

State of Maryland 

State Board of Elections – February 27, 2020 Meeting

Attendees: Michael R. Cogan, Chair
Patrick J. Hogan, Vice Chair
William G. Voelp, Member
Kelley A. Howells, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Andrea Trento, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy, Election Policy
Tracey Hartman, Director of Special Projects
Victorica Smith, Candidacy and Campaign Finance
Shafiq Satterfield, Regional Manager Supervisor
Fred Brechbiel, Chief Information Officer

Also Present: Allison McCord, Vice-President, Harford County Board of Elections
Cherie Deogracias, Law Clerk for the ACLU of Maryland
Danielle Gaines, *Maryland Matters*
Dominique Bonessi, WAMU 88.5
Todd Kelly, Regional Account Manager, Cradlepoint
Craig Horger, Chief Security Officer, Cradlepoint

DECLARATION OF QUORUM PRESENT

Mr. Cogan called the meeting to order at 2:11 pm and stated that four members of the board were present, and noted that Mr. Voelp was expected to arrive shortly. Mr. Cogan stated that there was a quorum present and the meeting was being live streamed.

RATIFICATION OF MINUTES FROM JANUARY 2020 MEETING

Mr. Funn made a motion to ratify the approved minutes from the January 16, 2020 meeting and Mr. Hogan seconded the motion. The motion passed unanimously.

ADDITIONS TO THE AGENDA

Mr. Cogan stated that there was one addition to the agenda, specifically that Ms. Deogracias would be addressing the Board during new business.

ADMINISTRATOR'S REPORT

Ms. Lamone thanked Janey Hegarty, administrative assistant to SBE's technical divisions, for her 15 years of service to SBE. Ms. Lamone stated that Ms. Hegarty is retiring and that her last day would be February 28th and congratulated her on this well-deserved achievement. Ms. Hegarty thanked SBE for the recognition and for 15 wonderful years.

1. Welcome to SBE

Ms. Charlson welcomed Fred Brechbiel as SBE's new Chief Information Officer (CIO). Fred comes to SBE from the Motor Vehicle Administration (MVA) where he was the Director of Software Development. During his time at MVA, Fred supported the implementation of the Real ID requirements and other key functions. Fred started on February 26th, and we expect that he will be quickly immersed in ongoing IT projects.

In response to a question from Ms. Howells, Ms. Charlson stated that Tom Reinheimer is no longer SBE's Chief Information Security Officer (CISO) and that a search for a new CISO is ongoing. She further clarified that CIO and CISO are different positions.

2. Announcements & Important Meetings

Election Directors' Meeting

Ms. Charlson reported that SBE hosted an Election Directors' conference call meeting on February 20th. The minutes will be shared as soon as they are complete.

Maryland Federation of Republican Women

Ms. Charlson reported that on February 18th, Mr. Cogan and Mary Wagner had a question and answer session regarding list maintenance and overall general voter registration questions. Mr. Cogan recognized Ms. Wagner's knowledge and understanding of Maryland's voter registration process.

House Ways & Means Briefing

Ms. Charlson reported that each session, the House Ways & Means Committee requests a briefing on election-related issues. On January 23rd, SBE briefed the committee on the ongoing election preparation activities for the special primary election for the 7th Congressional District and the combined special general election and Presidential Primary Election. Representatives from the State agencies that provide automatic voter registration also briefed the committee on their implementation.

U.S. Department of Homeland Security (DHS) - Executive Elections Table Top Exercise

Ms. Charlson reported that on January 30th, DHS held a cyber-related table top exercise for State and local election officials, representatives of federal agencies supporting elections, and election system vendors. Approximately 300 people participated in this exercise held in Washington, DC. Scenarios included an infected email distributed to election officials, defaced websites, incorrect addresses for absentee ballots, and altered vote totals.

National Association of State Election Directors' Winter Meeting

Ms. Lamone reported that she attended the winter meeting of the National Association of State Election Directors in Washington, DC from January 31st - February 2nd. Conference attendees received briefings from the U.S. Election Assistance Commission, the Department of Justice, and representatives from Congressional committees and discussed the balance between accessibility and security, preparing for recounts, and other voter registration and participation activities.

FY21 Budget Hearing

Ms. Charlson reported that on February 24th, the Department of Legislative Services (DLS) issued its analysis of SBE's FY21 budget analysis. On February 25th, the Senate Budget and Taxation Committee held a hearing on the budget, and after DLS presented their analysis, we responded. The budget hearing in the appropriate subcommittee of the House Ways and Means Committee is scheduled for March 2nd. A copy of DLS' budget analysis and our response was provided in the meeting folder.

At 2:25 pm, Mr. Voelp joined the meeting.

3. Election Reform and Management

Election Judge Recruitment Efforts

Ms. Charlson reported that Erin Perrone sent a survey to all the local boards asking for an update of their election judge recruitment efforts for the April elections. A table of the survey results was included in the folder.

State Employee Election Judge Service

Ms. Charlson further reported that on January 28th, the Department of Information Technology (DoIT) sent an email to all maryland.gov account holders' information on how State employees can earn up to 8 hours of administrative leave if they serve as an election judge during early voting or on election day. As a result of that email, Baltimore City gained about 150 election judges and Howard County gained about 60 election judges for the special primary election.

In an effort to recruit more State employees to become an election judge, Ms. Charlson stated that SBE asked the Maryland Department of Transportation (MDOT) to distribute a similar message to State employees who work at MDOT. They did not receive the email sent by DoIT because they do not use maryland.gov email.

In response to a question from Mr. Cogan, Mr. Voelp stated that in an ideal world, there would be an equal number of Democratic and Republican election judges, but that is not always realistic depending on the jurisdiction. He stated that each polling place is required to have one Democratic and one Republican chief judge, but that the remaining judges are a mix.

4. Voter Registration

MDVOTERS

Ms. Charlson reported that work transitioning the SBE's data center is ongoing with partner Koniag Government Services. This team is an Alaskan-based company that has partnered with IT-CNP, a local data center company, and will house several key data applications. The data center is currently owned by The Sidus Group. It is anticipated that the new data center will be operational by July 1, 2020.

At 2:31 p.m., Mr. Cogan paused the meeting to check the status of the livestream. He reconvened the meeting at 2:33 p.m., and noted that the livestream had inadvertently not recorded the first 20 minutes of the meeting but that the livestream was currently recording. He gave a brief recap of the meeting up until this point, and then stated that the meeting could continue.

Ms. Charlson continued, stating that the MDVOTERS application support team is in place. This team is responsible for the maintenance and development of all components of MDVOTERS including voter registration, candidacy, and the agency election management modules (AEMS).

Joint Application Design (JAD) meeting

Ms. Charlson reported that on February 25th, the MDVOTERS team met to prioritize outstanding identified issues as well as discuss transitioning to an Agile methodology that supports DoIT's mission for implementation of major IT initiatives.

