

August 23, 2007

State Board Meeting  
151 West Street, Suite 200, Annapolis, MD 21401

Attendees: Robert L. Walker, Chairman  
Bobbie Mack, Vice Chairman  
Andrew V. Jezic, Member  
David McManus, Member  
Charles Thomann, Member  
Linda Lamone, Administrator  
Mark Davis, Assistant Attorney General  
Ross Goldstein, Deputy Administrator  
Mary Wagner, Voter Registration Director  
Jared DeMarinis, Candidacy and Campaign Finance Director  
Michael Kortum, Chief Information Officer  
Joseph Torre, Voting Systems and Procurement  
Nikki Trella, Election Reform Director  
Roger Stitt, Voter Registration Division

Also Present: Ginny Terhune, Patuxent Publishing  
John Scheider, MD Election Integrity Coalition  
Joanne Barthman, Wicomico County Board of Elections Deputy Director  
Anthony Gutierrez, Wicomico County Board of Elections Director  
Robert Gladden, Board Member, Wicomico County Board of Elections  
Woody Willing, Board Member, Wicomico County Board of Elections  
Karin Kuntz, Dorchester County Board of Elections Director  
Robert Ferraro, Save Our Votes  
Stan Boyd, Save Our Votes

## **DECLARATION OF QUORUM PRESENT**

Chairman Walker called the meeting to order at 2:45 p.m. and declared that there was a quorum present.

## **APPROVAL OF THE JULY 26<sup>TH</sup> BOARD MEETING MINUTES**

Mr. Jezic made a motion to approve the minutes, and Ms. Mack seconded the motion. The minutes of the July 26, 2007, board meeting were approved unanimously.

## **ADMINISTRATORS REPORT**

### **1. Personnel**

Ms. Lamone informed the Board that Joe Torre has accepted the position as director of the Anne Arundel County Board of Elections. Joe has been a SBE staff member for over 19 years. Joe wears many hats here, including director of the voting system division, procurement officer, and regulations coordinator. Ms. Lamone noted that Joe will be hard to replace, but she wishes him good luck and lots of success in his new job.

Ms. Lamone reported that the SBE personnel office has successfully filled several positions, while continuing to advertise, schedule, assist with position placements throughout the State. In addition, Ms. Jackie Bryley is assisting St. Mary's with their

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upcoming Director's interview process. Ms. Bryley can make time to assist any LBE with recruitment issues and higher-level recruitment appointments.

- Baltimore City's new Election Director is Armstead Jones. Lists have been established for Election Clerk Lead Advanced, interviews were completed 8.5.07 for Election Supervisor II, and a position selection plan has been sent for Election Clerk I position.
- Anne Arundel County's new Election Director is Joe Torre. A position selection plan has been sent to facilitate recruitment efforts for Election Deputy Director III.
- In Carroll County, Election Director interviews were conducted 8.22.07 and the Election Clerk III position will be filled with a position specific recruitment for Carroll County only.
- Howard County has a position specific recruitment for Election Data Application Specialist II, with closing date 8.27.07.
- Dorchester County has an ongoing reclassification for Election Supervisor.
- Kent County's new Election Director is Ms. Cheemeondia Blake, and recruitment for the Election Administrative Assistant II position is closed. A list will be provided by DBM.
- St Mary's County recruitment for an Election Director I position is closed, with a list to be provided by DBM. In addition, Position Specific Recruitment is on going for an Election Data Application Specialist through 8.27.2007.
- Worcester County recruitment for an Election Administrative Assistant I position closed the end of July, and a list will be provided by DBM.
- Charles County reclassification documents for an Election Supervisor II were finalized in early August.
- Harford County has Position Specific Recruitment for an Election Data Application Specialist I, with closing date is 8.27.2007.

A statewide recruitment process to establish an Election Clerk III eligible list is currently ongoing, with closing date 8.31.07. This list of candidates will be used in the near-term by Anne Arundel and Baltimore Counties and Baltimore City to fill vacancies.

