

**State of Maryland** 

**State Board of Elections Meeting Minutes – August 27, 2015**

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Attendees: David McManus, Chair  
Patrick J. Hogan, Vice Chair  
Michael R. Cogan, Member  
Kelley A. Howells, Member  
Bobbie Mack, Member  
Linda H. Lamone, State Administrator  
Jeff Darsie, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Keith Ross, Assistant Deputy for Project Management  
Shelly Holland, Director of Budget and Finance  
Jared DeMarinis, Director of Candidacy and Campaign Finance  
Mary Cramer Wagner, Director, Voter Registration  
Stacey Johnson, MDVOTERS Project Manager  
Janet Smith, Voter Registration Division  
Janey Hegerty, IT Division

Also Present: Steve Galloway, NVSR Project Team  
Rachel Rachfal, NVSR Project Team  
Ralph Watkins, League of Women Voters  
Rebecca Wilson, SAVE Our Votes  
Lynn Garland  
David Garreis, Deputy Director, Anne Arundel County Board of Elections

**DECLARATION OF QUORUM PRESENT**

Mr. McManus called the meeting to order at 2:05 pm and stated that there was a quorum. Mr. McManus stated that the meeting was being recorded and explained the process for an individual to address the State Board of Elections.

**RATIFICATION OF MINUTES FROM JULY 2015 MEETING**

Mr. Hogan made a motion to ratify the approval of minutes from the July 2015 meeting, and Ms. Mack seconded the motion. The motion passed unanimously.

**RATIFICATION OF STATE CERTIFICATION OF ES&S EVS 5.2.0.3**

Ms. Mack made a motion to ratify the State certification of ES&S EVS 5.2.0.3, and Ms. Howells seconded the motion. The motion passed unanimously.

**ADMINISTRATOR'S REPORT**

**1. Welcome**

Ms. Holland announced that Sylvia Brown, SBE's new HR Director, begins on Wednesday, September 2nd. Sylvia worked many years in private sector as a Human Resources manager. She relocated to Maryland in 2009 and worked four years in the Maryland Transit Administration's HR Department. She is currently a Personnel Officer III at the Department of Hygiene and Mental Health. She brings a wealth of HR knowledge to SBE. We are excited to have her as part of the SBE family.

## 2. **Announcements & Important Meetings**

### WBAL

On July 22nd, David Collins of WBAL TV-11 interviewed Ms. Charlson and Paul Aumayr about the new voting system, and Paul provided an on-camera demonstration of the voting system. The interview aired on the July 26th edition of *TV Hill*. Other guests were Joe Cluster, Executive Director of the Maryland Republican Party, and Delegates Adrienne Jones and Curt Anderson. Special thanks to the Anne Arundel County Board of Elections for providing and setting up the voting equipment.

### Election Directors' Meetings

On July 23rd and August 25th, we hosted Election Directors' meetings. The primary topic of both meetings was the new voting system project. The meeting summary for the July 23rd meeting and the agenda for the August 25th meeting was provided in the meeting folder. The summary of the August 25th meeting will be provided when it is complete.

### U.S. Election Assistance Commission (EAC) Public Meeting & Election Data Summit

On July 28rd, the EAC held a public meeting and in recognition of the 25th anniversary of the Americans with Disabilities Act, the topics related to accessibility improvements in the election process. Ms. Lamone and Ms. Charlson attended the meeting and highlighted Maryland's work to improve the accessibility of our online services.

On August 12th and 13th, the EAC hosted an Election Data Summit. The summit focused on how election data is used by election officials, researchers and academics and how the EAC's extensive post-election data survey can be improved. Ms. Lamone and Ms. Charlson attended the summit on August 13th and shared how Maryland collects and uses the survey data.

### Australian Election Officials

On August 26th, SBE staff met with the Chairman of the Australian Electoral Commission to exchange experiences and ideas about techniques and challenges with implementing new technologies, voter registration and campaign finance reforms. This meeting was facilitated by the Embassy of Australia.

