

State of Maryland 
State Board of Elections Meeting – April 24, 2014

Attendees: Bobbie Mack, Chair
David McManus, Vice Chair
Patrick J. Hogan, Member
Rachel McGuckian, Member
Chuck Thomann, Member
Linda H. Lamone, State Administrator
Jeffrey Darsie, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan Assistant Deputy for Election Management
Keith Ross, Assistant Deputy for Project Management
Mary Wagner, Director, Voter Registration
Sarah Hilton, Director, Election Reform and Management
Vicki Smith, Candidacy and Campaign Finance Division
Paul Aumayr, Director Voting Systems
Vince Omenka, Director, Information Technology
Pat Ramallosa, Audit Supervisor, Candidacy and Campaign Finance Division
Tom Feehan, Senior Project Manager, New Voting System Implementation

Also Present: Larry Riley, Mainstay Enterprises
Valeria James, Mainstay Enterprises
Ralph Watkins, League of Women Voters
Barbara Sanders, League of Women Voters
Sharon Manecki, National Federation of the Blind
Berndine Esposito, National Federation of the Blind
Rebecca Wilson, SAVE Our Votes
Lynn Garland
Holly Joseph
Robin Sachs, Election Integrity Maryland
Alysoun McLaughlin, Montgomery County Board of Elections
Lewis T. Porter, Maryland 20-20 Watch
Michael Dresser, *The Sun*
John Wagner, *Washington Post*
Bryan Sears, *The Daily Record*
Glynis Kazanjian, MarylandReporter.com

DECLARATION OF QUORUM PRESENT

Ms. Mack called the meeting to order at 2:07 pm and declared that there was a quorum.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes from the March meeting had been approved by the Chair in advance of the meeting. Mr. Hogan made a motion to approve the minutes, and Mr. McManus seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

Welcome

We are pleased to announce the hiring of Patricia Ramallosa as the Audit Supervisor in the

Candidacy and Campaign Division. She will be in charge of performing in-depth audits of campaign accounts to ensure compliance. Patricia has an extensive background in auditing and developing auditing work plans. Originally from the Philippines, she has worked as an auditor for banks and most recently, the Maryland Department of Transportation where she was a Senior Auditor and highly recommended.

Pew Charitable Trusts' Election Performance Index

Earlier this month, the Pew Charitable Trusts released an updated Election Performance Index, a comprehensive assessment of election administration in the United States. Pew created this index of 17 key indicators to compare election administration policy and performance across states and among election cycles. The updated index adds data from the 2012 elections. According to the index, Maryland is among the “highest performers” and the State’s overall index average increased seven percentage points from 2008 to 2012. The index is available at <http://www.pewstates.org/>. A summary of Maryland’s performance for each indicator was provided in the meeting folder.

Meeting with Gubernatorial Campaign Representatives

On April 23rd, SBE hosted a meeting with counsel and other representatives of the gubernatorial campaigns. Representatives from all of the gubernatorial campaigns attended. During the meeting, we discussed issues on electioneering, robocalls, venue for litigation, and other relevant topics. This is also an opportunity for the campaigns to exchange contact information in case of litigation.

2. Election Reform and Management

Election Judge Training

Rick Urps has started observing election judge training sessions. Earlier this month, he visited Allegany County. Allegany County's election director, Diane Loibel, her staff, and members of the local board of elections provided a comprehensive and effective training session for the election judges. This week, he will observe training in Montgomery County.

Military and Overseas Voter Empowerment (MOVE) Act Compliance

Runbeck Election Services, SBE’s vendor for printing, inserting and mailing absentee ballots, is on target to mail to military and overseas voters (UOCAVA voters) absentee ballots in compliance with the MOVE Act. With input from the local boards, SBE and Runbeck are developing a mailing schedule for absentee ballots to domestic, civilian ballots. After the primary election, we will provide a report – to Federal Voting Assistance Program listing the number of valid UOCAVA ballot requests received and ballots mailed for each county.

HAVA Administrative Complaint

After several attempts, SBE has rescheduled the administrative complaint hearing about the residency of a Harford County voter for Tuesday, May 13, 2014, at SBE. Jared DeMarinis will serve as the hearing officer.

3. Voter Registration

The Canton Group

On April 11th, *The Washington Post* reported on a security breach at the University of Maryland. The article attributed the posting of the University’s President’s Social Security number to Mr. David Helkowski, an employee of the Canton Group. The Canton Group is the primary application vendor for MDVOTERS, the State’s voter registration database. Immediately upon hearing this, Ms. Wagner contacted Bill Schutz, Program Manager with the Canton Group, inquired about Mr.