## **2. Meetings**

### National Academies Workshop

Ms. Lamone reported that on August 6, 2007, John Clark and Nikki Trella attended a workshop on interoperability of voter registration systems sponsored by the National Academies. The National Academies has a Committee on State Voter Registration Databases, and at this workshop, the Committee members were briefed on the history of the statewide voter registration requirement of the Help America Vote Act, the status of implementation across the country, and purpose and ability of states to share voter registration lists. Ms. Lamone also noted that implementing multi-state sharing of voter registration will prove to be a very big challenge since some states have strict laws that limit what data they can share with other states.

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#### State Political Parties

Ms. Lamone reported that on August 7, 2007, Jared DeMarinis, Donna Duncan and Ross Goldstein met with the State Republican Party regarding the upcoming Presidential election. The meeting focused on the delegate selection plan and ballot design. A meeting with State Democratic Party is scheduled for August 30.

#### Election Security

Ms. Lamone reported that on August 17, 2007, she, along with Ross Goldstein, Michael Kortum, and Patrick Strauch met via conference call with Andrew Lauland, the Governor's Homeland Security Advisor. The purpose of the meeting was to discuss security for the upcoming Baltimore City Primary Election, which will occur on September 11<sup>th</sup> and establish lines of communication. Mr. Lauland noted that there were no specific threats, but that he and the State Police would continue to monitor the situation and coordinate with Baltimore City Police. In addition, Mr. Lauland was provided with a copy of the SBE Disaster Recovery and Incident Management Plan, which he will review and provide feedback. Help was requested from Mr. Lauland with conducting a test of the plan.

### **3. Voter Registration**

#### August Release

Ms. Lamone reported that the software release scheduled for the statewide voter registration system (MDVOTERS) for August 20, 2007 has been postponed due to issues identified during user acceptance testing. With the Baltimore City Primary approaching in September this release will not be placed into MDVOTERS until after that election.

#### New Saber Staff Assigned to Maryland

Ms. Lamone reported that Randy Cobena, Saber's Vice President for Election Systems, met with the Voter Registration and Information Technology Divisions and introduced new Saber personnel assigned to support the MDVOTERS system.

Steve Way is the new Project Manager for the MDVOTERS application. Steve joined Saber after a successful project management career with IBM Corporation. Steve resides in Portland, Oregon and will act as the liaison between the Saber Development Center and SBE. Steve has responsibility for the coordination of releases for MDVOTERS and other project management responsibilities.

Brian Jacobs is the new Saber Helpdesk Manager. Brian comes aboard with extensive experience as a call center manager. In his new position with Saber he will be responsible for maintaining and directing Tier 1 support for the helpdesk, ensuring that a high level of customer service is maintained by the helpdesk.

Saber also announced that Pushkar Rudravajhala will be training to take over the duties of Zubin Pajnigara. Zubin has been an outstanding technical person who has supported the Maryland system since the fall of 2005, as network administrator for the Annapolis Voter Registration Operations Center (VROC) and the COOP site in Cumberland. Their transition will take place between August and September 14 so that both will be here in

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Maryland for the Baltimore City Primary election. Zubin then departs to set up an East Coast development center for Saber in South Carolina.

#### **4. Help America Vote Act**

##### Federal Legislation

Ms. Lamone reported that the latest version of H.R. 811 – Voter Confidence and Increased Accessibility Act of 2007 (also known as the “Holt Bill”) would require Maryland and other jurisdictions using a touchscreen voting system without a voter verified paper audit trail to implement by November 2008 a voting system that uses or produces a voter-verified paper ballot. Many of the other provisions (testing, certification, software disclosures, and audit requirements) have not yet changed. The House has not yet voted on this "compromise" language. The bill is expected to come out of committee in early September. Ms. Mack asked whether implementing an optical scan voting system for 2008 can be done. Ms. Lamone responded that it could not be done.

