

State of Maryland 

State Board of Elections Meeting – March 19, 2015

Attendees: Bobbie Mack, Chair
David McManus, Vice Chair
Janet Owens, Member
Linda H. Lamone, State Administrator
Jeff Darsie, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan Assistant Deputy for Election Management
Keith Ross, Assistant Deputy for Project Management
Mary Cramer Wagner, Director, Voter Registration
Sarah Hilton, Director, Election Reform and Management
Jared DeMarinis, Director, Candidacy and Campaign Finance
Paul Aumayr, Director Voting Systems
Stacey Johnson, MDVOTERS Administrator

Also Present: Rebecca Wilson, SAVE Our Votes
Holly Joseph, SAVE Our Votes
Lynn Garland

DECLARATION OF QUORUM PRESENT

Ms. Mack called the meeting to order at 2:10 pm and stated that there was not a quorum.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

SBE's Fiscal Year (FY) 2016 Budget

Last week, the Department of Legislative Services (DLS) announced its concurrence with SBE's proposed FY 2016 budget and recommended that SBE submit by August 15, 2015, a report explaining how we will fund certain costs for the new voting system and 2016 Primary Election that are not currently in the FY 2016 budget. On March 11th, the House Appropriations Commission's Public Safety and Administration Subcommittee concurred with the budget and report recommendation. On March 17th, the Senate Budget and Taxation Committee's Health and Human Services Subcommittee took the same action on SBE's budget and DLS' recommendation. Each subcommittee then makes recommendations to the full committee.

For the funds that are the subject of DLS' report recommendation, we submitted to the Department of Budget and Management a request for supplemental funds in the FY 2016 budget and hope that funding will be provided via a supplemental FY 2016 budget. If there is not a supplemental FY 2016 budget or SBE's request is not incorporated into a supplemental budget request, SBE will request a deficiency appropriation.

U.S. Election Assistance Commission's Goals for the Future: VVSG Development

Mr. Aumayr attended the second meeting of the Goals for the Future: Voluntary Voting System Guidelines (VVSG) Development in New Orleans on March 2nd – 3rd. Hosted by the U.S. Election Assistance Commission (EAC), this meeting included election officials at the State and local levels, manufacturers, and testing laboratories. The EAC Commissioners are looking toward the next version of VVSG, and the meeting attendees discussed policy objectives for the next version.

SBE's Biennial Meeting & the Maryland Association of Election Officials' Annual Conference

Every two years, SBE is required to hold a biennial meeting for the local boards of elections. For fiscal reasons, SBE and the Maryland Association of Election Officials (MAEO) have, for the last several years, scheduled the biennial meeting and MAEO's annual conference on consecutive days; this year's meeting is no different.

SBE's biennial meeting is scheduled for Wednesday, June 10th, and MAEO's annual conference is scheduled for Thursday, June 11th. The meetings will be held in Ocean City. SBE, led by Ms. Wagner and Rick Urps, and MAEO, led by its planning committee, are developing an agenda, and topics include many presentations about the new voting system, a certification program on fair labor practices, and breakout sessions for the board members (many of whom will be new) and the board attorneys. A draft agenda was provided in the board meeting folder.

Election Directors' Meeting

On March 19th, SBE held by conference call an Election Directors' meeting. Topics discussed were voting system implementation, legislative update, same day registration, and an update on voter registration and pollbooks. A summary of January's Election Directors' meeting was provided in the board meeting folder.

2. Election Reform and Management

New Voting System Replacement (NVSR) Project - Election Judges Workgroup

The Election Judges' Workgroup members are continuing their work reviewing and revising the Election Judges' Manual and election day forms. The workgroup is also beginning to develop a manual for election judges assigned to same day registration and address changes during early voting. The workgroup met earlier this week at the Anne Arundel County Board of Elections office in Glen Burnie and is scheduled to meet again on March 31st.

NVSR Project - Communications Workgroup

The Communications Workgroup has posted new content on SBE's website. One addition is a "Coming Soon! Maryland's New Voting System" slide on the homepage linked to a form for organizations or event organizers to request voter outreach. We've also updated the *New Voting System - What You Need to Know* webpage with information about and photos of the new voting equipment.

Same Day Registration

SBE's same day registration planning workgroup continues to meet regularly. We are awaiting a signed MOU from the Motor Vehicle Administration for information on individuals who appear eligible to register but are not registered in Maryland and a test file of that information. Other activities include drafting regulations, determining the layout and flow of the voting process with same day registration and address changes, and personnel needed to support this process.