Helkowski's involvement with MDVOTERS, and requested an incident report. Because the matter is the subject of an ongoing FBI investigation, Mr. Schutz was unable to divulge much information but provided the following statement: "Mr. Helkowski had absolutely no involvement and was never active in any way with the SBE contract. He also had no access to or involvement with MDVOTERS." SBE is confident that this is a true statement, as all key players with direct system access are employees of The Canton Group's subcontractor, ES&S. In response to a question from Ms. Mack, Ms. Wagner explained that Mr. Helkowski did not obtain the social security number from MDVOTERS as he never had access to the database.

Statewide Referendum Petition

On April 18th, advanced determination was granted to Delegate Neil Parrott on SB 212 - Fairness for all Marylanders Act of 2014. The first one third of the required signatures (18,579 signatures) is due to the Secretary of State's office by 11:59 pm on May 31st. Rather than distribute the petition pages to the local boards, SBE will work with a data center to validate the signatures. The deadline for the first third of the signatures to be validated is June 20th. If the sponsor of the petition is successful in reaching the required number of signatures, the second filing for the remaining signatures is due June 30th.

MDVOTERS Software Release

The final software MDVOTERS release prior to the election went into production the weekend of April 18th. Included in this release are improvements to electronic absentee processing, the ability to transfer electronic applications from county to county, and issuing 16 year olds voter notification cards.

Security Update

Security patches for Windows server, Citrix, and Oracle were applied, and during the week of April 21st, SBE's security consultant performed security scans and penetration testing.

4. Candidacy and Campaign Finance (CCF) Division

Fundraising During Session

The fundraising prohibition for the Governor, Lieutenant Governor, Attorney General, Comptroller and members of the General Assembly ended at 12:01 am on April 8th (*Sine Die* was April 7).

Campaign Finance Reporting

On April 15th, the Spring Campaign Finance Report was due for all newly formed political committees that did not file a 2014 Annual Report. Over 93% of the committees timely filed the report, and the remaining committees are being assessed late fees.

Public Financing Fund

As of April 15th, the Mizeur-Coates ticket is the only ticket that has qualified for public contributions from the Fair Campaign Finance Fund. The campaign submitted another request for a disbursement of \$65,224.89. This will bring the aggregate to date for disbursements from the Fund to \$407,558.70.

Election Management System (EMS)

The Board of Public Works approved extending SBE's contract with Computer Sciences Corporation (CSC) through December 31, 2014. CSC supports and maintains EMS, the system that handles candidate filings, ballots, winners and contest lists.

5. **Project Management Office**

New Voting System Replacement (NVSR) Project

Since the last report, we completed or worked on a number of tasks related to this project.

We are pleased to welcome back Pete Pollinger to the NVSR project team as the Deputy Project Manager. As you may remember, Mr. Pollinger started on the team in October but had to take a temporary leave due to other external project commitments. SBE would like to thank John Clark for stepping in on the temporary basis as the Deputy Project Manager and helping us continue to move forward. His last day was April 11th.

SBE is also pleased to announce that Ramon McGee will be joining the Netorian team starting May 1st. As a result, Mr. McGee will be able to continue on as the Technical Writer for the project team, the role that he has served in since June of 2013.

Mr. Feehan and the project team are working on a number of tasks, including working with the Department of General Services to secure a central warehouse, fulfilling the Department of Information Technology's (DoIT) major project documentation requirements, and developing the requirements for SBE's inventory system. The majority of the team and their time and focus is on the Voting System Hardware Request for Proposal (RFP). The team continues to work with DoIT to ensure that the RFP fully represents SBE's and the State's expectations for the voting system and the vendor. By mid-May, the RFP will be developed, reviewed, and out for bid.

Mr. Ross continues to identify and work with other project managers and their projects that are external to NVSR project but have some level of impact on the project. Examples include the same day registration and SBE's Election Management System enhancement projects.

Other

Mr. Ross continues to work with SBE management and staff managing the 2014 Master Schedule. The Master Schedule includes the deliverables and tasks necessary to run an election, special projects, and administrative tasks. Currently, we have bi-weekly "all-hands" review sessions of the current tasks and their statuses.

Mr. Ross continues to work with the call center support and Election Ally helpdesk system vendors in preparation for the primary election. These efforts include finalizing contract agreements, setting up the environments, and developing the timelines for training and support.

SBE received the Criminal Justice Information System Central Repository audit report and was found to be in compliance with all the report findings. There were a few recommendations noted in the report, and Mr. Ross is in the process of documenting the required response. The final report will be provided in the board meeting folder, and we are working on drafting a response.

SBE would like to thank Linda Yienger who just completed her internship service with SBE. Ms. Yienger was one of the most recent graduates from the Legacy Leadership Institute of Public Policy class. SBE has an ongoing relationship with the Legacy Leadership Institute bringing onboard interns that volunteer during the period when the Maryland General Assembly is in session.