##### Canvassing Script and Minutes

Ms. Lamone reported that Ms. Trella has drafted sample scripts and minutes for each of the canvasses (Absentee 1, Provisional, Absentee 2, and Post-Certification Canvassing) for use by the local boards. While State law and regulations govern the canvassing process, there continue to be variances in the canvassing process. The election directors or their designees can use the sample scripts to explain each step of the process and use the template for the minutes to create the public record for the canvasses. Several local boards have reviewed the sample script and minutes and provided constructive feedback. The scripts and minutes will be used by Baltimore City in its upcoming primary election, and after incorporating changes identified during the City election, they will be distributed at the upcoming biennial meeting.

##### Challenger, Watcher & Other Election Observers Manual

Ms. Lamone reported that after reviewing instructions for challengers and watchers distributed in 2006 by the State Democratic Party and the State Republican Party, it became clear that SBE needed to provide information on the role of challengers and watchers in the polling place and observers during the canvasses. As a result, staff has drafted a manual for challengers, watchers, and other election observers that explains how to become a challenger or watcher, what a challenger or watcher can and cannot do, and how to observe other election-related processes. Several counties have reviewed the draft manual, and staff has also asked the principal political parties for review and comment before presenting it for Board approval. So far the feedback has been positive.

##### Election Judges' Manual

Ms. Lamone reported that twelve chapters of the 2008 Election Judges' Manual have been posted to the Online Library. Five counties- Allegany, Charles, Howard, Prince George's, and Washington Counties - have submitted customized chapters for review and approval. The remaining three chapters (including forms) and a template for the manual's index will be posted by the end of August. Jaimie Jacobs is also working on updating the training curriculum and "cheatsheets" and will post them when they are finished.

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#### Voter Outreach

Ms. Lamone reported that Ms. Jacobs and Ms. Heath were invited for the fourth year in a row to demonstrate the voting unit and its accessible features at the Maryland Youth Leadership Forum on August 1st. The audience was a group of high school students with various disabilities attending a week-long forum at Bowie State University. Students were also provided with voter registration applications if they were eligible to vote and not already registered.

### **5. Candidacy and Campaign Finance**

#### Candidate Filings

Ms. Lamone reported that as of August 17, 2007, 10 candidates have officially filed for office in the Presidential election.

#### Reporting

Ms. Lamone reported that on August 14, 2007, the 2007 Baltimore City Pre-Primary 1 Campaign Finance Report covering transactions from January 11, 2007 to August 7, 2007 was due. As of August 17, 2007, the division has received approximately 76% of the number of committees required to file. The remaining committees are still required to file the report and are accruing late fees. The maximum late fee for a failure to file is \$250. Mr. Walker asked whether SBE issues press releases regarding the failure to file. Jared DeMarinis responded that no press releases are issued, but committees receive notices from SBE regarding the failure to file or late fees. Mr. Walker requested that a press release be sent which will provide additional notification to candidates and committee officers and help publicly compel timely filing. Ms. Mack asked whether email notification is also provided. Mr. DeMarinis stated that it is currently not provided, but staff is in the process of gathering email addresses from committee officers.

On August 6, 2007, the semi-annual Contribution Disclosure Form, a required filing by either a person who does business with the State involving consideration of \$100,000 or more and makes campaign contributions greater than \$500 to a candidate or a person who provides lobbyist compensation and makes campaign contributions greater than \$500 to a candidate, covering the period from January 1 to June 30, 2007, was due. The Candidacy and Campaign Finance Division received over 190 disclosure forms from qualifying persons. Ms. Lamone noted that this reporting requirement is very convoluted and difficult to enforce since there is no way of knowing who is required to file it. Further, the report receives very little attention or review from the public or press.

