

JANUARY 19, 2006

STATE BOARD MEETING
151 WEST STREET, SUITE 200, ANNAPOLIS MD 21401

Attendees: Gilles Burger, Chairman
Thomas Fleckenstein, Vice Chairman
Joan Beck, Member
Bobbie Mack, Member
A. Susan Widerman, Member
Linda Lamone, Administrator
Mark Davis, Assistant Attorney General
Jared DeMarinis, Campaign Finance and Candidacy Director
Joe Torre, Voting Systems Director
Nikki Trella, Election Reform Director
Mary Wagner, Director of Voter Registration and Petitions
John Clark, Voter Registration System Project Manager
Jaimie Jacobs, Election Reform Deputy Director
Mary Dewar, Voter Outreach
Patrick Strauch, Voting System Division
Janey Hegarty, Administrative Support
Natasha Walker, Election Management Assistant

Also Present: Tom Feehan, Diebold Election Systems, Inc.
Randy Cobena, Saber Consulting, Inc.
Darlene Meister, Saber Consulting, Inc.

DECLARATION OF QUORUM PRESENT

Chairman Burger called the meeting to order at 1:31 p.m. and declared that there was a quorum for this meeting. Mr. Burger noted that three vetoes of election-related bills had been overridden by the General Assembly. He noted that the Board had opposed these bills (no excuse absentee voting, provisional voting, and early voting) because of the adverse impact they will have in this busy year. Mr. Burger stated that he was confident that everything that can be done would be done to implement these bills.

Mr. Burger noted that, based on the recently distributed description of the new voter registration system, it appears to meet the requirements of the Help America Vote Act. Mr. Burger also congratulated John Clark and Randy Cobena for their great work in implementing the system.

APPROVAL OF MINUTES OF MEETING OF DECEMBER 20, 2005

Mr. Burger offered several amendments to the minutes. The following amendments were made:

- (1) Move Thomas Fleckenstein's name to be immediately under the Chairman's name and replace "Member" with "Vice Chairman."
- (2) Under "Governor's Commission on the Administration of Elections" (page 3) – Replace "The Commission does not have any additional meetings scheduled at this time" with "Mr. Burger presented the Commission with a briefing of the activities of the State Board of Elections and the views of Board members toward the impact of several legislative initiatives has on SBE's mission."

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- (3) Under "Voter Registration" (page 5) – replace "consistent issue was" with "critical issues were," and after "data migration," replace "had" with "and the variety of LBE reports have."
- (4) Under "New Business" (page 9) – replace "legislators and other state officials" with "legislators, other state officials, and citizens."

Ms. Beck made a motion to approve the minutes as amended, and Ms. Mack seconded the motion. The amended minutes of the December 20, 2005, meeting were approved unanimously.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

ADMINISTRATOR'S UPDATE

Ms. Lamone presented to the Board her monthly report.

Personnel

The Candidacy and Campaign Finance Division hired Andrea Edwards who started on January 4, 2006. She will fill the role of office secretary and working on candidate filings and report processing. Bram Kadonoff has been hired to serve as a part-time procurement officer.

Legislation

Ms. Lamone reported that the General Assembly has overridden the Governor's vetoes of the early voting bill, the Voter's Bill of Rights, and the no excuse absentee voting bill.

The House and Senate Budget hearings are scheduled for February 8th and 9th. The governor has fully funded the fiscal 2007 budget for all of the HAVA programs and major contracts at a total of more than \$18 million. Fiscal 2007 will be the first year that State funds are required to support the voting system. The office budget of \$3.7 million was reduced by only \$24,000. The reduction represents the standard vacancy rate applied to all state agencies. Ms. Lamone noted that the legislature has final say in the budget but that it is unlikely that the General Assembly will make additional cuts since it is an election year.

Mr. Burger inquired as to whether funding for electronic pollbooks was included in the fiscal 2007 budget. Ms. Lamone reported that funding was not included, but that we were working with the Department of Budget and Management to have it included in a fiscal 2007 supplemental budget. Mr. Burger noted that, in his opinion, the legislators seemed to have electronic pollbooks in mind when they were discussing the veto override. In response to a question from Mr. Burger, Ms. Wagner noted that the estimated cost to implement electronic pollbooks in Maryland would be approximately \$20 million and that similar devices had been implemented statewide in Georgia and in other jurisdictions. Ms. Wagner explained that, without electronic pollbooks, she was very concerned and that it would be extremely difficult for the local boards to implement early voting. Ms. Lamone noted that, under the Constitution of Maryland, the General Assembly cannot force the Governor to fund an initiative in the year in which the initiative is enacted.

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Candidacy and Campaign Finance Division

Ms. Lamone reported that, as of January 19, 2006, approximately 85 candidates have officially filed for office and that the Division completed 2 compliance trainings in January, with one more scheduled on January 31.