MVA Transactions

During the month of January, MVA collected the following voter registration transactions:

New Registration - 9,793	Residential Address Changes - 23,194
Last name changes - 3,036	Political Party Changes - 6,441

Non-Citizens

The following summarizes relevant activity from January:

Submitted to the Office of the State Prosecutor (OSP) - 3

Removal of non-citizens - 21

Removal of non-citizens who voted - 3

Removal of non-citizens who voted multiple times - 0

Non-citizens reported by Immigration & Customs Enforcement - 0

Change in status from Office of the State Prosecutor - 0

Clerical error - 3 - (applicants checked they were not citizens)

Ms. Charlson stated that due to the legislative session, only the three records with voting history have been referred to OSP. The others with no voting history will be forwarded shortly.

In response to a concern raised by Mr. Cogan regarding having a new State Prosecutor and his level of priority for SBE, Mr. Voelp stated that he recently met the new State Prosecutor, Chuck Howard, who stated that voting issues are a top priority for him. Mr. Trento responded stating that he has spoken with Mr. Howard who assured him that every referral to OSP is investigated. Mr. Trento stated that since 2016, there have been two citizens who were prosecuted by OSP for illegal voting due to not being a citizen. Ms. Charlson followed by stating that Mr. Howard met with SBE staff after his appointment and that SBE has assisted Mr. Howard with research on different topics. Mr. Voelp concluded by stating that he was impressed with Mr. Howard after their conversation and, after talking with him, felt confident that voting issues are a priority for him and OSP.

New Party Petition Effort

Ms. Charlson stated that the Working Class Party submitted petition signatures but failed to meet the requirement of 10,000 signatures by 133 signatures. They will be submitting more signatures on or about March 2nd. Depending on the amount of signatures submitted, the voter registration team anticipates processing those signatures.

5. Candidacy and Campaign Finance (CCF) Division

Candidacy

Ms. Charlson reported that currently, 920 candidates have filed at SBE for the 2020 election cycle.

Ms. Charlson thanked the Charles, Frederick and Wicomico County Boards of Elections for serving as SBE satellite offices to accept and process over 200 Delegates to the National Convention candidate filings. This made filing as a delegate more convenient for those individuals who wished to file and live outside of central Maryland, lessened the volume of candidates for the Candidacy and Campaign Finance staff, and probably avoided traffic and parking problems.

Enforcement Actions

Ms. Charlson reported that the CCF Division received the payments for the following civil penalties:

1. Friends of Juanita Culbreath Miller paid a civil penalty of \$50.00 on January 14, 2020 for failure to record all contributions and expenditures.
2. Citizens for Max Green paid a civil penalty of \$25.00 on January 15, 2020 for cash disbursement greater than \$25.00.
3. Friends to Elect Troy Berry paid a civil penalty of \$700.00 on January 15, 2020 for failure to record all contributions and expenditures and a failure to maintain bank account books and records.
4. David Warnock for Baltimore paid a civil penalty of \$50.00 on January 21, 2020 for failure to record all contributions and expenditures.
5. Ronald Howard for Sheriff paid \$100.00 civil penalty on January 28, 2020 for failure to report expenditures on a campaign finance report.
6. Patient Care & Access PAC, Maryland paid a civil penalty of \$500.00 on January 29, 2020 for failure to record all contributions and expenditures.

6. Project Management Office (PMO)

Inventory Management

Ms. Charlson reported that the PMO is in the process of preparing for the FY2020 statewide inventory audit which is scheduled to begin on March 1, 2020. This audit includes working with the local boards to ensure they are ready to conduct their own inventory audits. In addition, the PMO continued to work on the reconciliation of equipment and supplies purchased and what is in the inventory system.

Procurements

Ms. Charlson stated that delivery of the 219 additional black precinct carts and additional voting booths to the requesting local boards is complete.

Other

Ms. Charlson reported that there has been a delay in the completion of the internet and network connectivity into SBE's central warehouse in Glen Burnie. The completion date is now estimated to be sometime in mid to late March.

2022 Pollbook Replacement

Ms. Charlson stated that SBE is planning to replace the pollbooks for the 2022 election. The project is currently going through DOIT's major IT project approval process, and that Caitlin Whately has been chosen as the project manager. Ms. Whately has worked with SBE previously on the new voting system implementation and is familiar with working with the local boards.

Facilities

Recently, SBE was notified of roof leaking issues at the warehouse facility for the Somerset County Board of Elections. SBE is currently working with the Somerset County Administrator, Building Maintenance Director, and the Somerset County Board of Elections on this issue. An industrial hygienist performed an assessment of the storage facility and swabbed surfaces of the equipment. A report is expected in the next few days. In response to a question from Mr. Cogan, Ms. Charlson confirmed that the industrial hygienist did swab for mold.

7. Voting System

Voting System

Mr. Satterfield reported that in preparation for the April elections, SBE conducted a statewide test of EXP, an export utility used to transmit unofficial result files from the 24 local boards of elections back to SBE on election night. The test was successful.

Mr. Satterfield stated that SBE continues to work with ES&S to offer training to the local boards on the voting system database, voting equipment and associated applications for the voting system. Training will cover several election-related activities including creating media, conducting logic and accuracy testing, and uploading election results. Training began in January, and to date, over 67 training requests have been received of which, 40 have been delivered.

In response to Mr. Satterfield's comments, Mr. Cogan stated that at a recent security briefing held prior to the 2020 Special Primary Election, that Mr. Satterfield did a superb job leading the briefing and explaining the details of the election day wide area network (WAN). Specifically, Mr. Cogan stated that Mr. Satterfield was articulate, clear, had a firm grasp of the specifics of the network, and answered everyone's questions.

In response to a question from Mr. Voelp, Mr. Satterfield explained that there are multiple different types of voting system training, and that it is common for a local board to request more than one training.

7. Legislation

Ms. Duncan stated that over 150 legislative proposals have been introduced during the 2020 Session of the Maryland General Assembly that may impact the election, campaign finance process or become a question on the ballot for the voters. Using the General Assembly's website, we created three lists that allows us to separate the issues and focus on the progress of the legislation. Ms. Lamone noted that copies of the three lists that provide the status of the legislation were inadvertently not provided in the meeting folder, and Ms. Duncan stated that she would email the most updated version to the Board members.

Ms. Duncan referred the members of the State Board to review the following list of bills that SBE is closely monitoring. Specifically, Ms. Duncan called their attention to SB (Senate Bill) 4, SB 33/HB (House Bill) 881, SB 145/HB 37, SB 362, SB 396, HB 392, and HB 487.

