

JULY 12, 2005

STATE BOARD MEETING

151 WEST STREET, SUITE 200, ANNAPOLIS, MARYLAND 21401

Attendees: Gilles Burger, Chairman
Joan Beck, Member
A. Susan Widerman, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Mark Davis, Assistant Attorney General
Donna Duncan, Director of Elections Management
Jared DeMarinis, Director of the Candidacy and Campaign Finance Division
Terry Harris, Deputy Director of Campaign Finance
Jan Hejl, Voter Registration Manager
Tracy Agnew, Voter Registration Coordinator
Jessica Jordan, Budget and Personnel Director
Nikki Trella, Election Reform Director
Jaimie Jacobs, Election Reform Deputy Director
Mary Wagner, Director of Voter Registration and Petitions
Paul Aumayr, Voting Systems
Joe Torre, Agency Procurement Officer
John Clark, MDVoters Project Manager

Also Present: Sara Harris, Election Director, Montgomery County
Jim Harris, Montgomery County
Kristin Famula, TrueVote MD
David A. Laning, Baltimore County

DECLARATION OF QUORUM PRESENT

After establishing the presence of a quorum, Chairman Burger called the meeting to order at 1:35 p.m.

APPROVAL OF MINUTES OF MEETING OF JUNE 13, 2005

Mr. Burger amended the minutes from the June 13, 2005 meeting. On a motion by Ms. Beck, seconded by Ms. Widerman, the minutes of the June 13, 2005 meeting were approved as amended.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

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ADMINISTRATOR'S UPDATE

BOARD MEMBERS' FOLDERS

Ms. Lamone noted that each Board member's folder contained a copy of the June 22, 2005 article from the Baltimore City Paper; a report from Ms. Trella on the HAVA Summit in San Diego, CA; the Election Assistance Commission (EAC) report filed with Congress on the National Voter Registration Act (NVRA); a list of the MDVOTERS committee members; and a memo dated July 12, 2005 to the local boards of election (LBEs) from Ms. Trella adding a circumstance when the challenge procedure can be used.

Senate Rules Committee

On June 21, Ms. Lamone and Ross Goldstein attended a Senate Rules Committee hearing on the potential effect of voter verifiable paper audit trails (VVPAT). The hearing, a result of Senator John Ensign's bill to amend HAVA to require VVPAT, was well attended by the disability community – strong opponents to such legislation. The speakers included VVPAT proponent Professor David Dill and opponents Conny McCormack, Los Angeles County Registrar, Professor Ted Selker, and Jim Dickson of the American Association of People with Disabilities. Issues of cost, administrative complexity, ineffectiveness of paper as an auditing system, and the inequities to the disability community were the arguments presented against VVPAT.

Maryland Association of Counties' Board Retreat

Ms. Lamone attended the Maryland Association of Counties' board retreat on June 23rd. At the retreat she updated the board members on how counties can support their local boards of elections (election support, office space, etc.), the implementation of the voter registration system, and the potential impact of early voting and an early primary. Ross Goldstein, Nikki Trella and Mary Wagner also attended.

Judicial Elections Committee

The 2005-2006 Judicial Elections Committee held its first meeting on June 30th. The Conference of Circuit Court Judges proposed establishing a working group of judges, members of the General Assembly, and the Board of Elections to look at possible ways to change the method judges are elected. The Honorable Dana Levitz chaired the meeting and presented the differences between judicial elections and other elections. For group discussion purposes and to gauge the sentiment of the General Assembly members, Judge Levitz presented a list of possible methods to change the process. The next meeting is scheduled for July 21st at 4:30 pm.

Voter Registration & Absentee Voting Procedures for Nursing Homes and Assisted Living Facilities

At the request of a LBE, Nikki Trella and Donna Duncan are working with representatives of several LBEs to review and make recommendations to the State's procedures for conducting voter registration and absentee voting in nursing homes and assisted living facilities. The first meeting of this group occurred on June 29th, and representatives of

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Anne Arundel, Baltimore, Carroll, Harford, Howard, and Montgomery Counties attended. The consensus of the working group was the concept of the procedures was good, but that some of the specific details may need to be amended.