Ms. Lamone reported that the Candidacy and Campaign Finance Division has completed an audit of contributors exceeding the \$4000 contribution limit to a single campaign finance entity in an election cycle. The division will mail notices to the contributor and treasurer of the political committee before the end of the month. Mr. DeMarinis stated that there were approximately 385 individuals that had exceeded the limit. Mr. Jezic asked whether the State Prosecutor was informed and whether that office would be taking action. Mr. DeMarinis stated that the State Prosecutor had been consulted and agreed that the first step should be a letter from SBE and the opportunity to correct the over-contribution. Mr. Jezic asked whether egregious violators would be prosecuted and Mr. DeMarinis responded that this was the discretion of the State Prosecutor. Mr. Walker

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asked whether a press release would be issued regarding these over-contributors. Mr. DeMarinis explained that no press release had been planned and that he was waiting for the responses to the letters. Since the determination of an over-contribution is based on data entered by campaign treasurers, there is a need to remove individuals who were misidentified as over-contributors due to incorrect or improper reporting. For example, there are instances where a joint contribution is inaccurately reported as being only from the husband or wife as opposed to split equally among the couple.

Mr. Jezic pointed out that 385 was a lot of violations and therefore noted that a press release would serve as a deterrent and put the public on notice that SBE is checking for over-contributors.

In response to an inquiry from Ms. Mack, Mr. Goldstein stated that this was the first time SBE had undertaken this type of over-contribution analysis. Further, Mr. DeMarinis pointed out that this analysis only covered violations of the contribution limit to an individual committee – not the \$10,000 overall aggregate limit. That type of analysis is very complex.

#### Training Seminar

Ms. Lamone reported that on August 7, 2007, Jared DeMarinis conducted a training seminar on ELECTTrack, its functions and features. Mr. Thomann noted that he had attended one of the classes and that it was very well done.

### **6. Voting System**

#### Conducting the Election Guide

Ms. Lamone reported that the voting system division completed the Conducting the Election Guide used by the local boards to prepare for the 2007 Baltimore City Mayoral and 2008 Presidential Elections. The Guide has been provided to Baltimore City. The guide will be distributed to the remaining 23 jurisdictions after the Mayoral Primary Election.

#### Battery Replacement

Ms. Lamone reported that the Voting System Division has been working with the Phase I (Allegany, Dorchester, Montgomery, and Prince George's) counties to replace batteries in their voting units. The battery back-up power for the voting units has an expected life of 5 years. The batteries of the voting units purchased in 2002 are being replaced. A document describing the process has been developed and distributed to the local boards. The Voting System Team is coordinating support with Towson University to assist those counties that need resources to replace the batteries. Mr. Walker asked how difficult it is to replace the batteries. Mr. Strauch responded that it is not difficult, but requires testing once the replacement is complete. Mr. Strauch also noted that the replacement is done by SBE not Diebold. Ms. Mack asked about the disposal of the old batteries. Mr. Strauch responded that the old batteries will be recycled by the company that is supplying us with the new batteries. A certification of recycling will be provided. Finally, Mr. Thomann asked who was responsible for paying for the batteries. Mr. Strauch responded that, like all voting system costs, the State pays 50% and the counties pay 50%.

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### Encoders

Ms. Lamone reported that the voting system team is in the process of collecting the extra encoders from the local boards. Each local board is encouraged to keep two (2) encoders for each precinct plus 10% spares as a back up for the electronic pollbooks. With the successful implementation of the electronic pollbooks, the local boards should return their encoders to the State, so the State can return the encoders to the vendor for a credit.

## **7. Electronic Pollbooks**

### Software Upgrade

Ms. Lamone reported that electronic pollbook software upgrade training sessions have been conducted at 21 of the 24 LBEs, and the 19 of the LBEs have completed the upgrade. The revised software was demonstrated during the training sessions, and LBE response to the changes has been favorable without exception.

### Pre-Election Testing

Ms. Lamone reported that testing and trial runs have been completed for the MD-Voters data extract, data limit testing, and Logic & Accuracy testing for the Baltimore City Primary on September 11.