The prohibition against fundraising during session began on January 11 at noon for all current State officeholders. Ms. Lamone stated that the prohibition is very stringent and that the Division sent notices to all officeholders to which the prohibition applies.

The last day for a committee to file required amendments to the 2005 Annual Report was on December 20, 2005. Over 91% of committees from which we requested an amendment corrected their reports. The remaining committees continue to bring their accounts into compliance.

On January 18, the 2006 Annual Reports are due from all registered committees. The report covers from January 13, 2005 to January 11, 2006. The staff extended working hours to assist Treasurers in filing correctly, accurately and on time. Ms. Lamone noted that these are the reports in which the media are interested, because they cover the entire 2006 calendar year.

Ms. Lamone reported that the Division is currently working with the ELECTTrack vendor to update the filing software for the next campaign election cycle.

The next major reporting date occurs on February 6. The semi-annual Contribution Disclosure Form is required 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. Ms. Lamone noted that this reporting requirement is not well known and that the Division sent reminder notices to all business entities that previously filed the report.

The Winter Edition of the Campaign Finance Newsletter has been mailed and the public has already been receiving copies, which contained good information. Mr. Burger requested that the winter Campaign Finance newsletter be distributed to the Board members.

Election Reform Division

Joint Election Official Liaison Committee (JOELC) Conference

On January 5–6, 2006, Mary Dewar attended a conference hosted by the Joint Election Officials Liaison Committee (JEOLC) in Washington, D.C. The conference is held annually by The Election Center and typically updated election officials on any Congressional action.

Professors as Election Judges

The American Association of University Professors (AAUP) received a grant to recruit college professors as election judges and has partnered with St. Mary's College's Center for the Study of Democracy to do a pilot recruitment effort in Maryland. Nikki Trella attended the project's first meeting to explain how to become an election judge, the skills for today's election judges, and the State's efforts to improve training for election judges. AAUP will be asking the presidents of

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State's colleges and universities to support this effort and make the necessary accommodations within each school to encourage this public service. Ms. Lamone noted that this is a worthwhile project.

HAVA State Plan

The public comment period for the revisions to the Maryland State Plan ended on January 9, 2006. Comments from four individuals were received, although the comments were not relevant to the State Plan; they related specifically to the voting system. The comments have been forwarded to the HAVA State Planning Committee for consideration. The final revised sections will be submitted to the Election Assistance Commission for publication in the Federal Register.

Trainings on HAVA's January 1st Requirements

Nikki Trella completed the trainings for the local boards of elections on the HAVA requirements effective January 1, 2006, and the relationship between these requirements and the already effective federal identification requirement

Election Judges' Manual and Training

Jaimie Jacobs has distributed six chapters of the redesigned and revised election judges' manual to the Election Judges' Manual Committee for a final "blue-line" review. The remaining chapters will be distributed to the committee for final review as they are completed. A session on the most effective techniques for educating adult learners is being planned. The target audience is those local board staff members who conduct election judges' training. Ms. Lamone noted that these efforts are difficult because legislation could impact what election judges are required to know. Mr. Burger noted that this will likely result in the local board criticism for last minute delays but that there are no alternatives.

Voting System Implementation

Phase III (Baltimore City)

All voting equipment for Baltimore City has been delivered to the Baltimore City warehouse. Sam McAfee is helping Baltimore City to implement the voting system.

The voting system team is working with Baltimore City to coordinate site surveys for all of their polling places. The actual work of visiting the polls and documenting the polling place logistics will start by the end of January.

The voting system team is coordinating technical training plans for the voting system equipment with representatives from Baltimore City. This includes a system overview briefing, and hands-on GEMS, Ballot Station, and Optical Scan training. Additionally, plans are being discussed to hold a mock election for Baltimore City to gain additional experience with the voting system.

Mary Dewar contracted with three advertising companies for the Phase III voter outreach advertising campaign. The advertising is set to begin in May and will run through the beginning of November. The advertising forms consist of bus shelters, transit ads, and billboards. In addition, Mary is in the final stages of creating scripts for radio and television commercials. The Voter Outreach Strategy document is being finalized and outlines the voter outreach strategy for Baltimore City.

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In addition to the voting units procured for Baltimore City, 821 units were purchased for Prince George's, Montgomery, and Baltimore Counties to accommodate population growth. These voting units have been tested and accepted by the State. SBE is working with Diebold to deliver the equipment to the individual county warehouses.

Phase I – Equipment Refresh

The Equipment Refresh activity is completed for all Phase I counties.

Voting System Software Upgrade

The voting system team continues to evaluate the latest certified GEMS (version 1.18.24) and Ballot Station software (version 4.6.4) from Diebold Election Systems, Inc. to determine whether to use in the upcoming elections.