## 3. **Election Reform and Management**

### Voter Education

We have been working closely with the Departments of Information Technology (DoIT) and the Budget and Management on how best to proceed with the voter education contract disapproved by the Board of Public Works. Under State procurement law, we can present an alternate proposal from the selected vendor but certain procurement requirements - such as Minority Business Enterprise (MBE) percentages - must be maintained. The original proposal met the MBE percentages by proposing the services of a recognized MBE subcontractor.

In light of this advice, we requested alternate proposals from the selected vendor and have reviewed the substance of these alternate proposals with a DoIT representative with extensive experience with advertising and public relations firms. We hope to schedule a meeting this week to discuss various line items of the proposals and better understand the differences between the different proposals.

Once we identify a suitable proposal to present to the Board of Public Works, we will submit to the Department of Budget and Management the required paperwork and ask that the revised proposal be included on a future meeting agenda.

### Election Judges' Work Group

The Election Judges' Work Group is meeting weekly to put the finishing touches on the election judges' manuals for election day and early voting. In addition, work group members are creating or revising step-by-step guides, checklists, forms, reports, polling place signs, and training curricula for election judges.

### Improving Accessibility

Rick Urps is working with the local board staff to identify and mitigate accessibility issues for voters and election judges. SBE uses accessibility grant funds from the federal Department of Health and Human Services to purchase or rent accessibility related supplies, equipment, and educational materials. SBE also purchases services such as American Sign Language interpreting for election judges for training and election day.

## **4. Voter Registration**

### Statewide Voter Registration Database (MDVOTERS)

Software release 5.9 will begin User Acceptance Testing on Monday, August 31st. This release will include candidacy reports, same day registration, and general upgrades for the 2016 election.

### MDVOTERS - Field Support Personnel

As part of the procurement process, the evaluation committee requested and evaluated "Best and Final Offers" from the vendors. The selection will be concluded shortly, and SBE expects that the contract will be ready for a Board of Public Works' meeting in September.

### MVA State Stat

Each month, SBE gives registration information on the number of registrations received by MVA. The voter registration numbers received from MVA for the month of July 2015 are:

- New Registrations - 14,296
- Address Changes - 26,362
- Last Name Changes - 2,654
- Political Party Changes - 4,890

### Electronic Registration Information Center (ERIC)

We are pleased to announce that Rhode Island joined ERIC, and talks are ongoing with other states to join prior to the 2016 election. A detailed breakdown of the July 2015 ERIC report was provided in the meeting folder. The next ERIC report should be delivered the first week of September. Ms. Wagner explained the different reports generated from ERIC.

### Presentation to the Frederick County Board of Election Board Members

Ms. Wagner was asked to meet with the members of the Frederick County Board of Elections to discuss list maintenance and Maryland's participation in the ERIC program. Many questions were asked by all the board members. Thank you to Stuart Harvey and his board members for the kind invitation.

## **5. Candidacy and Campaign Finance (CCF) Division**

### Candidacy

As of August 20, 2015, 23 candidates have filed at SBE for the 2016 Presidential Election.

### Campaign Finance

On August 20th, Mr. DeMarinis and Wil Colquhoun of the State Ethics Commission conducted a seminar on the new requirements for persons doing public business and/or employing a lobbyist. It was attended by over 50 people. Mr. DeMarinis stated that he is likely to hold another training via WebEx.

On August 11th, Mr. DeMarinis held an online training on MD CRIS. The training focused on data entry, returned contributions, filing the report and updating the registration page. Starting in September, the CCF Division will hold online trainings on MD CRIS twice a month (on the second and fourth Tuesday of every month).

On August 31st, the Contribution Disclosure Statement is due for persons doing public business and/or employing a lobbyist. The entity must disclose cumulative contributions of \$500 or more to a single candidate or officeholder in the reporting period. As of August 20th, the CCF Division has received over 150 filings. The next filing is due on November 30th.

### Enforcement

On August 18th, Carrie Lauren Taylor, former Treasurer of the Cecil County Republican Central Committee, pled guilty to theft of campaign funds. Ms. Taylor will be sentenced on November 17th.