### Turnout Projections

Ms. Lamone reported that sample wards have been selected and turnout projection algorithms have been programmed for the voter turnout projection pilot project that will be tested during the Baltimore City primary.

### Municipal Election Support

Ms. Lamone reported that staff will provide support for November 6, 2007 municipal elections in Takoma Park, Aberdeen and Bel Air.

## **8. Baltimore City Elections**

### MDVOTERS

Ms. Lamone reported that the Voter Registration Division and Saber have continued to assist Baltimore City as needed in preparing for their upcoming Mayoral elections.

### Parallel Testing

Ms. Lamone reported that Ms. Heath is organizing parallel testing for the upcoming City elections and trying to find volunteers to work 4-hour shifts on September 11th and November 6, 2007. Parallel testing is a method of testing an electronic voting unit by producing an independent set of results that can be compared against the results produced by the voting unit and is cited as a best practice by election administration and computer experts. Ms. Lamone explained that parallel testing is a method of testing the voting system by simultaneously voting on a direct recording electronic voting unit (DRE) and hand-tallying the votes being cast on the DRE. This process is conducted throughout the day on election day. At end of the day, the hand-tally results and the DRE results are compared in order to confirm the accuracy of the DRE.

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#### Absentee Ballots

Ms. Lamone reported that Baltimore City's absentee ballots, instructions, and applications were printed and delivered for the Primary Election by our ballot-printing vendor. Baltimore City is responding to the absentee requests and is preparing to send the ballots to the voters.

#### Logic and Accuracy Testing

Ms. Lamone reported that Baltimore City is scheduled to perform Logic and Accuracy testing on the voting equipment starting August 15<sup>th</sup> for the Mayoral Primary Election. This effort should be completed by August 31<sup>st</sup>. The equipment includes the touchscreen voting units, electronic pollbooks, optical scan units, and the Election Management System (GEMS) servers. Ms. Lamone noted that all reports from staff and the City indicate that everything is looking good for the upcoming election.

### **9. Information Technology**

#### Web Accessibility

Ms. Lamone reported that SBE has completed correcting the discrepancies to the active website to meet the latest National Accessibility standards. In addition, Natasha Walker is continuing to forge through many historical files to bring them up to the same standards.

#### Technical Upgrade

Ms. Lamone reported that staff has completed the back-up application to both the Email system and Web systems. Additionally, we have installed a new server and application replacing the old SBE data files. This will vastly improve our quality of data storage and retrieval and provide a stronger application as we continue to build our SBE document library.

#### Security

Ms. Lamone reported that the IT department has completed the Security and Disaster Recovery assist visits to all 24 Local Boards of Election. Each Board will be moving forward with completing their own Disaster Recovery Plan on the basis of the new SBE plan now being forwarded. Additionally the new IT Security policy is also being forwarded with the additions noted in the Local Board visits.

### **INTRODUCTION**

Mr. Walker welcomed the representatives of the Wicomico County Board of Elections to the meeting and asked whether they wanted to address the Board. Woody Willing, a substitute member of the Wicomico County Board, asked the Board to consider initiating departmental legislation that would eliminate the distinction between members and substitute members. Mr. Willing noted that he had served in both capacities and, with the exception of being allowed to vote, the time, effort, and responsibilities are the same. The local boards, like the State Board, should be comprised of five regular members. Ms. Lamone stated that while legislation may be considered, she would urge the State Board to wait until after the 2008 election to do so. She feels strongly that no election

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legislation should be offered in this upcoming election year. Mr. Walker stated that this was something that the Board would consider addressing in the future. David McManus asked whether Wicomico County had sought assistance from their local legislative leaders. Mr. Willing stated that they had not, since they think this is a statewide issue that should be initiated by the State Board.