3. Voter Registration

MDVOTERS

User testing for software release 5.7 began February 23rd and has been successful. This release includes the automated importing of information from provisional ballot applications completed as part of the same day registration and address change process and continued enhancements for the candidacy module and voter registration. The mock election will begin the week of March 23rd, and the software release will be implemented in early April.

Electronic Registration Information Center (ERIC)

On January 28th, the most current ERIC report was distributed to the local boards for processing. The completion date for processing was February 20th. The counts for these reports are:

1. Cross State Report (another member state has newer information than MD): 32,593
2. Potential Duplicates: 81
3. In-State Updates (more recent information at MVA): 15,571
4. Deceased (according to the Social Security Administration): 3,992

Last week, SBE forwarded to the local boards 5,497 past Social Security Administration death records for processing. These records were received prior to the enactment date of Chapter 467 of the 2014 Legislative Session (Senate Bill 15 - Statewide Voter Registration List - Removal of Deceased Voters). Under the law, the families of these individuals will receive correspondence, and if no information to the contrary is provided, these individuals' voter registration records will be placed in a cancelled status. In response to a question, Ms. Johnson stated that the number of records from Social Security Administration is decreasing.

Since receiving ERIC's first report in August 2013, Maryland has processed 147,132 updates to voter records and over 139,286 confirmation mailings have been sent (used to confirm address).

4. Candidacy and Campaign Finance (CCF) Division

Candidacy

As of March 19th, seven candidates have filed at SBE for the 2016 Presidential election.

Trainings

On March 12th, Mr. DeMarinis conducted an MD CRIS training for the Republican Central Committees. The Republican State Central Committee requested this training, and 15 people attended.

Enforcement

The CCF Division concluded its investigation into the coordination complaint filed against Anthony Brown for Governor and One State One Future. No violations of the law were found, and no referral to the Office of State Prosecutor will be made.

The CCF Division also concluded its investigation into a complaint regarding the use of a recreational vehicle (RV) by the Hogan-Rutherford Committee to Change Maryland. No violations of the law were found, and no referral to Office of the State Prosecutor will be made. It should be noted that the RV in question was later purchased by the committee at the fair market value. The purchase was reviewed by CCF.

Memos detailing the rationale of the two decisions will be sent to the Board members soon.

5. Project Management Office

New Voting System Replacement Project

Resources

SBE brought onboard and would like to welcome three new project resources. Marc Cooke (Tester), Scott Williams (Warehouse Assistant), and Sikha Sen (Tester) all joined the NVSR project team in March. We look forward to their contribution to this project. In the next couple of weeks, SBE expects to bring onboard the Organizational Change Manager.

Voting System Solution

There were a number of tasks addressed and decisions made between SBE and other groups as it relates to the NVSR project. Groups included the voting system vendor Election Systems & Software (ES&S), NVSR Project Team, and the NVSR Workgroups.

SBE, the NVSR Project Team, and ES&S continued to work on a number of different issues related to equipment and support, including providing to each local board a small amount of precinct-based equipment. With this equipment (referred to as “acclimation equipment”), local board management and staff will become better acquainted with the equipment. The equipment includes at least one DS200 scanner, ExpressVote ballot marking device, and ExpressPass printer. Over the last couple of weeks, SBE completed the delivery of this equipment to each local board.

Another area of significant effort involves the decision making process and planning for the use of the ExpressVote Kiosk. The kiosk is a more portable, alternative stand for the ballot marking device. The unit also has traditional, four collapsible legs, much like the current TS units. SBE has a go/no-go decision scheduled for the end of this month for whether we will use the kiosk. Several factors, including the status of the certification of the kiosk by the EAC’s testing laboratories, the production timeline for the kiosks, the transportation and warehouse requirements, and the logistics of connecting the ExpressVote units to the kiosks, are included in the decision making process.

SBE is working with CSC, the current vendor for SBE’s legacy Election Management System (EMS), to continue its technical maintenance and support of the system through the 2016 Presidential election cycle. This continued support includes making all the needed changes for coding updates to the system for the upcoming 2016 Primary and General Elections and any other SBE-related election that may take place through December 2016. The support also includes new and updated interfaces for the new voting system, MDVOTERS, and the electronic pollbook, all of which are expected to be ready for the upcoming mock election later this year. Decisions for a post-2016 system have not been finalized.