Voter Registration

MDVOTERS Project

Since the last Board meeting, the MDVOTERS Project has implemented the User Group Committees needed to support implementation of the new voter registration system. These are decision-making committees that provide guidance to the SBE and Saber Project Management team, in the following areas:

- ~~///~~ Change Management;
- ~~///~~ User Acceptance Testing
- ~~///~~ Training;
- ~~///~~ Software customization;
- ~~///~~ Standardization of data and procedures;
- ~~///~~ Security and technology; and
- ~~///~~ Reporting requirements.

The committees are composed of members from LBEs, SBE, county IT staff, and Saber; each Committee has elected a Chairperson from the LBE members on that committee.

In addition to the work being done by the User committees, project work is being done with all 24 LBEs, including data analysis and migration testing, user acceptance testing, change management training, evaluations of individual and organizational readiness for change, and voter registration business process reviews.

Communications

To ensure ongoing communications, The Registrar, a newsletter containing up to date information on the MDVOTERS Project, is being published biweekly, and sent electronically to all project stakeholders--voter registration staff, election directors, State CIO, local government IT offices. A MDVOTERS Project Website has been initiated. Currently, the site contains: a description of the project goals and objectives; presentations given at the Project Kickoff and MAEO Conference; Frequently Asked Questions; event schedules; and sections for reports from each of the User Group committees.

Pilot Testing

Five Counties have been selected for pilot testing of the system. These LBEs will participate in a Mock Election using the new system in August. Two of these are mainframe counties, Montgomery and Harford, and three are client-server counties, Anne Arundel, Carroll, and Talbot. Members from these LBEs will receive training on MDVOTERS prior to the pilot testing. Five regional detailed demonstrations of the new system have been completed for LBEs in each area of the State.

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Ms. Lamone thanked the five pilot counties for their participation in this process, especially Harford County who is moving offices at the same time. Mr. Burger also thanked the five pilot counties on behalf of the Board.

Ms. Lamone added that the main conference room at SBE will be used as the testing site for the user acceptance testing (UAT) of the voter registration equipment from the last week in July through August.

University of Maryland Baltimore County

Ms. Trella, Mr. Goldstein, and Ms. Lamone have met with Professor Don Norris of the Maryland Institute for Policy Analysis and Research (MIPAR) at UMBC about the idea of creating an Election Center within the institute. The goal of this Center would be to use the academic and research capabilities of MIPAR to apply expert analysis, study, and educational techniques to the various programs at the State Board of Elections. This type of collaboration would provide a unique opportunity for UMBC to contribute to improving the effectiveness and efficiency in government while providing faculty and students with the opportunity to apply research techniques in an elections laboratory. This unique relationship will also allow UMBC to serve as the model for the nation in applying research and policy to the implementation of election reform.

Some of the subject areas that have been identified for Election Center participation include:

1. Study of voting system verification methodologies;
2. Technical support for voting system processes including voting system security analysis;
3. Analysis of campaign finance data and strategies for providing meaningful public information;
4. Training of various groups such as campaign finance treasurers, local election officials, and election judges;
5. Public outreach and education for voter registration and absentee and provisional voting;
6. Website analysis and design; and
7. Application of graphic design principles to election materials.

Ms. Lamone thanked Ms. Trella and Mr. Goldstein for leading this collaborative process. Mr. Burger responded affirmatively to this project.

Candidacy and Campaign Finance

Training

Terry Harris and Ruth Maynard have successfully trained every county for the upcoming elections. Trainings consisted of two parts: the first dealt with the candidacy filing requirements and processing, and the second part focused on registering and processing campaign finance entities. Ms. Lamone thanked all of the counties that hosted the training.

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Candidate Filing

July 5th commenced candidate filing for the 2006 elections. As of July 7, 2005, only six candidates have officially filed for office. SBE has installed a program for candidates to record their names so that they will be pronounced properly on the audio ballot.

Voting System

Voting System Implementation – Phase III (Baltimore City)

Ms. Lamone stated that DBM has reviewed a draft of the contract modifications and provided initial approval of the draft. The contract modification is targeted for approval at the August Board of Public Works (BPW) meeting.