1. SB 4 - Gaming - Sports Betting: Question that might appear on the 2020 General election ballot.
2. SB 10/HB 103 - Special Election to fill a Vacancy in General Assembly: Would require a special election to be held in presidential election year for a member of the general assembly. Question that might appear on the 2020 General election ballot.
3. SB 33/HB 881 - Voting by Absentee Ballot (AB) – Prepaid Postage for Return of Ballots: Requiring that AB return envelopes include prepaid postage; requiring AB instructions include information regarding postage; requiring SBE to reimburse each LBE 50% of the cost of pre-paid postage. Effective date January 1, 2021.
4. SB 56/HB 140 - Petitions and Ballot Questions – Plain Language Requirement: Requiring a petition signature page to contain a plain language description of the subject and purpose of the petition written to be understood by an individual who

has attained no higher than a grade 6 level reading comprehension. Effective date January 1, 2021.

5. SB 91/HB 51 - Individuals Released from Correctional Facilities - Voter Registration: Providing individuals, being released from correctional facilities, with information on registering to vote, along with a voter registration application. Effective date of October 1, 2020.
6. SB 129 - Campaign Finance - Protection of Contributor Information: Prohibiting a person from using contributor information from any report or statement for commercial solicitation purposes. Effective date of October 1, 2020.
7. SB 145/HB 37 - References to Absentee Voting in Communications – Mail-In Voting: Requiring SBE and the local boards to refer to absentee ballots as “mail-in ballots” and absentee voting as “mail-in voting” in all communications with voters and the general public; requiring SBE and the local boards to include in public communications regarding “mail-in voting” a statement that “mail-in voting” is referred to as absentee voting in the Annotated Code of Maryland and the Code of Maryland Regulations. Effective date of January 1, 2021.
8. SB 251, now Chapter 10 - Special Elections - Calendar Revisions: Emergency legislation altering certain deadlines related to a special election.
9. SB 325 - Gaming - Expansion: Question that may appear on 2020 General election ballot.
10. SB 362 - Absentee Ballot - Timing of Canvass: Emergency legislation moving the start of the absentee canvass from 10 am on Thursday to 10 am on Friday after the election. This is emergency legislation.
11. SB 372/HB 568 - Correctional Facilities - Voter Registration and Voting: Requiring the Department of Public Safety and Correctional Services to provide each individual who is released from a correctional facility with a voter registration application. Requiring the State Board of Elections (SBE) in conjunction with Corrections to develop a program for registering detainees and providing for absentee voting. Requiring SBE to provide certain statistical information to the legislature. Effective date of June 1, 2020.
12. SB 396 - Deadline for Selection of Lt. Governor: Proposing an amendment to the Maryland Constitution to repeal the requirement that a candidate for Governor who seeks the nomination in a primary election designate a candidate for Lieutenant Governor at the time of filing a certificate of candidacy. Question might appear on the 2020 General election ballot.
13. HB 142 - Voting Order Priority - Individuals Who Need Extra Assistance: Requiring a chief judge to give voting order priority to certain individuals and authorizing certain individuals to request voting order priority of any election judge serving at a polling place. Effective date of January 1, 2021.
14. HB 216 - Campaign Material - Definition: Altering the definition of “campaign material” to include certain material that is an automated or prerecorded oral communication. Effective date of January 21, 2021.
15. HB 245 - Institutions of Higher Education - Voter Registration and Voting by Students. (Student Voter Empowerment Act of 2020): This legislation has several provisions impacting the State Board of Elections, local boards of elections and public institutions of higher education. Requirements include voter education through links provided on websites, as well as a separate page on the State Board of Elections website devoted to students and voting in Maryland. Effective date of June 1, 2020. Also requiring local boards of elections to establish a separate precinct on the campus of certain institutions of higher education to take certain

- actions to assist the local board with locating and operating a polling place on campus. Requires several reports be submitted Effective date January 1, 2022.
16. HB 392 - Foreign Manufacture of Election Systems - Notification and Termination of Contract: Prohibiting the State Board of Election from approving a contract with an election service provider unless the contract includes a clause requiring the election service provider to report to the State Administrator of Elections is any stage in the manufacturing of a component of the provider's election system occurred outside the United States. Effective date of January 1, 2021.
 17. HB 487 - Early Voting Centers - Accessibility by Public Transportation: requiring that, in a county that has fixed-route public transportation service, each early voting center to be located not more than one-quarter mile. Effective date of January 1, 2021.
 18. HB 538 - Campaign Finance - Revisions: Requiring a treasurer of a campaign finance entity to approve, rather than make, all disbursements for the entity; prohibiting the treasurer of a party central committee from approving, rather than making, a disbursement except under certain circumstances. Effective date of January 1, 2021.
 19. HB 627 - Prosecution of Election Law Violations - Limitations: Extending the period of time during which a prosecution is required to be instituted for certain violations of State election law. Effective date of October 1, 2020.
 20. HB 1094 - Early Voting Centers - Hours of Operation: Altering the hours during which early voting centers are required to be open in elections other than a presidential general election. Effective date of October 1, 2020.
 21. HB 1172 - Postelection Tabulation Audits - Risk Limiting Audits: Requiring that the State Board of Elections conduct an automated software audit in collaboration with the local boards of elections; repealing a requirement that the State Board conduct a certain manual audit after each statewide general election; requiring the State Board, in collaboration with the local boards, to conduct a risk-limiting audit of at least one statewide contest and any other contests selected for audit by the State Board after each statewide election; requiring that a risk-limiting audit manually exam certain paper records or batches of certain paper records in a certain manner, be completed before certification of the election results, and be observable by the public to a certain extent; requiring the State Administration of Election to convene a Risk-Limiting Audits Workgroup on or before a certain date; requiring the Workgroup to consist of certain persons selected by the State Administrator; requiring the State Board to select the contest to be audited and determine how the pilot risk-limiting audits are to be conducted; providing that a pilot risk-limiting audit may be conducted after the election results are certified and may not have any effect on the certified election results; requiring the State Board to adopt certain regulations on or before a certain date; defining certain terms; altering a certain definition; repealing a certain definition. Effective date of June 1, 2020
 22. HB 1222 - Campaign Finance Enforcement and Compliance - New State Positions: Requiring the Department of Budget and Management to create two new State positions for the State Board of Elections for the purpose of employing staff to enforce campaign finance violations and to ensure compliance with campaign finance law. Effective date of July 1, 2020.

7th CONGRESSIONAL DISTRICT SPECIAL PRIMARY ELECTION REVIEW

Mr. Cogan made a request that Agenda item #5, the 7th Congressional District Special Primary Election Review, be moved after all other administrative agenda items, noting that he expected

this review to take longer than the remaining agenda items. No members of the State Board objected.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento provided the following report.