## 6. **Project Management Office (PMO)**

### New Voting System Replacement Project (NVSR)

#### *New Personnel*

SBE is pleased to welcome Alex Decker and Todd Ledbetter as trainers and Jasmine Marshall, Stephon Jones, and Antonio Castillo-Cruz as assistants in SBE's warehouse to the contract project management team supporting the NVSR.

#### *Contract Modification & Procurements*

On August 5, 2015, SBE presented to the Board of Public Works a modification to the contract with ES&S. The contract modification: (1) adjusted the number of voting system hardware components; (2) provided upgraded versions of servers and workstations; (3) increased the number of equipment delivery dates from 4 to 9; (4) provided soft cases for the ExpressVote units; (5) provided voting booths/tables to house the ExpressVote units in the polling locations; (6) Increased the number of Expresspass printers and USB thumb drives; (7) supplied ballot transfer bins; and (8) removed the cost of the modems from the lease agreement. The State saved \$1.3 million by removing the modems.

The contract modification was approved by the Board of Public Works. SBE and ES&S are now amending the lease agreement to conform with the approved modification. ES&S provided estimated delivery schedules for the items in the modification, and SBE will work with the local boards on the delivery logistics.

The Department of General Services (DGS), the control agency for the precinct voting booth procurement, awarded the contract to ES&S. ES&S submitted a delivery schedule, with deliveries starting in September and continuing into February 2016.

#### *Project Management*

SBE leadership continued its working arrangement with DoIT and its managing of the contract project management team's work. Of primary focus at this time are the changes to the project schedule and risk management processes. Additionally, DoIT's Oversight Project Manager and Project Management Office Director are assisting with other NVSR planning tasks and logistics.

SBE continued its weekly GoToWebinar sessions with the Election Directors and Deputy Directors and in-person meetings which take place approximately every 3 weeks here at SBE.

### *Testing & Training*

User Acceptance Testing was restarted after the State certification of ES&S's version 5.2.0.3 package. ES&S is updating the firmware on the DS200, the precinct tabulating unit, before SBE starts the testing. By the end of this week, we expect to have tested and delivered or staged for delivery nearly 2,000 DS200 units and 2,000 ExpressVote units (ballot marking devices). Currently, nine of the local boards have received either a full or partial delivery of their polling place equipment.

ES&S' formal training of SBE and local board personnel continues. In July, SBE personnel attended training on the Electionware system and the local boards had training on the polling place hardware (*i.e.*, DS200 units and ExpressVote units).

CSC continues to provide support to the Agency Election Management System, and SBE is working with the CSC team on the many deliverables and tasks that are scheduled to be delivered over the next few weeks and in preparation of the mock election.

### *Mock & Pilot Elections*

There has been a great deal of planning and logistics work for the mock election scheduled for the week of October 19th. Planning and logistics will begin the week before and lessons learned and close out activities will occur in the following week. As part of lessons learned, we will identify those areas that need to be adjusted or corrected prior to the 2016 Primary Election. In response to a question, testing of the regional transmission centers will be included in the mock election but will be tested before the primary election.

We have been working with the Montgomery County Board of Elections and the City of Rockville to plan the upcoming Rockville election. Early voting will occur on Saturday and Sunday, October 24th and 25th, and election day will take place on Tuesday, November 3rd. ES&S, with the Montgomery County Board of Elections and the City of Rockville, will provide election support. Montgomery County's new voting system equipment will be used in the election.

### *Workgroups*

The six NVSR project workgroups (Project Management, Voting System, Polling Place Logistics, Election Judges, Communications, and LBE Requirements) continued to make impactful contributions to the work of the project.

Workgroup contributions included the management and planning of work for the numerous election related manuals, instructions, quick reference guides, forms, etc. In addition, planning for the mock election continues to take place. The assessment of each of the local board's warehouses is complete, and we are working with the local boards to resolve identified issues. In addition, we sent an updated equipment allocation sheet each local board that reflects the updated equipment and supply initial totals for their jurisdictions.

