the ballot. Ms. McLaughlin stated the lack of paperwork made answering questions challenging. She also noted that it was important to define the allocation of responsibilities between SBE and the local boards of elections. Mr. McManus requested that Ms. McLaughlin submit a list of ways to improve the process. In response to a question from Ms. Howells about how many timely ballots were sent to the local boards after November 18, 2016, Ms. Wagner responded that she would obtain this information.

In response to a question about whether scanners are able to read ballots printed from SBE's website, Mr. Aumayr explained that technology has improved and scanners are more tolerant of paper and print quality issues. Ms. Charlson explained that State law requires that any ballot marked by the online ballot marking tool be compared with the ballot generated during the canvass. This would prohibit a ballot marked by the online ballot marking tool from being tabulated by the scanner, but ballots printed from SBE's website and marked by hand could be tabulated.

In response to a question, Ms. McLaughlin stated that the Montgomery County Board of Elections manually duplicated 19,000 ballots in the 2016 General Election and that more than 50% of the canvass time was dedicated to duplicating ballots. According to Ms. McLaughlin, ballot duplication cost \$38,000 of the estimated \$60,000 spent on canvassing.

Ms. Charlson explained that at least one local board of canvassers used the ExpressVote ballot marking device to duplicate the ballot and found that the local board could duplicate two ballots with the ballot marking device to every one ballot duplicated manually. She also explained that there are automated ballot duplication products that will be explored for the 2018 elections.

Mr. Hogan asked Ms. McLaughlin to respond to the November 3, 2016, letter from the Montgomery County Republican Central Committee. Ms. McLaughlin explained that election judges did not properly follow procedures for spoiling a ballot and accidentally issued a voter another voter's spoiled ballot. In response to these reports, ballot issue procedures were revised and election judges were reminded of the process for spoiling a ballot.

#### **4. Voting Systems**

##### Electronic Pollbooks

Despite all the activity around the election, SBE has continued working with ES&S to make a few minor software enhancements and correct a few minor bugs identified

#### **5. Voter Outreach and Education Update**

Ms. Rachfel, SBE's lead for voter outreach and education efforts, summarized the voter education efforts for the 2016 General Election. The voter outreach team, consisting of six individuals and seven additional individuals when needed, developed a brand, developed materials that can be re-used for future elections, and conducted about 1,000 voter outreach events for approximately 100,000 to 200,000 voters. In response to a question from Ms. Howells, Ms. Rachfel explained that the staffing contract provided resources but no other funds were used for this effort. Ms. Howells asked for a list of the organizations with whom the voter outreach team partnered, and Ms. Rachfel agreed to provide the list.

#### **ASSISTANT ATTORNEY GENERAL'S REPORT**

There was no December report.

#### **2016 GENERAL ELECTION – POST-ELECTION BALLOT TABULATION AUDIT**

Mr. Moore, President of The Clear Ballot Group, defined an audit as a comparison of two independent results derived from the same data and explained how Clear Ballot's ClearAudit solution is able to audit a voting system's election results. Mr. Moore accessed the Prince George's County audit database, showed examples of various ballot images, and explained the benefits to the public, candidates, parties, media, and election administrators. He also explained the theoretical risk of ballot images being changed.

Mr. McManus invited Dr. Poorvi Vora to address the board as she had requested to speak at the meeting. Dr. Vora stated that Clear Ballot's solution is not sufficient to audit an election because it assumes that the ballot images are identical to the ballots marked by voters. She explained that software is used to convert the ballot to computer data and to interpret and tally the votes and this software could be designed to change the ballot images. Dr. Vora recommended using the margin of victory in one or more contests to determine how many ballots to tally, randomly select and manually tally the selected ballots, and compare the winner from manual tally against the winner from the voting system. If the winners are the same, the audit validates the winners. She noted that if the number of ballots to tally is too high, election officials could commit to tally ballots for a defined period of time and stop, even if not all of the ballots have been manually tallied. Dr. Vora also recommended creating an expert advisory board to conduct a pilot in the spring of 2017. There was a discussion about how the ballots would be selected and the preciseness of the information from Clear Ballot's solution and the ballot polling method proposed by Dr. Vora.

#### **APPROVAL OF CAMPAIGN FINANCE WAIVER REQUESTS**

Mr. McManus deferred this agenda item until the January 2017 meeting.

**OLD BUSINESS**

Mr. McManus deferred this agenda item until the January 2017 meeting.

**NEW BUSINESS**

Mr. McManus deferred this agenda item until the January 2017 meeting.

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Mr. McManus deferred this agenda item until the January 2017 meeting.

**CONFIRM NEXT MEETING**

The next meeting is scheduled tentatively for Wednesday, January 25, 2017, at 2 pm.

**ADJOURNMENT**

Mr. Hogan made a motion to adjourn the open meeting. Mr. McManus adjourned the open meeting at 5:20 pm.