1. *Fusaro v. Davitt et al.*, No: 1:17-cv-03582 (U.S. District Court, D. Md.). Plaintiff Dennis Fusaro brought a complaint in federal court alleging that Maryland violates the First and Fourteenth Amendments by limiting access to the voter list to Maryland voters and only for purposes related to the electoral process. On September 4, 2018, the State defendants' motion to dismiss the complaint was granted, and the plaintiff appealed. On July 12, 2019, the Fourth Circuit vacated the dismissal order, and remanded the case for further proceedings. The parties have since conducted discovery and briefed dispositive summary judgment motions, and are awaiting a ruling from the Court.
2. *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.). No change from the last update. This case involves a challenge under the U.S. Constitution and Maryland Constitution and Declaration of Rights to the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court.
3. *Judicial Watch v. Lamone*, No. 1:17-cv-02006-ELH (U.S. District Court, D. Md.). No change from the last update. This case involves the denial of access to Maryland's voter registration database. Under Maryland law, access to the voter registration list is limited to Maryland registered voters and only for non-commercial, election-related uses. Judicial Watch—an elections watchdog group located in Tennessee—requested Maryland's voter registration "database" and was denied because it was not a Maryland registered voter. Judicial Watch filed suit, arguing that the database was required to be disclosed under the federal National Voter Registration Act. On April 24, 2019, Judicial Watch filed a reply in support of its motion for summary judgment. On May 8, 2019, the defendants filed a reply in support of their cross-motion for summary judgment. An August 8, 2019, the District Court awarded summary judgment to the plaintiffs, but requested further briefing on the issue of whether the State Board of Elections should be compelled to produce the dates of birth of voters along with the other voter information available on Maryland's voter registration lists. On September 13, 2019, the parties filed simultaneous briefs on that remaining issue, and on September 20, 2019, filed simultaneous response briefs. The issue is fully briefed and awaiting determination by the Court.
4. *The Washington Post, et al. v. McManus, et al.*, No. 1:18-cv-02527 (U.S. District Court, D. Md.), *on appeal at* No. 19-1132 (U.S.C.A., 4th Cir.). This case presents a First Amendment challenge by a coalition of newspaper publishers that maintain an online presence to certain provisions of the recently-passed Online Electioneering Transparency and Accountability Act (the "Act"). On January 4, 2019, the district court granted the plaintiffs' motion for preliminary injunction on the ground that the plaintiffs' "as applied" constitutional challenge to the statute was likely to succeed. On February 2, 2019, the

defendants appealed that ruling to the Fourth Circuit. Oral argument was held on October 30, 2019, and on December 6, 2019, the Court issued an opinion affirming the entry of the preliminary injunction. We are currently discussing resolution of the case with the plaintiffs.

5. *Johnston, et al., v. Lamone*, No. 18-cv-3988-ADC (U.S. District Court, D. Md.), *on appeal at* No. 19-1783 (U.S.C.A., 4th Cir.). On December 28, 2018, the Libertarian Party of Maryland (the “Party”) and its Chairman, Robert Johnston, filed a lawsuit alleging that the statutory scheme governing the official recognition of minor parties in Maryland, as applied to the Party, was unconstitutional in at least two ways. They alleged that the scheme violates their First Amendment speech and association rights by requiring the Party to undertake the petition process to re-obtain formal recognition under State law, when there are already over 22,000 Maryland voters currently registered as Libertarians. They also alleged that the standard by which Maryland verifies petition signatures is unconstitutionally strict, in that it requires the rejection of signatures of known Maryland voters due to technical noncompliance with the statutory standard. On July 11, 2019, the district court dismissed the plaintiffs’ claims, and plaintiffs appealed. Oral arguments took place on January 29, 2020.
6. *Phukan v. Maryland State Board of Elections*, No. C-2-CV-19-000192 (Cir. Ct. Anne Arundel Cnty.). No change from the last update. On January 23, 2019, Anjali Reed Phukan, who was the Republican nominee for Comptroller in the 2018 election, filed a lawsuit against the State Board of Elections seeking a writ of mandamus directing the State Board of Elections to decertify Comptroller Peter Franchot’s campaign committee, an injunction requiring Mr. Franchot and his campaign committee to file corrected campaign finance reports, a declaratory judgment that Ms. Phukan is entitled to examine the documentation supporting any corrected campaign finance reports that Mr. Franchot or his committee files, and a declaratory judgment that Ms. Phukan be issued the oath of office as Comptroller and be awarded back pay and the costs of suit, should Mr. Franchot or his committee fail to file corrected campaign finance reports. On April 15, 2019, the court granted the defendant’s motion to dismiss and dismissed the complaint with prejudice. On May 22, 2019, the court denied the plaintiff’s motion to vacate the judgment and motion for a new trial. On May 29, 2019, the plaintiff filed a notice for in banc review by the circuit court. Oral argument before the in banc panel of the circuit court took place on December 30, 2019. On January 31, 2020, the in banc panel of the circuit court issued an opinion in which it affirmed the dismissal of Ms. Phukan’s complaint.
7. *National Federation of the Blind, Inc., et al. v. Lamone et al.*, No. 1:19-CV-02228-ELH (U.S. District Court, D. Md.). On August 1, 2019, the National Federation of the Blind (“NFB”), NFB’s Maryland chapter, and three individual plaintiffs filed a lawsuit against the State Administrator and the individual members of the State Board of Elections alleging that SBE’s BMD policy has, in practice, violated the rights of voters with disabilities “to an equal opportunity vote in person by a secret ballot,” in violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Plaintiffs seek an order requiring the State Board “in all future elections to offer BMDs to every in-person voter as the default method of voting, with paper ballots offered only to those voters who affirmatively opt out of using the BMD or in cases where there are long lines of people waiting to vote.” On September 3, 2019, defendants filed a motion to dismiss the complaint, and on September 20, 2019, plaintiffs filed a motion for a preliminary injunction. The Court also granted leave for Plaintiffs to take limited discovery in

connection with their motion for preliminary injunction. The parties attended a settlement conference on January 7 and 13, 2020, before a federal magistrate judge but were not able to resolve the case. The motions to dismiss and for preliminary injunction are fully briefed, and a hearing is scheduled for January 17, 2020. The Court heard argument on plaintiffs' motion on January 17, 2020. On February 7, 2020, the plaintiffs moved for leave to submit additional evidence in support of their motion, arising from the alleged experiences of voters in the February 4, 2020 special primary election for the 7th Congressional District. On February 10, 2020, the court granted the plaintiffs' motion for leave to submit additional evidence, denied the defendants' motion to dismiss, and denied the plaintiffs' motion for preliminary injunction. On February 24, 2020, the Court entered a scheduling order governing the discovery period for the case, and setting a July 31, 2020 deadline for the filing of dispositive motions.