The final area of Phase III negotiations between SBE and Diebold Election Systems, Inc. (DESI) involves the issue of DESI providing necessary information to third parties to allow peripheral components to interface with the voting system. The voting system team is meeting with DESI's corporate management next week to continue negotiating this issue. Mr. Burger asked if this information was to be provided separately in Phase III or if it was a Statewide issue. Ms. Lamone responded that it is Statewide.

a. Demonstration

On July 6 Ms. Lamone and the voting system team demonstrated the voting system to the Deputy Mayor's Office in Baltimore City. As a result of that meeting a workgroup will be established by the Mayor's Office to coordinate activity and communication to the appropriate departments and agencies throughout Baltimore City.

b. Voter Outreach Implementation

Mary Dewar met with members of the Baltimore City Board of Elections and various staff members to discuss advertising options and the roles and responsibilities of each member of the voter outreach team. Ms. Dewar also facilitated meetings for designated Board members to meet with advertising vendors to discuss specific advertising media.

Phase I – Equipment Refresh

SBE and DESI have informed all Phase I counties (Allegany, Dorchester, Montgomery, and Prince George's) about a technology refresh that will be performed on all voting units in Phase 1 counties. The refresh will bring those voting units up to the same specifications as the equipment in the later phases of the implementation. This technology refresh will be done at no cost to State or local government. The refresh is being planned in order to accommodate municipal election schedules and to ensure completion by the end of November in sufficient time to prepare for the 2006 Election cycle.

IV&V Contract

SBE has been working with RESI (Research Economic Study Institute), an agency from Towson University, to obtain Independent Verification and Validation (IV&V) services. These services include assistance with acceptance of the Phase III hardware and acceptance

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of the hardware returned from the technology refresh initiative. Mr. Burger asked which companies performed IV&V in the past. Mr. Torre responded that both BSC and CSMi performed IV&V for the voting system.

GEMS Servers

Ms. Lamone stated that the SBE voting system team has replaced four GEMS servers (2 in Prince George's County and 2 in Montgomery County). The older servers are being replaced to provide faster processing and additional data storage capacity in these larger counties.

On August 2nd, SBE is going to provide assistance to Harford County moving their network servers and GEMS servers to their new facility.

State Support

The voting system team has been asked to provide their expertise and lessons learned with other states that are beginning to implement electronic voting, specifically South Carolina and Ohio. To facilitate this effort and allow staff to share confidential security processes and other information, Non-Disclosure Agreements have been established with each state.

Audio Ballot Project

Last summer, an Audio Ballot Focus Group, comprised of representatives of SBE, Diebold, and blind voters, was formed as part of an agreement between SBE and Mr. Poole, a blind Baltimore County voter. The group met in the summer of 2004 and compiled a list of recommendations for improvements to Maryland's audio ballot. Because of a tight, pre-election schedule of technical tasks, the recommendations could not be implemented before the 2004 General Election. SBE and Diebold have restarted the project and are holding weekly meetings to plan, create, and test an audio ballot prototype, which includes several of the recommended improvements. Diebold will be considering the remaining recommendations that require software development to implement.

Mr. Burger inquired as to the purpose of having an Audio Ballot Focus Group. Mr. Torre explained that the purpose was to create a focus group to suggest changes to enhance the audio portion of the ballot on the voting units and to validate their suggested changes so that voters who are blind or have low vision can more effectively navigate the ballot.

Election Reform

Help America Vote Act

The Election Assistance Commission recently released its proposed Voluntary Voting System Guidelines (VVSG). (The guidelines are available on the EAC's website at www.eac.gov.) Under the Help America Vote Act, the Technical Guidelines Development Committee (TGDC) developed an initial set of recommendations for voting system guidelines. The TGDC's recommendations were presented and reviewed by the EAC, which has now released its VVSG for public comment. These proposed guidelines are an update to the 2002 Federal Voting System Standards and address accessibility, usability,

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and security of voting systems. Upon adoption by the EAC, these guidelines will be standards against which voting systems will be tested for national certification. The EAC is accepting public comment on the VVSG through mid-September 2005. We will be reviewing the VVSG and, where appropriate, will be providing comment.