Upgrade procedures and test scripts were reviewed and updated to support the new features implemented in the current software versions. In response to a question from Mr. Burger, Ms. Lamone noted that no decision has been made on the upgrade.

Voter Registration

Maryland became HAVA compliant as of December 28, 2005. All 24 jurisdictions' data have been migrated into MDVOTERS. Ms. Lamone reported that there are some issues with the Prince George's County Board of Elections, which used two separate databases for their street files. It appears that there will be no additional delays and that the Prince George's County Board of Elections has agreed to pay the necessary costs.

Due to the fact that Prince George's County Board of Elections is not entering voter registration data into MDVOTERS while they set up their street files and the move of Talbot LBE offices on the scheduled test date, the Load and Performance test scheduled for January 17–18, has been rescheduled to February 15-16.

Planning for Phase 2 of MDVOTERS began today. It is anticipated that the first and second quarters of 2006 will focus on aligning MDVOTERS reports and software with Maryland's procedures; the third quarter will focus on preparing for the 2006 elections; and, the fourth quarter will focus on the election itself.

Ms. Mack noted that she had received a copy of a letter from the Prince George's County Board of Elections and asked to discuss the matter with John Clark.

At the end of Ms. Lamone's report, Mr. Fleckenstein inquired as to whether there were other ways to identify individuals who do business with the State and make campaign contributions of \$500 or more. Mr. DeMarinis replied that there is no database from which to obtain this information.

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ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Davis delivered his report on the current state of legal matters concerning the Board.

Litigation

Schade v. SBE (Cir. Ct. for Anne Arundel Co.) – SBE and the local boards have produced an extensive number of documents. A hearing on the discovery motions is scheduled for January 24, 2006.

Nader for President 2004 v. Maryland Board of Elections (fee petition claim for 2004 election)(Court of Appeals) – SBE's briefs filed on January 11. Argument date to be assigned.

Hufnagel v. State Board of Elections (2002 denial of ballot access to Green Party) (Circuit Court for Anne Arundel Co.) – Decision was promised by the end of 2005 but has not yet been issued.

REGULATIONS

Ms. Trella presented regulations for final approval. These regulations were proposed to settle the lawsuit filed by ACORN over compensation for voter registration volunteers. Ms. Trella noted that no public comments had been received. Mr. Fleckenstein made a motion to adopt the regulation as final, and Ms. Beck seconded the motion. The motion passed unanimously.

WAIVER OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis presented the Board with two requests for waivers of campaign finance late fees. Mr. DeMarinis stated that the first request involved Chad Tabor as Chairman for the Believe Baltimore PAC. In response to questions, Mr. DeMarinis stated that Mr. Tabor resigned as Chairman and that the Treasurer is still liable for the fees. Mr. DeMarinis noted that the State Prosecutor's office is proceeding against the Treasurer. Ms. Widerman made a motion to accept the recommendation granting a waiver of the late fees for Mr. Tabor, and Ms. Beck seconded the motion. The motion passed unanimously.

Mr. DeMarinis explained that the second request was a continuation of a previously granted waiver for Together Everyone Achieves More PAC's 2005 Annual Report. Mr. DeMarinis explained that the PAC failed to correct the deficiencies found in the audit of the Annual Report and started to accrue late fees. The chairman's situation did not alter from when the Board originally granted a waiver. Ms. Widerman made a motion to accept the recommendation extending the waiver, and Mr. Fleckenstein seconded the motion. The motion passed unanimously.

Mr. Burger commented that the cover sheet attached to the waiver requests is extremely helpful in determining whether or not to grant the waiver request.

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FAIR CAMPAIGN FINANCE FUND

Mr. DeMarinis briefed the Board on the Fair Campaign Finance Fund distribution dates, expenditure limits and seed money requirement. In response to a question from Mr. Burger, Mr. DeMarinis and Ms. Lamone replied the last candidate to receive public funds was in 1994. Mr. DeMarinis noted that, as of December 31, 2005, the fund has \$4,167,617.32. A motion was made to accept the distribution dates, expenditure limits, and seed money requirements and was seconded. The motion passed unanimously.

OLD BUSINESS

Ms. Beck inquired as to the response to Senator Greenip's letter about absentee voting applications. Ms. Wagner replied that a response had been sent, and a copy of the response was provided to the Board members.

NEW BUSINESS

There was no new business.

SCHEDULING OF FEBRUARY MEETING

The next meeting of the State Board will be held on Tuesday, February 21, 2006, at 1:30 p.m.

CLOSED SESSION

Mr. Burger made a motion to hold a closed session to consult with staff and counsel about several matters involving pending and potential litigation pursuant to State Government Article §10-508(a), and Ms. Widerman seconded the motion. On a roll-call vote, all members voted in the affirmative.

ADJOURNMENT

The public meeting was adjourned at 2:16 p.m.

Gilles W. Burger, Chairman