8. *Hewes v. Alabama Sec'y of State et al.*, No. 1:19-cv-09158-JMF (U.S. District Court, S.D.N.Y.). On October 3, 2019, plaintiff Henry F. Hewes, a putative candidate for the Democratic nomination for President for the 2020 election, sued the unnamed Secretaries of State of 43 states, (including Maryland), alleging that state-imposed limitations on ballot access for federal presidential candidates violate the First and Fourteenth Amendments to the U.S. Constitution. Plaintiff seeks an order compelling the defendants to place the name of the plaintiff and any other candidate who has registered with the Federal Election Commission on the primary ballots of the states named as defendants. The Defendants jointly filed a motion to dismiss asserting common arguments for dismissal on December 19, 2019. On January 23, 2020, the plaintiff filed an amended complaint, and the defendants thereafter renewed their joint motion to dismiss.
9. *Chong Su Yi v. Hogan*, Nos. 464985-V, 466396-V (Cir. Ct. Montgomery Cty.), *on appeal at* Nos. CSA-REG-1435-2019, CSA-REG-1437-2019 (Md. Ct. Sp. App.). On around March 28, 2019, plaintiff Chong Su Yi filed two complaints in the Circuit Court for Montgomery County challenging the results of Maryland's 2018 elections, naming Governor Larry Hogan as defendant. Specifically, Mr. Chong appears to be arguing that the results are invalid because of the use of religious facilities as polling places, that the State's use of "scanners" to tabulate ballots is unconstitutional and/or not permitted by federal law, and that the State's identification of candidates' party affiliations on the general election ballot is not permitted by State law. On January 13 and 21, 2020, respectively, the circuit dismissed plaintiff's complaints. Plaintiff has appealed from one of the dismissals, which appeal is currently pending in the Court of Special Appeals. A briefing schedule for plaintiff's appeal has not been entered.
10. *Public Interest Legal Foundation, Inc. v. Lamone*, No. 1:19-cv-03564-ELH (D. Md.). On March 19, plaintiff Public Interest Legal Foundation, Inc., filed a lawsuit against the State Administrator, the members of the State Board, and Erin Dennis, seeking access to Maryland's list of registered voters pursuant to the public inspection provisions of the National Voter Registration Act. Plaintiff alleges that the District Court's published decision in *Judicial Watch*, *supra*, entitles them to access, and that the issue left outstanding by the court in that case does not implicate their request since they are not seeking individuals' dates of birth as part of the information provided for each voter on the list. Plaintiffs filed a motion for summary judgment simultaneously with their complaint. On January 17, 2020, defendants answered the Complaint. On January 24, 2020, defendants moved for a stay of the proceedings pending the resolution of the

Judicial Watch matter and any appeals therefrom, due to the similarity of the issues between the cases. The parties are awaiting ruling from the Court on that motion.

APPROVAL OF LATE FEE WAIVERS

Ms. Smith presented the Board with 20 requests from campaign committees to waive late fees incurred by the committee. Seven campaign committees were denied waivers of late fees and were presented to the board for informational purposes.

The committees requesting a waiver of late filing fees were:

1. Bair, Margaret Peggy Citizens for
2. Baker, Terry, Citizens for
3. Bohrer, Shannon Citizens for
4. C. Steinweg (USA), Inc. PAC
5. Charles County Republican Central Committee
6. David, Mr. (Ray) Raymond for Council
7. District 15 Leadership Team Slate
8. Fitzgerald, (Donald) for Board of Ed
9. Grammer, Robin L. Jr. Friends of
10. Hines, (Frank) Bud Organization to Elect
11. Hornberger, Kevin Friends of
12. Johnson, Joel for Orphans Court
13. Impallaria, Richard Friends Of
14. Kim, Lisa F. Friends of
15. McGee, Trish Committee for
16. Pasti, David Friends of
17. Prince George's Proud Slate
18. StPreux, (Vardly) Citizens for
19. Wagner, Robert Committee for
20. Yoho, Karen Citizens for

Ms. Howells made a motion to approve the waiver requests, and Mr. Hogan seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 14 WAIVER REQUESTS

In response to a question from Mr. Cogan, Ms. Smith clarified that Title 14 waiver requests are for entities doing public business and employers of State lobbyists, not individual campaigns. Ms. Smith reported that she did not have any requests for approval. Four entities were denied waivers of late fees and were presented to the board for informational purposes.

ADOPTION OF FINAL REGULATIONS: SUBTITLE 1 – DEFINITIONS: GENERAL PROVISIONS, AND SUBTITLE 19- SAME DAY REGISTRATION AND ADDRESS CHANGE

Ms. Hartman presented proposed regulations to COMAR 33.01 – Definitions: General Provisions, and COMAR 33.19 – Same Day Registration and Address Change for final adoption. These proposed regulations were approved by the Board at its September 2019 meeting and published in the December 20, 2019, issue of the *Maryland Register* (Vol. 46, Issue 26). The public comment period closed on January 21, 2020. Ms. Hartman stated that no public comments were received.

Ms. Hartman presented for final adoption the following regulations and recommendations:

1. **33.01.01.01B(25) – Definitions:** *Recommend adopting as published.*
2. **33.19.02.01A – Public Notice:** *Recommend adopting as published.*
3. **33.19.04.02 – Processing New Registrants and Address Changes:** *Recommend adopting as published.*

In response to a question from Mr. Hogan regarding an email from Lynn Garland in the meeting folder, Ms. Hartman agreed with Mr. Hogan that Ms. Garland's comments were received well after the comment period ended and therefore her comments were not taken into consideration when Ms. Hartman made her recommendations for approval. In response to a question from Mr. Voelp, Ms. Hartman stated that each set of proposed regulations in the *Maryland Register* lists a contact

person, and that for these regulations, she was the listed contact person. Public comments are typically sent by email, but other ways of submitting comments are acceptable. Mr. Hogan noted his frustration that public comments were emailed to the members after the 30-day public comment period. Mr. Voelp further pointed out that the additional regulations proposed by Ms. Garland were unrelated to the amended regulations that Ms. Hartman presented for final approval.

In response to a question from Ms. Howells, Ms. Hartman stated that it is not unusual for the time period from when proposed regulations are first presented to the State Board and when they are first published in the *Maryland Register* to take two to three months.

Mr. Voelp made a motion to adopt the proposed regulation as presented for final publication, and Mr. Hogan seconded the motion. The motion passed unanimously.

APPROVAL OF POLLING PLACE CHANGES FOR 2020 PRIMARY AND GENERAL ELECTION

Approval of Prince George's County Request

Ms. Duncan presented a request from the Prince George's County Board of Elections for an emergency polling place change for the 2020 Primary and General Elections. The Prince George's County Board of Elections requests to relocate Precinct 07-011 from the Evangelical Church to the Largo Community Church as the Evangelical Church will no longer offer to serve as a polling place. The Prince George's County Board of Elections approved the emergency change in its last meeting and it was publicly posted.

Ms. Duncan requested that the State Board approve Prince George's County Board of Elections' request for the polling place change. In response to a request from Mr. Funn, Ms. Duncan stated that SBE will provide for future requests a map of the current and the proposed new polling places when requesting approval of a change of polling place.