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

Mark Davis reported that the current litigation activity involves three cases stemming from the Green Party lawsuits where the plaintiffs are seeking attorneys fees under a federal law (42 U.S.C. 1988). In each of the cases, the State is contesting the amount of the fee being requested. Mr. Davis also reported that there has been no activity on the Schade litigation. Finally, Mr. Davis reported that he drafted an opinion on administrative contributions, an advice memorandum on filing requirements for presidential candidates, an advice memorandum on the impact of a recent Supreme Court decision, an advice memorandum on reporting of raffle purchases, and responded to a subpoena and an information request.

Mr. McManus asked what prompted the advice memorandums. Mr. Davis responded that the memorandum regarding filing requirements for presidential candidates was not in response to a specific issue. Instead, he was asked to resolve a disagreement among staff about the proper procedures to follow when certain presidential candidates file. The other issues were based on questions posed by Mr. DeMarinis in response to inquiries made by committee officers, candidates and the political parties. Mr. Jezic asked whether there was a process to notify the public about advice sought. Mr. Davis stated that there was not a formal notification process, but the Chief of Opinions and Advice, Bob McDonald, does solicit opinion and information from interested parties when appropriate on certain issues. Mr. McManus requested that staff inform the Board when a memorandum of advice or opinion is sought. This will allow the Board the opportunity to understand the nature of the advice sought and perhaps add to the inquiry.

### **ADOPTION OF BYLAWS**

Mr. Walker withdrew this issue and stated that it will be brought up at the next meeting.

### **REGULATIONS**

Ms. Trella presented for final adoption the proposed changes to Regulation 33.11.03.08B(2)(b) (deadline for mailing an absentee ballot) and the proposed changes to Regulation 33.11.03.08B(2)(a) (deadline for receipt of absentee ballot for a Baltimore City primary election) and Regulation 33.11.04.03 (date of first absentee canvass for a Baltimore City primary election) for withdrawal. Mr. Thomann made a motion to adopt the proposed changes to Regulation 33.11.03.08B(2)(b) as final and withdraw the proposed changes to Regulations 33.11.03.08B(2)(a) and 33.11.04.03, and Ms. Mack seconded the motion. The motion passed unanimously.

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### **FEES FOR ACCESS TO CAMPAIGN FINANCE DATA**

Mr. Goldstein stated that there was a request from Bryan Sears of Patuxent Publishing for the Board to review the policy regarding display of campaign finance data online. Specifically, it had been the policy of the State Board not to post the street addresses of contributors. This policy was initially decided in 2000 when the State Board decided to post campaign finance reports on the website and has been in effect ever since. For a brief period of time when UMBC initially took over hosting the campaign finance database, the street address information was provided online but only when the individual downloaded the report. Once discovered by staff, the street address was removed. Mr. Goldstein also explained that in 2002 a price schedule was established for different data requests. The data requests for campaign finance reports would include the street addresses of the contributors.

Mr. Thomann stated that he viewed this as a transparency issue and therefore urged that the information be provided on the website. Mr. Walker also stated that there was no reason not to provide the information online. Ms. Lamone stated that protecting this information had been the subject of legislation that would likely be revisited if the policy changed.

Mr. McManus made a motion to change the policy to require address information to be posted as part of the online campaign finance database and Mr. Thomann seconded the motion. The motion passed unanimously. Mr. Walker then requested staff to review the current price list in light of the new policy and the Public Information Act.

### **NEXT MEETING**

Mr. Walker announced that the next meeting of the State Board of Elections is scheduled for Thursday, September 27, 2007, at 2:30 p.m.

### **ADJOURNMENT**

Mr. Walker made a motion to adjourn the meeting and go into closed session. Ms. Mack seconded the motion, and the motion passed unanimously. The meeting adjourned at 3:34 p.m.

### **CLOSED SESSION**

The State Board of Elections voted to hold a closed session in order to discuss a personnel matter pursuant to State Government Article, § 10-508(a)(1), and implementing the budget directives of the Department of Budget and Management.