### *Central Warehouse*

SBE's Central Warehouse and the warehouse staff continue to be very active. With the re-starting of the User Acceptance Testing and the ability to send out equipment to the local boards, the staff is working hard to make sure there is a coordination of efforts between teams (ES&S and the testing and training teams) and the movement of equipment and supplies.

One of the warehouse challenges has been hot weather and high humidity over the past few weeks. To ensure we maintain the required climate, SBE rented a couple of portable air condition units to use when the temperature is high and/or the humidity is high.

#### *Other*

Earlier this month, we were notified by DGS that we would have to vacate the Annapolis warehouse in order for construction modifications to take place for the Office of the Public Defender's expansion of their office facility. The Public Defender's office is the lessee for the space and for the past 10+ years has allowed SBE to use some of their warehouse space. SBE had less than two weeks from DGS' notification to relocate everything in the Annapolis warehouse space to SBE's Central Warehouse as a short term solution. Mr. Ross thanked SBE staff for their efforts to move quickly the items stored at SBE's Annapolis' warehouse.

SBE completed a significant update of the insurance spreadsheet for the new voting system equipment and submitted the updated spreadsheet to the Treasurer's office. At least one additional update will be needed within the next couple of months to account for all the initial leased and purchased voting system equipment.

The FY15 annual inventory of all equipment is in its final stages. The Report of Missing and Stolen Property was submitted to DGS by the August 15th deadline. No equipment was reported missing or stolen. The equipment and supplies reports are due September 15th.

## **7. Voting Systems**

### Electronic Pollbooks

Work continues on the software updates to implement same day registration and address changes during early voting. ES&S has been releasing incremental software versions for the team to test and verify it meets the specifications and to assist with the production of the required documentation. The team has been modifying test scenarios and cases in preparation of the mock election in October.

## **8. Information Technology**

### New SBE Domain Server

SBE IT is working on deploying a new Windows 2012 Server which will serve as a new Domain Controller and a tape library device with higher capacity tapes. Testing of both devices have been ongoing and so far looking positive. We intend on going live with both devices in the next few weeks.

### Baltimore County LBE Office Move

The Baltimore County Board of Elections is scheduled to move from Catonsville to a new location in Hunt Valley (11112 Gilroy Rd, Hunt Valley, MD 21031). SBE IT, Network Maryland (NwMD), and Baltimore County's IT staff are working together to make sure all the required network connectivity are provisioned, installed, configured and tested. The actual move is scheduled to occur on August 31, 2015. Because of this move, Baltimore County's voting equipment was being held. Now that the Baltimore County Board of Elections has moved, SBE can begin delivering their equipment.

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

Mr. Darsie provided the following report.

1. Greg Dorsey, an unaffiliated candidate for the 2016 U.S. Senate race, has filed a federal court challenge to Maryland's petition signature requirements for non-party candidates seeking access to the general election ballot. *Dorsey v. Lamone*, No. 1:15-cv-2170-GLR (U.S.D.C., D. Md., served Aug. 5, 2015). Mr. Dorsey alleges that the requirement for a non-party candidate to obtain petition signatures equal to one per cent (1%) of the registered voters in Maryland before the candidate's name will appear on the ballot is unduly burdensome in itself and as compared to other candidates. In particular, the complaint asserts that, because only 10,000 signatures are required to form a new political party—which is then able to nominate candidates to the general election ballot for any office without any further showing of support—the State can have no legitimate interest in requiring a greater showing of support for an unaffiliated candidate seeking a statewide office. According to the complaint, based on current and expected voter registration totals, an unaffiliated candidate for statewide office will be required to submit approximately 38,000 signatures to qualify for the ballot. The State's response to the complaint is due September 4, 2015.

2. On August 25, 2015, Christopher Eric Bouchat filed a pro se complaint in federal district court challenging Maryland's legislative districting plan for state offices as a violation of the federal and state constitutions. *Bouchat v. State of Maryland*, No. ELH-15-2417 (U.S.D.C., D. Md., served August 25, 2015). In his complaint, Mr. Bouchat alleges that State legislative districts violate, among other things, Article IV, § 4 of the U.S. Constitution, which guarantees to every State a "Republican Form of Government." Mr. Bouchat unsuccessfully pressed similar arguments before the Maryland Court of Appeals in 2012 and in the Circuit Court for Carroll County earlier this year.