Mr. Hogan made a motion to approve Prince George's County Board of Elections' request for the polling place change for the general 2020 Primary and General Elections, and Mr. Voelp seconded the motion. The motion passed unanimously.

OLD BUSINESS

There was no old business to report.

NEW BUSINESS

Remarks from Cherie Deogracias

Cherie Deogracias, a law clerk for the ACLU of Maryland, thanked the Board for allowing her to speak, and thanked Ms. Charlson for her responsiveness to questions. Ms. Deogracias stated that the ACLU had for the 2020 Special Primary Election for the 7th Congressional District a hotline for voters to share concerns or questions. Based on the calls received, she noticed three types of issues that were reoccurring on election day. The first issue was voter privacy. Ms. Deogracias stated that she received complaints of election judges intimidating voters by looking at a voter's ballot when the voter removed the ballot from the privacy sleeve and inserted it into the scanner.

The second issue was twofold and related to same day registration. Ms. Deogracias stated that election judges were confused about which type of ballot to issue if a voter utilizing the same day registration process presented certain documents. She stated that voters were being issued provisional ballots when they should have been given regular ballots. Ms. Deogracias also stated

concern regarding precincts not having enough ballots on election day to accommodate same day registration.

Finally, Ms. Deogracias stated concern that technical issues would cause additional long lines on election day and asked if there was a plan in place to address the technical issues that occurred during the special primary.

In response to a question from Mr. Voelp, Ms. Deogracias clarified that it was the election judge assigned to assist with voters at the scanning unit who voters felt intimidated. She stated that there were numerous calls with this complaint. Ms. Deogracias was unable to specify whether the voters in question were given privacy sleeves when receiving their ballot, but stated that even with a privacy sleeve, election judges were still able to see voters' ballots. In response to a comment from Mr. Voelp and to further clarify the issue, Ms. Deogracias stated that she believed these particular voters required assistance when using the scanner, and it was while assisting the voters that the election judges were able to view the voters' ballots. Mr. Hogan stated that voters need to protect their right to privacy by using the privacy sleeve, but also explained that if a voter requires assistance at the scanner, it would be nearly impossible for the election judge to assist the voter without any chance of seeing the voter's ballot. In response, Ms. Deogracias didn't disagree with Mr. Hogan, but stated for a voter to call a hotline is a different level of an invasion of privacy than the scenario that Mr. Hogan described. She concluded by stating that a simple solution would be to remind election judges to make sure voters are using the privacy sleeve.

Mr. Cogan stated that SBE takes voter privacy seriously and there are many ways that SBE accomplishes that, including the screens at the voting booths and scanning units, the privacy sleeves, and privacy training for election judges. He suggested to Ms. Deogracias that for future phone calls, to try and get as much information from the caller as possible, especially the precinct where they vote.

Mr. Funn stated, in regards to the election judges not knowing which ballot to give, that this was the first time Maryland has used the same day registration process and while there are always first-day issues to work out, the training is thorough and there shouldn't be many questions in future elections. Mr. Voelp suggested that the ACLU form relationships with local boards in order to help alleviate as many issues as possible on election day.

7th CONGRESSIONAL DISTRICT SPECIAL PRIMARY ELECTION REVIEW

1. Pre-Election Call with LBE Counsel

Ms. Charlson reported that before each election, SBE has calls with counsel to the local boards of elections. On January 21st, SBE had a call with counsel to the three local boards impacted by this special primary election. During the call participants discussed "what's new" for the 2020 elections, explained the State Board policy for the use of ballot marking devices, and provided an update on litigation.

2. Pre-Election Weather and Threat Briefing

Ms. Charlson reported that before each election, SBE plans with the Maryland Emergency Management Agency a pre-election briefing for the local boards of elections and local emergency management officials. This call was held on January 27th for the three jurisdictions in the 7th Congressional District and included a weather briefing from the National Weather Service, a threat assessment from the Maryland Coordination and Analysis Center, an overview of the critical election dates and locations where critical election functions take place. There were no reports of threats related to the election.

3. Notice of Election & Same Day Registration

Ms. Charlson reported that before the special primary election, SBE sent two types of mailers to constituents in the 7th Congressional District. In lieu of a sample ballot, SBE mailed a “notice of the election” to each registered voter in the district. This notice included the date and time of the election, the voter’s polling place, and a copy of the ballot. The second mailer was a postcard mailing to individuals in the 7th Congressional District that appeared eligible to vote but were not yet registered. This mailer is required under the law requiring same day registration on election day.

4. Absentee Ballot Delivery

Ms. Charlson reported that SBE’s mail house vendor mailed to requesting overseas and domestic voters approximately 1,034 ballots from December 21st through January 23rd.

SBE sent emails to 727 voters requesting to download their absentee ballot from SBE’s website. Approximately 545 of these voters logged into their online account. The table below shows the type of voter requesting an electronic absentee ballot and how the voter chose to mark his or her ballot.

	Domestic, Civilian Voters	UOCAVA Voters	Total Voters
Blank Ballot Delivery (Marked ballot by hand)	288 (64%)	45 (56%)	333 (63%)
Online Ballot Marking Tool (Mark ballot with tool)	162 (36%)	35 (44%)	197 (37%)
Total	450	80	530

5. Ballot Marking Devices

Ms. Charlson reported that use of the ballot marking devices was significantly more than in prior elections.

- a. In Baltimore City, 178 out of 184 polling places (97%) met the 5-voter minimum. Some of the polling places that did not meet the 5-vote minimum had very few voters. For example, 21 voters voted in precinct 7-2 and two used the ballot marking device. Likewise, six voters in precinct 15-19 voted and none of them used the ballot marking device and 37 voters in 20-10 voted and four used the ballot marking device. 12.7% of election day voters in Baltimore City used the ballot marking device to mark their ballots.
- b. In Baltimore County, all 57 polling places met the 5-voter minimum, and 12.8% of election day voters used the ballot marking device to mark their ballots.
- c. In Howard County, all 52 polling places met the 5-voter minimum, and 11.5% of election day voters used the ballot marking device to mark their ballots.

Mr. Cogan congratulated the three local boards on the increased use of the ballot marking devices on election day.

6. Voter Turnout

Ms. Charlson reported that approximately 87,000 voters (21.4% of the eligible voters) voted in this election. Turnout was highest in Howard County (24.5%), followed by Baltimore County (23.3%) and Baltimore City (18.9%). 73% of the absentee ballots delivered to voters were returned for counting, and 97.9% of the returned ballots were counted. Two-thirds of the rejected absentee ballots (45) were rejected because they were untimely (i.e., either mailed after election day or received after February 14th).

The vast majority of voters - 84,719 - voted on election day with the remaining voters voting by absentee ballot (2,240). Over 4,700 individuals voted with a provisional ballot. About 25% of these provisional ballots were rejected because the individual was not eligible to vote in this election. This is typical for a primary election, because an individual is not affiliated with either the Democratic or Republican Parties and wants to vote in a primary election. In this election, there were also voters who do not reside in the 7th Congressional District but appeared to vote; they received a provisional ballot.