There are several active or near-active procurement activities taking place for the NVSR project. These procurements include booths used when voters mark their ballots, carts to transport voting supplies to and from voting locations, ballot bins, privacy sleeves for voters to use when taking their voted ballots to a tabulating device, voter outreach, ballot paper, and transportation. Within the next month, additional procurements are expected for the ExpressPass printers (the printers that print the ballot for the ExpressVote ballot marking device), thumb drives for the tabulating devices and the ExpressVote units, and servers. Depending on the procurement, SBE is working with one or more agencies, including Department of Information Technology (DoIT), Department of Budget and Management, and the Department of General Services (DGS), to fulfill the logistics for the procurement.

Workgroups

The six NVSR project workgroups (Project Management, Voting System, Polling Place Logistics, Election Judges, Communications, and LBE Requirements) have all been very active and are making a significant and positive impact on the project.

Individuals from SBE and the local boards comprise the workgroups, which are tasked with helping work out detailed requirements and specifications for the many areas associated with the project. Examples of workgroup activities include developing the specifications and requirements for the carts, booths, privacy sleeves, ballot bins, and transportation. In addition,

the workgroups are or have worked on the internal communications website, rules and regulations development, changes to the Election Judge's manual, ballot handling, polling place site surveys, equipment allocation, requirements for supplies, election documentation, providing links to the local boards to new voting system information on SBE's website, the Early Voting Center Approval form, planning for the mock and pilot elections, and care, custody, and control procedures for equipment and supplies.

Central Warehouse

SBE's central warehouse in Glen Burnie is now fully operational with last week's installation of the telephone lines and the alarm system. The NVSR project team is now obtaining the many supplies, furniture, equipment, and services needed to run the warehouse, conduct training, receive and perform testing on the new equipment, and accept the current equipment from the local boards.

This week, SBE began transferring to the central warehouse Baltimore County's current voting equipment and supplies. A schedule is being finalized for estimated dates of return for each local board's equipment and supplies. During this process, SBE will perform two inventory-related functions. The first is an "inventory reconciliation" of the equipment to resolve any discrepancies between SBE's existing records and what is being sent to the warehouse. In addition, SBE has started its FY15 Annual Inventory, which includes recording the information on SBE's inventory master database of the equipment and supplies being sent to SBE's central warehouse.

Other Activities

SBE is almost finished procuring the new inventory system and the hardware, and the procurement for the barcode scanners is complete. SBE is now waiting for equipment delivery, which is expected on March 20th.

DGS's audit team completed their onsite audit of SBE's inventory process and procedures. They will next generate and deliver to SBE their draft findings for review and response.

6. Voting Systems

New Voting System

SBE staff members continue to familiarize themselves with the new system, most notably with especially with ElectionWare, the new voting systems management suite. The voting system team held several meetings with ES&S to determine how to proceed with the use of the software, given its many options and features.

Ballot Printing

SBE has ordered approximately 30,000 training ballots to become acclimated with the new system. These ballots are being printed by Single Source, one of SBE's ballot printers. As the new system's ballots have different specifications from the previous system, SBE is ensuring that its printers are comfortable with the new system's specifications, and that any issues are solved early. The ballot paper requires special weight and specifications.

Electronic Pollbook Software

The team continues to discuss with ES&S changes to the pollbook software for same day registration and updated requirements. The team continues to update test scripts and cases, in preparation for an updated software release due this month.

Post Election Maintenance

The local boards continue performing post election maintenance from the 2014 General Election. In preparation for the new system, minor changes are being made to the electronic pollbook maintenance and testing.

7. Information Technology

Central Warehouse Phone Lines

SBE recently procured Centrix phone lines for SBE's central warehouse. One of the phone lines will be used for the warehouse alarm system while the second phone line will be used as the warehouse's main telephone line. Installation of the phone lines was completed on March 13th.

SBE Cell Phone Refresh

Twelve cell phones were purchased to replace older cell phones that were out of warranty. The Regional Managers and other SBE staff members received the new phones. The data plans for the Regional Managers have tethering capabilities since these employees work remotely or at different local boards. Tethering is a technique in which a cell phone can be used as a wireless modem to provide Internet access to a computer or other Wifi enabled device, like a tablet or laptop.

8. Legislation

An updated chart was included in the meeting folder. SBE continues to track and monitor approximately 120 pieces of legislation for the 2015 Legislative Session. Below is a brief summary of several pieces of legislation.