## **PETITION FOR DECLARATORY RULING**

Mr. McManus noted that Mr. Hall's petition for declaratory ruling was filed on June 19, 2015. While the State Board of Elections is required to respond to petitions for declaratory rulings within 60 days of receipt, Mr. McManus deemed that Mr. Hall waived the 60 day requirement since he requested to speak at the August meeting, was provided notice of the August meeting, and did not appear.

Mr. Darsie explained the basis of Mr. Hall's petition and summarized Ms. Lamone's memorandum recommending that Mr. Hall's petition be denied. There was a discussion about the process to revisit SBE's 2000 policy requiring that each local board of elections have a minimum of three employees and the impact of a decision on Hall's petition on the other local boards of elections.

Ms. Mack made a motion to decide Mr. Hall's petition at this meeting, and Mr. Hogan seconded the motion. The motion passed with a 4-1 vote, with Mr. McManus opposing the motion because he had not read Ms. Lamone's memorandum.

Mr. Hogan made a motion to approve Ms. Lamone's recommendation and deny Mr. Hall's petition for declaratory ruling, and Ms. Howells seconded the motion. The motion passed with a 4-0 vote. Mr. McManus abstained.

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

Mr. DeMarinis presented requests from 15 campaign finance committees for waivers of late fees. In response to a question, Mr. DeMarinis explained that denying a request for a waiver does not affect any action being considered by the Office of the State Prosecutor.

The committees requesting a waiver of late fees are:

1. Barnes, Earl W. Committee To Elect
2. Brick, Kelby for Judge
3. Burris, Rodney C. Friends Of
4. Citizens For Responsible Government PAC, Maryland
5. Court House Team/Slate
6. Dwyer, Don Supporters of
7. Evans, John Free Citizens for
8. Flooring Industry PAC MD
9. Greene- Wilson, Monika
10. Greene, Hansel L. for Sheriff
11. James, Walter Lee Friends of
12. Morgan, David Committee to Elect
13. Norkus, Dave Friends of
14. Raines, Phil Friends of
15. Wehrman, Mel Friends of

Mr. Cogan made a motion to adopt the State Administrator's recommendations for the 15 committees requesting waivers of late fees, and Mr. Hogan seconded the motion. The motion passed unanimously.

#### **APPROVAL OF TITLE 14 WAIVER REQUESTS**

Mr. DeMarinis explained the Title 14 filing requirements for businesses and presented requests from seven businesses doing public business to waive assessed late fees and two businesses to waive disclosing certain information about the contracts with the State exceeding \$200,000. The recommendations are based on the fact that these filing requirements are new, and this year's efforts are geared towards compliance.

The businesses requesting a waiver of late fees are:

1. The Columbia Bank
2. CAPSA, Inc. & Grindon Lane, Inc., Joint Venture
3. Allied Contractors, Inc.
4. Recovery Point Systems, Inc.
5. Baltimore Scrap Corp.
6. Quest Diagnostics Incorporated
7. Artesian Water Maryland, Inc.

Ms. Mack made a motion to approve the requests from seven entities to waive the assessed late fees, and Mr. Hogan seconded the motion. The motion passed unanimously.

The businesses requesting a waiver from disclosing certain contract information are Ethicon US, LLC and KPMG, LLP. Ms. Mack made a motion to waive the requirement to disclosure certain contractual information, and Mr. Cogan seconded the motion. The motion passed unanimously.

#### **REVIEW OF CAMPAIGN FINANCE RECOMMENDATIONS**

Mr. DeMarinis summarized two complaints received during the 2014 election cycle on gubernatorial campaigns. There was a discussion about how "coordination" is determined, since State law currently defines "independent expenditure" but does not define "coordination" and how legislation defining this concept may be initiated. Legislation was introduced in the 2015 Legislative Session of the Maryland General Assembly, but it was withdrawn by the legislation's sponsor. In response to a question about whether a campaign can reimburse a volunteer for a car payment, Mr. DeMarinis explained that, while campaigns determine what reimbursements are reasonable, public perception of these reimbursements often set those limits.