7. Post-Election Audits

Comprehensive Audit

Ms. Hartman reported that after each election, we perform a comprehensive audit of various aspects of the election. The Voting System Division reviews data associated with the pre-election logic and accuracy testing, opening times of election day polling places, reviewing discrepancies between the number of voters checked in to vote and the number of ballots cast, and performing the voting system verification. The Election Reform and Management Division collects various documents from the local boards to complete other auditing 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. Finally, Ms. Hartman collects the canvassing minutes from each local board for the absentee and provisional canvasses and compares the results reported in the minutes against the results from the voting system and voter history information from MDVOTERS.

SBE staff have started this audit, and will provide the local boards with any findings from this election in time for them to take corrective action before the combined special general election and presidential primary election in April.

Automated Ballot Tabulation Audit

Ms. Hartman reported that the Clear Ballot Group conducted the post-election automated tabulation audit for this election. Audit reports comparing the voting system results from election day against the audit results ("phase 1" reports) were distributed to the three local boards before the local boards certified the election. Reports comparing all voting system results (including absentee and provisional canvasses) against the audit results ("phase 2" reports) were distributed before the district wide results were certified. For each phase, we received four reports:

- a. Total cards cast for each counter group (election day and each canvass is a "counter group");
- b. Total cards cast by precinct;
- c. Total votes for each candidate in each contest; and
- d. Threshold report showing any differences between the sets of results.

Ms. Hartman reported that there were **no** variances greater than 0.05% between the voting system results and the audit results. In Howard County, the two sets of results

were identical. In Baltimore City and Baltimore County, there were very small differences between the two sets of results - 0.005% and 0.004%, respectively. This audit validated that the voting system accurately counted the votes cast in this election. The audit reports are posted on SBE's website under "Ballot Audit Plan."

In response to a question from Mr. Cogan, Ms. Hartman stated that there are a number of items that can cause a discrepancy between the voting system results and the Clear Ballot audit results. A common discrepancy occurs when a voter writes in a candidate without also filling in the oval. The audit software is designed to read the ovals on a ballot, so a write in choice would only be counted by the audit software if the oval was filled in. Another common discrepancy is if a voter makes a stray mark, commonly from a voter's pen, that crosses an oval, the audit software may count that as an overvote if the voter also filled in another oval.

8. Certification of Election Results

Ms. Charlson reported that on February 21st, the members of the State Board of Elections certified the final results of this election.

9. Electronic Pollbooks

Ms. Charlson stated that for this election, a network was used to connect the electronic pollbooks to SBE's server. Overall, the network performed as expected. SBE received over 72,000 transactions, monitored pollbook activity at over 300 precincts, and loaded voter history into MDVOTERS in time for the three local boards to prepare for the absentee and provisional canvasses. For the first time ever, election officials were able to confirm the on-time opening of polling places in real time and receive immediate feedback if a pollbook was not operating as expected. This information allowed SBE and the local boards to better serve voters and improve their voting experience. Ms. Charlson shared a story from Guy Mickley, Election Director for the Howard County Board of Elections, when on election day, he was able to see in real time that a pollbook was not functioning properly, and deployed a technician to the polling place before the election judge was even able to call Mr. Mickley to report the problem.

While the vast majority of voters voted without issue over 13 hours, a small number of voters encountered delays. Around 5:30 pm, SBE started receiving reports that the electronic pollbooks were slowing down. During this time, we confirmed that the data was being transferred from the polling places to SBE's server. We turned off the network for all of the pollbooks in one county and saw an immediate improvement in the performance of the pollbooks. As a result, the network was turned off at about 6:20 pm for the rest of the pollbooks. The performance of the electronic pollbooks immediately improved, and therefore the network remained turned off for the remainder of election day.

As with any new process, SBE is committed to reviewing election day performance for areas of improvement. To ensure, however, that voters have full confidence that their voting experience will be safe, timely, and secure, Ms. Charlson stated that local boards will not be required to connect electronic pollbooks to SBE's server on election day in the 2020 Primary or General Elections. If local boards choose to connect to the server, SBE will work closely with them to ensure a smooth and timely experience for voters in their respective counties. Local boards can decide to connect electronic pollbooks to the server in some but not all polling places.

The routers will be used during early voting and on election day to ensure that a voter does not try to vote more than once. During early voting, the electronic pollbooks will be connected to SBE's server - as they have for every election since 2010 - to ensure that a voter does not try to vote at more than one early voting center. On election day, the routers will be used to create a wired connection between the electronic pollbooks in each polling place. This wired connection has been in place for every election since 2006, when we implemented electronic pollbooks, and is necessary to ensure that a voter does not vote more than once in the same polling place. Electronic pollbooks streamline the voter check-in process, and the current electronic pollbooks have performed successfully over the years. Ms. Charlson emphasized that no data will be transferred unless the local board requests to connect electronic pollbooks to the server.

Ms. Charlson stated that since election day, SBE staff has been analyzing all parts of the system - the electronic pollbook software, the network connecting the pollbooks to SBE's server, the server, and the pollbook database. Ms. Charlson stated that SBE and local board staff were currently in day four of testing (as of the date of the meeting of the State Board) and will have tested for over 20 hours once completed. This testing included re-creating the slowness reported on election day, implementing the identified fix, and re-testing. During this statewide test, over 600,000 voter check-in transactions have been processed through a combination of manual and automated transactions.

Ms. Charlson stated that while SBE is still testing and analyzing results, she would share what is known so far. It was confirmed that the database became locked when performing multiple functions simultaneously. This prevented the electronic pollbooks from retrieving the requested voter information and slowed down the check-in process. In response to this slow down, SBE disconnected electronic pollbooks from the network and saw significant improvement in the pollbook performance.

After making adjustments to database performance settings, the database did not lock during the test of over 600,000 transactions. Once this round of testing is complete, SBE will work with external database developers to validate these changes and if appropriate, implement additional recommendations to improve the performance of the database. Any database changes will be thoroughly tested before the change is accepted and used for the April election. Ms. Charlson stated that this does not alter SBE's decision to allow local boards to choose whether or not to connect electronic pollbooks to SBE's server on election day in the 2020 Primary or General Elections.

Ms. Charlson stated that like all decisions SBE makes, SBE is taking these steps to give voters full confidence that their voting experience will be safe, timely, and secure.

With the Board's approval, Ms. Charlson read the following statement from Verizon: "The technology selected to implement same-day voter registration uses highly secure wireless (cellular) technology NOT unsecured Wi-Fi technology. The wireless technology selected has been tested in-real time and test environments. Our support security team, which is comprised of internal and external security experts, has developed comprehensive security standards for designing, deploying and managing our network based on industry practices and established standards. These standards are set by the International Organization for Standardization (ISO), National Institute of Standards and Technology (NIST) and other bodies who are active in this space."