On June 30, 2005, the EAC submitted to Congress a report entitled "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2003-2004." Until the passage of the Help America Vote Act this report was prepared and submitted by the Federal Election Commission.

Election Judges' Manual

BlueWater Agency, the firm selected to redesign the State judges' manual, has presented its draft of the election judges' manual. Upon approval of this design, BlueWater will apply the redesign to the remainder of the judges' manual. SBE will distribute the revised manual to the LBEs for comment. Ms. Beck requested to see a copy of the draft manual and Ms. Trella responded that she would provide it to the board members.

ASSISTANT ATTORNEY GENERAL'S UPDATE

Mr. Davis submitted a written report for the Board to review. The most significant activity since the last Board meeting has been the conclusion of two cases: Ross vs. SBE, which the Court ruled 5-2 in favor of SBE, holding that Ross waited too long to challenge Branch's qualifications to appear on the ballot, and, Lyman vs. SBE which was voluntarily dismissed by the plaintiff. Discovery is proceeding in the Schade case. In Hufnagel v. SBE, the case settled on June 2, 2005 with negotiation of the settlement terms still pending. A trial is scheduled for July 21, 2005 for the Fox administrative challenge to DBM's refusal to disclose unredacted SAIC report with the Office of Administrative Hearings.

Mr. Burger asked about St. John's Baptist Church vs. Howard County Board of Elections, to which Mr. Davis responded that SBE could likely seek dismissal in this case.

Mr. Burger also inquired about the nature of the non-disclosure agreement with the state of Ohio. Mr. Davis directed Mr. Burger to page five of the Administrator's report for more details. Mr. Burger asked to be informed if working with other states became time-consuming.

WAIVERS OF CAMPAIGN FINANCE LATE FEES

1. Montgomery County NOW PAC

Terry Harris asked the board to consider a new Administrator's Recommendation based on the fact that the Treasurer Joselyn R. Wells recently paid \$750 of the \$1,000 late fee.

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The original recommendation was to reduce the late fee for the chairman to \$500; now that the outstanding fee has been reduced to \$250 the new recommendation is to deny the waiver from the Chairman, which would leave a balance of \$250 to be paid.

The board agreed to accept the Administrator's recommendation to deny the waiver request.

2. Friends of David Merkowitz

Ms. Widerman questioned the recommendation to deny the waiver based on the fact that there were no prior late fees and that the report was only a few days late. Ms. Harris indicated that officers are notified of upcoming reporting dates several months in advance of the deadlines.

The Board agreed to accept the Administrator's recommendation to deny the waiver request.

ADMINISTRATIVE CLOSURE OF CAMPAIGN FINANCE ENTITIES

On a motion by Mr. Burger, seconded by Ms. Beck, the Board voted unanimously to administratively close those campaign finance entities on the list provided.

CONFIDENTIALITY REQUESTS

Ms. Widerman moved to accept the request for confidentiality for the individuals noted as 1-34 on the list. Ms. Beck seconded the motion and the Board voted unanimously.

OLD BUSINESS

Ms. Beck asked about the status of the report on voters who voted or tried to vote more than once in the 2004 General Election. Ms. Trella responded that she is continuing to work on this time-consuming project and hopes to have it completed by the next board meeting.

NEW BUSINESS

Ms. Widerman inquired about a list of missing inventory items. Robyn Terry was asked to explain the list and responded that she attended a Department of General Services (DGS) meeting where all agencies were asked to account for (and resolve) missing items; DGS is only concerned with items worth over a million dollars but all agencies are asked to clean their lists. Ms. Terry confirmed to Ms. Widerman that this is a routine procedure.

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SCHEDULING OF JULY MEETING

The next meeting of the State Board will be held on Tuesday August 30, 2005, at 1:30 p.m.

ADJOURNMENT

On a motion by Ms. Beck, seconded by Ms. Wideman, the meeting was adjourned at 2:25 p.m.

Gilles W. Burger, Chairman