## **FINAL REGULATIONS – SPECIAL ELECTIONS CONDUCTED BY MAIL**

Ms. Charlson explained that the proposed regulations for special elections conducted by mail had been published, public comments had been received, and the proposed regulations were ready for further State Board action. She reported that SBE received public comments from the Montgomery County Board of Elections, the Maryland Association of Election Officials (MAEO), and a constituent and summarized the comments.

*Montgomery County Board of Elections:* The Montgomery County Board of Elections requested that vote by mail ballots be canvassed on election night, instead of the Thursday after the election. Under this proposal, election night results would include unofficial results from vote centers and vote by mail ballots received by election day.

Election Law Article, §9-501(f) applies all provisions of the Election Law Article to special elections conducted by mail unless a provision specifically applies to special elections. Because no provision currently addresses the canvassing timeline for special elections, the canvassing timeline for all elections applies to special elections. As a result, the first canvass of vote by mail ballots will be conducted on the Thursday after the election. This issue was thoroughly discussed when these regulations were drafted, and SBE advised a representative from the Montgomery County Board of Elections that legislation would be necessary to implement this request.

### *Maryland Association of Election Officials (MAEO)*

1. MAEO expressed concern about the proposed requirement in 33.21.02.01C that local boards automatically send vote by mail ballots to military and overseas voters under certain circumstances. Previously, federal law required local boards to send automatically absentee ballots to military and overseas voters who requested an absentee ballot in the previous election. This requirement meant that election officials were sending ballots to addresses that could be up to two years old. Because members of the U.S. Armed Forces move frequently, many of these ballots were returned by the United States Postal Service and never reached the voter. Because of the high rate of returned mail, Congress repealed this requirement in 2009.

While the risk of sending a vote by mail ballot to an outdated address exists with the proposed regulation, the risk is lower than when the federal law was in effect. This requirement only applies if the voter submitted a request for an absentee ballot in the same calendar year as the special election. Limiting it to the same calendar year decreases the likelihood that the local board has an outdated address.

2. MAEO recommended that the deadline to request a vote by mail ballot by Internet should mirror the deadline for all other elections (the Friday before election day). Election Law Article, §9-502(e)(2)(i), however, requires that all requests for a vote by mail ballot must be received by the Tuesday before the special election. Without a legislative change, the deadline to request a vote by mail ballot by Internet must be the Tuesday before the special election.
3. MAEO noted that a special election held in a district other than where the local board office is located means that the local board will have to find a voting center and perhaps pay for this location. Election Law Article, §9-503(b)(1) requires that the voting center be located in the district where the special election is held. This means that, if the local board is located outside the district for the special election, the local board must find a voting center and may have to pay to use the location. Without a legislative change, this regulation must remain.

4. MAEO noted its concern that the deadline to submit the proposed allocation plan is the same date as the deadline to transmit vote by mail ballots to military and overseas voters. According to MAEO, the concurrent deadlines may cause resource issues for the local boards. SBE's current contract with a mail house includes preparing and mailing ballots for special elections. As a result, the resources of the local boards should not be stretched because of the concurrent deadlines.
5. MAEO states that a software change for the electronic pollbooks will be required to allow voters who have already received an absentee ballot to vote a regular ballot and asks several questions about how the electronic pollbooks will work in special elections conducted by mail. A software update is not required to implement this requirement. It will require changes to the data transfer process, but these changes will be performed by SBE. The pollbooks will be networked as they are during early voting for a regularly scheduled election; this network prevents a voter from voting more than one regular ballot in an election. The pollbooks will also show when a qualified voter has returned a voted vote by mail ballot. This is different from what occurs in a regularly scheduled election when the electronic pollbook shows when a qualified voter has been sent a ballot. SBE can manage this change. SBE will frequently push to the electronic pollbooks updated MDVOTERS data on received vote by mail ballots. The frequency of the data transfer has not yet been decided.
6. MAEO expressed its concern about allowing voters to drop off voted ballots at voting centers for a special election but not allowing this during a regularly scheduled election. They note that this may cause voter confusion.