Ms. Charlson then introduced representatives from Cradlepoint, the manufacturer of the wireless routers - Mr. Horger, Regional Account Manager, and Mr. Kelly, Chief Security Officer. Mr. Horger stated that Cradlepoint is used by local, state, and federal agencies, including the Maryland State Police, Montgomery County Police Department, and the Anne Arundel County Fire Department. He stated that Cradlepoint has been securing elections for years, and most recently secured early voting and election day registration in the five boroughs of New York City.

Mr. Kelly, who holds a Master of Science in Information Systems from Northwestern University and is a Certified Information Systems Security Professional (CISSP), stated that Cradlepoint specializes in wireless routers for federal government, public sector, and enterprise businesses.

In response to a question from Mr. Hogan, Mr. Kelly stated that Cradlepoint found a bug in its network which was resolved in 15 minutes, and it is his understanding the cause of the pollbook slowdown was the pollbook database. Mr. Satterfield clarified that the network bug mentioned by Mr. Horger occurred earlier in the day and did not impact the performance of the electronic pollbooks. In response to a follow up question from Mr. Hogan, Mr. Satterfield stated that 1,300 routers have been purchased, and all have been delivered to the local boards and tested. In response to a question from Mr. Hogan regarding why the bug wasn't found earlier, Mr. Kelly stated that the bug didn't surface until election day, and reiterated that the problem was solved within 15 minutes. Mr. Kelly further stated, again in response to a question from Mr. Hogan, that software glitches happen, but that Cradlepoint has handled large volume elections many times before. He stated that there were no issues with Cradlepoint devices or software in the most recent New York City elections. Mr. Satterfield emphasized that the bug did not impact voter check in.

In response to questions from Ms. Howells regarding the use of the routers to connect the pollbooks to each other, Ms. Charlson stated in the six largest jurisdictions the pollbooks will be connected to each other using the routers, which will prevent a voter from voting more than once at a specific polling place. She further stated that because we already have the routers, if any of the six largest jurisdictions wants to connect to SBE on election day using the cellular network, they will be able to. Mr. Kelly stated that because the pollbooks are old, the routers add an extra layer of security. Ms. Charlson stated that the current pollbooks will be replaced for the 2022 elections, and that the Cradlepoint routers can be used in future elections with new pollbooks. In response to Ms. Howells statement that "the most secure network is one that isn't connected," Mr. Kelly stated that connectivity allows us to see and detect problems with the pollbooks, sometimes even before the election judge may detect a problem, and referenced Mr. Mickley's election day experience as an example. Connectivity also allows us to see that the pollbooks are not having problems. He stated that assuming there are no problems simply because you can't see the problem isn't the safest practice. He reiterated, in response to a comment from Ms. Howells, that the pollbooks are never connected to the Internet. Mr. Satterfield stated that the pollbooks will still have a local network within the polling place to prevent someone from attempting to vote twice at a particular location, but the local network does not provide election officials with the ability to see if there is a problem. If one pollbook in a local network is not communicating with the others, the remaining pollbooks may not see the problem. In response to the ongoing discussion, Mr. Cogan

stated that “We have the pollbooks. We are moving forward.” In response to a question from Ms. Howells, Ms. Charlson stated that there is no risk to the routers being used locally.

In response to a question from Mr. Hogan, Mr. Kelly stated that the secure network offered by the routers is very similar to the secure network used by ATMs, and said that Cradlepoint products are used by many ATM companies. He emphasized that Verizon and AT&T thoroughly test the routers.

In response to a question from Mr. Funn, Ms. Charlson stated that the routers only monitor the pollbooks if they are connected to the secure cellular network. Mr. Funn observed that people want paper ballots but instant results and also secure elections. He asked how we balance the requests, and stated that we must adapt to change.

After some discussion to clarify the difference in the local network versus the secure cellular (LTE) network, Mr. Hogan then made the following motions:

1. During early voting, all local boards shall use the secure LTE network to transfer voter data and allow for monitoring of devices and traffic.
2. On election day, the local boards in the six largest jurisdictions may use the secure LTE network to transfer voter data.
3. On election day, the local boards in the six largest jurisdictions shall use the routers to connect electronic pollbooks within a polling place and allow for monitoring of devices and traffic.

In response to the motions, Ms. Howells stated that “I don’t have an issue with the security- I believe that it’s the best, but I still don’t agree that there is a need for the network or the routers. I am not aware of a problem. If it doesn’t have to be connected to the internet, it shouldn’t be.”

Mr. Voelp seconded all three motions. The first motion passed unanimously. The second and third motions passed by a 4-1 vote, with Ms. Howells opposing both motions.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

No Board members had any contributions to report.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Wednesday, March 25, 2020, at 2:00 pm.

ADJOURNMENT

Mr. Voelp made a motion to adjourn the open meeting, and Mr. Hogan seconded the motion. The motion passed unanimously. Mr. Cogan adjourned the meeting at 4:55 pm.

CLOSED SESSION

Mr. Cogan requested a motion to close the board meeting under General Provisions Article, §3-305(b)(1), which permits closing a meeting to discuss compensation of individuals over whom the State Board has jurisdiction; (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending litigation; and (15), which permits closing a meeting to discuss network architecture and security of election networks. Meeting in

closed session allows the members to be briefed on a personnel matter and share their views without compromising the confidentiality of those discussions, consult with Board counsel without waiving attorney-client privilege and obtain information relevant to pending litigation, and discuss the security of election information systems and prevent the public disclosure of security information. Mr. Voelp made a motion to convene in closed session under General Provisions Article, §3-305(b) (1), (7), (8) and (15), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(1), (7), (8), and (15) of Section 3-305 of the Open Meetings Act to discuss compensation of two individuals over whom the State Board has jurisdiction, pending litigation, and network architecture and security of election networks.

The closed session began approximately 5:02 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, Mr. Voelp, and Mr. Funn attended the closed meeting. In addition to the board members, Linda Lamone, Nikki Charlson, Andrea Trento, Fred Brechbiel, and Shafiq Satterfield attended the closed meeting. Mr. Hogan left the closed meeting at approximately 5:20 pm.

During this meeting, the board members received updates on pending litigation and additional information on the locking of the electronic pollbook database during the special primary election for the 7th Congressional District. Ms. Charlson stated that three requests for one-time salary adjustments were pending. Mr. Voelp made a motion to approve a one-time salary increase for one employee, and Mr. Funn seconded the motion. The motion passed 4-0. Mr. Voelp made a motion to approve a one-time salary increase for another employee, and Ms. Howells seconded the motion. The motion passed 4-0. No action was taken on the third request.

The closed meeting adjourned at approximately 5:50 pm.