SB 5 - Canvass of Votes - Public Observation: Provides clarification that the early voting canvass is subject to public observation. The only concern with this legislation is the space the local boards have to conduct the early voting canvass in public. SBE offered guidance on the potential space impact this legislation may have for the local boards.

SB 20 - Kent County Board Membership: Adds Kent County to a full 5 member board instead of 3 full members and 2 substitute members.

SB 47 - Fair Campaign Financing Fund: Re-establishes the checkoff on the income tax return through which individuals may contribute to the fund. (SB 518, SB 519, HB 485)

SB 97 - Canvass of Absentee Ballot: Requires that the local board count an absentee ballot cast by a voter who dies before the ballot is canvassed.

SB 193 - Local Petitions - Advance Determination: Allows the Election Director to seek from local board counsel or the Attorney General legal advice on sufficiency of petitions.

SB 204 - Primary Election Dates in the Presidential Election Year: Moves the date of the 2016 Primary Election to eliminate early voting on Easter Sunday and alters other deadlines to eliminate conflicts. There are several other bills that prohibit early voting on Easter Sunday. (HB 141, 396, 409) *Amendments*: Changes the date of presidential primary election to the 4th Tuesday in April. SBE provided information on various election dates in this bill.

SB 311 - Casting Ballot by Mail - Public Communication: Requires SBE and the local boards to emphasize in public communications absentee voting (HB 226)

SB 340 - Voting Rights - Ex Felons: Changes the qualifications to register to vote for individuals who have been convicted of a felony and have been released from incarceration. This legislation has passed the Senate.

SB 367 - Circuit Court Judges - Constitutional Amendment: Changes the method of election for Judges. (HB 548) SB 679 requires a non-partisan election for Judges.

SB 529 - US Senate Vacancy: Requires a special election to fill a US Senate vacancy.

SB 711 - Pre-paid Postage for Return Absentee Ballots: Requires SBE to reimburse the local boards for the costs of prepaid postage for absentee envelopes. This bill had a hearing in the Senate on March 19th.

HB 997 - Commission on Voting Openness, Transparency and Equality in Elections: Establishes a Commission to examine ways to encourage broader voter participation, open and closed primary elections, cumulative voting, preference voting, instant runoff voting and any other issue the Commission determines relevant. The legislation lays out the membership of the Commission and mandated to report its findings and recommendations on or before December 31, 2016.

HB 1018 - Wait Times to Vote: Requires SBE to develop on or before July 1, 2016 a comprehensive plan to accomplish the intent of the General Assembly that no voter should have to wait more than 30 minutes to vote at an early voting center or polling place. The plan shall include a system to collect data on actual voter wait times, a system to provide up-to-the-minute information to the public on the internet concerning voter wait times, running tests on time to vote on the ballots prior to the election, potentially require extra election judges to greet voters, provide direction and collect data. Requires certain reports and updated plans each year. SBE noted the work that the University of Baltimore has performed on wait times.

HB 1049 - Voter Registration Act of 2015: Requires voter registration agencies to implement on or before July 1, 2016 fully automated voter registration systems.

HB 1064 - Audits of Election Results: Requires the local boards to complete specified ballot accounting, reconciliation and tabulation audits before certifying the results of an election. SBE explained the various comprehensive audits that SBE currently performs.

Ms. Charlson pointed out that the 2016 election calendar is in the board meeting folder. If SB 204 passes as amended, the 2016 calendar will be updated to reflect the new date for the primary election and all associated deadlines.

Ms. Charlson provided a summary of the usage of the online ballot delivery in the 2014 General Election. Of the 13,252 voters who logged into the online ballot delivery system, 11,587 voters used the blank ballot delivery method and 1,665 voters used the online ballot marking tool. 12,276 voters printed their ballots, while some voters accessed the system but did not print. In response to a question, Ms. Charlson stated that she find out how many voters certified that they had a disability and needed to use the online ballot marking tool to vote independently, accessed the system, but were not able to print.

There were 22,534 successful log ins (some voters logged into the system more than once), and 5,772 unsuccessful log in attempts generated by 2,218 voters. 86% of these 2,218 voters, however, were able to successfully access the online ballot delivery system. The most common

reason for the unsuccessful log in attempts was a failure to match first and last names due to names with hyphens and spaces. Of the 328 users who were unable to access the system at all, SBE's project team recognizes many of these names as they provided these voters with their ballot and other documents via email. The project team emailed about 200 voters their ballots.