In most jurisdictions where elections are conducted mostly by mail, election officials provide receptacles at voting locations for voted ballots. Anecdotally, local election officials in Maryland note that voters often try to drop off voted absentee ballots at early voting centers for a regularly scheduled election. A receptacle at the voting centers provides voters with another way of returning a voted ballot and eliminating the uncertainty about postage costs and reliance on the United States Postal System.

7. MAEO expressed concern that a voter who uses the receptacle at a voting center could also vote a regular ballot at a voting center and asked whether there is a way for the electronic pollbooks to capture that a voter has deposited his or her vote by mail ballot into the receptacle. The current version and 2016 version of the electronic pollbook software will not have this capability. SBE can discuss with ES&S this functionality for future releases.

This scenario about which MAEO is concerned is similar to the scenario of a voter who requests an absentee ballot after the data for electronic pollbooks is generated. Because the voter's record in the electronic pollbooks will not reflect that an absentee ballot has been issued, the voter is permitted to vote a regular ballot. While the voter may have voted two ballots, reports from MDVOTERS and the electronic pollbooks will flag this voter so that the local board of canvassers can reject the absentee ballot during the canvass.

8. If a voter votes and returns two vote by mail ballots, MAEO would like both ballots to be rejected. Election Law Article, §9-501(f) applies all provisions of the Election Law Article to special elections conducted by mail unless a provision specifically applies to special elections. Since current law requires that the ballot with the later date be counted (see Election Law Article, § 11-302(d)(4)(i)), the same standard must apply to special elections conducted by mail. A legislative change would be required to implement MAEO's recommendation.

*Comments Submitted by Lynn Garland*

1. Ms. Garland states that the reference to the State’s “designated means of electronic communication” is not clear. The federal Military and Overseas Voter Empowerment Act required that each State designate electronic means of communicating with military and overseas voters. SBE defined these means in COMAR 33.11.01.03, and they are SBE’s general email address, website, and fax number. A reference to 33.11.01.03 is included in the proposed language of 33.21.03.01.
2. Ms. Garland notes that the voted ballot and the signed absentee oath should be designed to preserve the secrecy of the voted ballot. She states Maryland’s one envelope system for absentee voting (signed oath on the back of the return envelope with the voted ballot inside) jeopardizes the secrecy of the voted ballot, because the voter’s name is printed on the envelope with the voted ballot inside.

COMAR 33.11.04.05D specifies how each canvassing team must review and open envelopes with voted ballots inside. The procedures are written to reduce the likelihood that a voter’s ballot is connected to the return envelope. This process proposed for special elections conducted by mail mirrors the process used for absentee ballots issued during regularly scheduled elections. Ms. Charlson showed the members a sample absentee envelope and how the ballot would be removed and separated from the return envelope.

3. Ms. Garland recommends that the regulation requiring a post-election audit and verification program include the methods and level of auditing. SBE is currently reviewing the existing post-election verification and audit program to identify changes necessary because of the new voting system. Once this initial review is complete, SBE will identify which of these audit requirements apply to a special election conducted by mail and what additional requirements are necessary to verify the integrity of a special election conducted by mail. Specificity can be added when the post-election audit verification program has been revised.

Ms. Charlson explained the members’ options with these proposed regulations. Mr. Hogan made a motion to adopt as final the proposed regulations as they were published, and Ms. Howells seconded the motion. The motion passed unanimously.

**PROPOSED REGULATIONS – CAMPAIGN FINANCE**

Mr. DeMarinis presented the proposed regulations for campaign finance that were tabled at the July meeting. There was a discussion about how the phrase “at the suggestion of” in the proposed 33.20.06B was defined and the importance of defining it.

Mr. Cogan made a motion to publish the proposed regulations in 33.13, 33.14, 33.18, 33.20.01 - .05 and .07 - .08 and table the proposed regulations in 33.20.06 until a definition of “at the suggestion of” could be proposed, and Ms. Howells seconded the motion. The motion passed unanimously.