The system received 1,668 requests to reset password, and 25 IP addresses were blocked. 632 voters were locked out of the online ballot delivery system. Mr. McManus requested more information about the 632 voters who were locked out of the system, and Ms. Charlson agreed to provide the information.

ASSISTANT ATTORNEY GENERAL'S REPORT

1. On January 22, 2015, Christopher Bouchat filed in Carroll County Circuit Court a challenge to the legislative districting of the State, alleging that because the adopted plan includes multiple cross-county districts it denies him a republican form of government, as guaranteed by Article IV, § 4 of the U.S. Constitution. *Bouchat v. State of Maryland*, Case No. 06-C-15-068061 (Cir. Ct., Carroll Co., Md.). Mr. Bouchat had filed a similar petition in 2012, which was dismissed by the Court of Appeals. Defendants filed a motion to dismiss on February 20, 2015.

2. Appellants filed their opening brief on January 23, 2015, in their appeal of the district court's decision that requiring certification of an online ballot-marking tool violates the Americans with Disabilities Act. *National Federation of the Blind v. Lamone*, Appeal No. 14-2001 (U.S. Court of Appeals for the Fourth Circuit). Appellees will file their response April 8.

3. Tracy Fair, whose challenge to the candidacy of President Obama was dismissed by the Circuit Court for Carroll County and whose appeal from that decision was denied by the Court of Special Appeals, has filed a petition for a writ of certiorari with the United States Supreme Court. *Fair v. Walker*, Case No. 14-933. Defendants filed a waiver of response to the petition on February 5, 2015.

4. A hearing on pending motions has been scheduled for May 4 in *Newton v. Lamone*, No. 02-C-14-191218 (Cir. Ct., Anne Arundel Co., Md.). In that action, a Republican Party candidate for House of Delegates in District 10, together with two other registered voters, filed a lawsuit challenging the residency of "Jay" Jalisi, a Democratic Party candidate for the same office. Because Delegate Jalisi has been seated, the lawsuit appears to be moot.

APPROVAL OF FORM – STATEMENT OF ORGANIZATION

Mr. DeMarinis explained the proposed changes to the *Statement of Organization for Campaign Finance Entities*. The separate check boxes for the presidential election and Baltimore City election were combined, since the elections are now aligned. Language was added to reflect the requirement that each responsible officer have an email address, late fees must now be paid for with campaign funds, and that candidates, chairmen, and treasurers must provide certain personal identifying information. Because of the number of new organizations being formed, Mr. DeMarinis will request approval by email.

REVIEW OF SBE BY-LAWS

Mr. McManus suggested adding to Section 3.3D language to require the reporting of all significant events. He explained that this new language would cover events that do not represent activities of the agency but would be useful for the board members to know. Ms. Lamone suggested keeping in the footer the original adopted date and adding the revision date. Ms. Charlson will add the suggested language and redistribute the by-laws.

NEW BUSINESS

There was no new business.

OLD BUSINESS

There was no old business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

No campaign contributions were disclosed.

SCHEDULING OF NEXT MEETING

The next meeting was scheduled for April 23, 2015, at 2:00 pm.

ADJOURNMENT

Ms. Owens made a motion to adjourn the open meeting, and Mr. McManus seconded the motion. Ms. Mack adjourned the meeting about 3:20 pm.

CLOSED MEETING

Ms. Mack requested a motion to close the board meeting under General Provisions Article, §3-305(b)(13), which exceptions permit closing a meeting to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosure about a particular proceeding or matter. The board will consider information regarding security testing by the Department of Information Technology on multiple SBE systems. Because this discussion will involve disclosure of information about the security of information systems, it is required to be protected from public disclosure according to General Provisions Article, § 4-338. Where there is a statutory requirement that prevents disclosure about a particular matter, the Open Meetings Act (General Provisions Article, §3-305(b)(13) authorizes a public body to convene in closed session to comply with that requirement. Ms. Owens made a motion to convene in closed session, and Mr. McManus seconded the motion. The motion passed unanimously.

During the closed session, Ms. Charlson explained the testing performed by the Department of Information Technology on several of SBE's information systems and reviewed the resulting report. No action was taken.

In addition to the board members present at the open meeting, Ms. Lamone, Mr. Darsie, Ms. Charlson, and Ms. Hilton were present. The closed meeting adjourned about 3:10 pm.