**PROPOSED REGULATIONS – SAME DAY REGISTRATION**

Ms. Charlson presented the proposed regulations for same day registration and address changes during early voting that were tabled at the July meeting. She summarized the proposed regulations.

Ms. Mack made a motion to publish the proposed regulations in 33.01.01.01, 33.05.04, 33.16.02-.05, and 33.19, and Mr. Hogan seconded the motion. The motion passed unanimously.

### **APPROVAL OF ABSENTEE BALLOT APPLICATION FOR 2016 ELECTIONS**

Ms. Charlson presented the proposed absentee ballot application for the 2016 elections and noted that the only changes from the 2014 election were updates to election dates and deadlines and grammatical changes. [While the version in the meeting folder was not complete, the complete application – instructions and form – was submitted to the board members in advance of the meeting.]

Ms. Mack made a motion to approve the absentee ballot application for the 2016 elections, and Mr. Hogan seconded the motion. The motion passed unanimously.

### **ANNUAL REVIEW OF SBE BY-LAWS**

Mr. McManus presented additional language for the duties associated with §13-103(a) in the *Duties of the State Board and State Administrator*. His proposal added to the existing text: “A summary under this provision does not include a legal interpretation of election law, an opinion on the meaning or scope of election law, or a ruling on a disputed provision of election law.”

There was discussion about whether this additional language would prevent the State Administrator and staff from providing routine but legal interpretations and how requests from committees and candidates could remain confidential as often is requested. In response to a question, Mr. DeMarinis explained that the declaratory ruling process is available for this purpose and he advises candidates and committees of this process.

Mr. McManus made a motion to include in the *Duties of the State Board and State Administrator* his proposed language, and Ms. Howells seconded the motion. The vote on the motion was 3-2 but failed for lack of a supermajority of the appointed members.

Ms. Charlson noted that additional duties had been statutorily created and these new duties had been added to the *Duties of the State Board and State Administrator* document. Mr. McManus deferred to the September meeting the delegation of new duties and adoption of the by-laws.

### **APPROVAL OF LBE BY-LAWS**

Ms. Charlson presented by-laws from ten local boards. She recommended that the State Board approve the by-laws for Allegany, Charles, Garrett, Kent, Somerset, Talbot Counties and request changes to the by-laws submitted by Dorchester, Queen Anne’s, and Wicomico Counties. Ms. Charlson made her recommendation to request changes because three local boards removed provisions that are statutorily required or the new board members did not adopt the by-laws. By-laws for the Montgomery County Board of Elections were received but were deferred because additional information is required.

Mr. Hogan made a motion to approve the by-laws for Allegany, Charles, Garrett, Kent, Somerset, Talbot Counties, and Ms. Mack seconded the motion. The motion passed unanimously.

Mr. Hogan made a motion to accept Ms. Charlson’s recommendations to request changes and resubmission for Dorchester, Queen Anne’s and Wicomico Counties, and Ms. Howells seconded the motion. The motion passed unanimously.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

Rebecca Wilson of SAVE Our Votes explained that the absentee oath could be printed on the back of the sample return envelope and that State law authorizes but does not mandate electronic delivery of absentee ballots to all voters. She also noted that there is no authenticating information on the paper version of the absentee ballot application for the 2016 elections. She noted that the online process to request an absentee ballot requires more authentication than the paper process but the authenticating information for the online process is not closely held information. Ms. Wilson asked the State Board to consider whether it wanted to continue to offer electronic delivery of absentee ballots to voters other than military and overseas voters and whether the mock election would include a post-election audit.

### **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Ms. Howells disclosed that she contributed \$25 to the Prince George's County Republican Central Committee and \$30 to the Southern Prince George's County Republican Club. These contributions were for tickets to events.

### **SCHEDULING OF NEXT MEETING**

The next meeting was scheduled for September 24, 2015, at 2:00 pm.

### **ADJOURNMENT**

Ms. Mack made a motion to adjourn the meeting, and Mr. Hogan seconded the motion. Mr. McManus adjourned the meeting at 4:55 pm.