On April 1st, Mr. Ross participated in the Annapolis High School mock interview sessions for their students. This effort is part of school's program to help students better prepare for interviews whether it is for employment, the college application process, or for volunteer work.

6. Voting Systems

Ballots

SBE continues its work on ballots for the 2014 Primary Election. As mentioned last month, 645 unique ballot styles were generated for the GEMS databases for the 24 local boards of elections. The local boards have proofed, signed off, and finalized these databases.

The ballot data has also been forwarded to the three ballot printers. One vendor prints absentee ballots and mails them directly to those voters who request absentee ballots, and two other vendors print ballots for provisional ballots and voters who request an absentee ballot in person at the local board office or receive an absentee ballot during a local board's visit to a nursing home or assisted living facility.

Temporary Staff

As with previous elections, SBE is working with a vendor to recruit temporary staff. The current vendor is Kennedy Personnel Services. Each local board will have a county technician, who is employed for eight weeks before the election and two weeks after, and these technicians start on April 28th. Technicians are also being recruited to assist the local boards with logic and accuracy testing and provide election day field support. The logic and accuracy technicians are due to start on May 8th.

Training

As part of the contract with Kennedy Personnel Services, professional trainers are also being recruited. This month, SBE's regional managers conducted "train the trainer" sessions, and the trainers are now conducting election judges' training.

Election Results

SBE is working with Sidus, a web hosting company, to display online election night results. SBE will also have a data feed for the media, including the *Baltimore Sun*, *Washington Post* and some county cable channels.

Election Documentation

The 2014 Conducting the Election Guide has been published. It guides the local boards in the use of the voting system throughout the election process from ballot production to canvass. Input was provided by many at SBE, including a comprehensive review from the regional managers. SBE also published an updated Quick Reference Guide on the electronic pollbooks for election judges. There were no changes to the guide for the touchscreen voting units.

Voting System Certification

The voting system team has been evaluating ES&S' EVS 5.2.0.0 voting system for State certification. This week, the system is with the University of Baltimore for the required usability and accessibility testing. The team has also been reviewing the Technical Data Package and Business Information Package from Hart Intercivic, another voting system vendor that has applied for certification. It is expected that the equipment will be evaluated in a few months. Funding for planning resources has been provided, but the first payment for the new voting system is not expected until FY 16.

7. Information Technology

Secure Disposal of Hard Disk Drives

119 hard disk drives and 15 media tapes were recently securely retrieved from SBE and destroyed by a company called "A Better Way Computer Recycling." The company has since

provided SBE with a Certificate of Destruction with serialized reporting listing the destroyed hard disk drives. This is a Legislative Auditor and DoIT requirement and also adheres to the Department of General Services' guidelines for disposal of such sensitive items.

Firewall Software Update

SBE uses Cisco Firewall appliances to protect the internal computer network. These devices make use of an operating system called the Cisco Adaptive Security Appliance (ASA) software. Due to recent vulnerabilities discovered in the operating system used by Cisco ASA appliances, software updates provided by Cisco were applied to the devices to mitigate the discovered vulnerabilities.

8. Local Boards of Elections

Wicomico County

At its April 1st meeting, the Wicomico County Council rejected the proposed lease agreement for new office and warehouse space for the Wicomico County Board of Elections. In response, the County's administration requested information on ballot storage requirements and the timeline for the new voting system. At the council's April 15th meeting, there was a request for reconsideration of the agreement, and it is expected that the lease agreement will be reconsidered at the May 5th meeting. The Wicomico County Board of Elections has found space to conduct logic and accuracy testing and other election-preparation activities for the 2014 Primary Election. This space is needed because the current warehouse is not climate controlled.

9. Legislation

The following legislation passed both houses in the 2014 Legislative Session.

1. SB 15 - Voter Registration Lists - Reports of Deceased Voters: Provides for the release of information on deceased individuals from certain organizations and allows the local boards to remove any identified individual from the voter registration records. The State Board approved the support of this legislation.
2. SB 438 - Municipal Elections - Inclusion of Offices and Questions on the State Ballot: Authorizes a municipality to request the State Board of Elections to include municipal offices and questions at the end of the State ballot. Filed at request of Ocean City. Municipalities with contests on the State ballot will share in the cost. The application process ensures that the municipality's rules match State rules, and SBE has the authority to approve or reject the application. Ms. Duncan stated that she expects that some of the larger municipalities may be interested in this option.
3. SB 930 - Filing Deadline for Campaign Finance Reports: Alters the campaign finance report filing deadline for the pre-primary report from 4th Tuesday to 5th Tuesday before the primary election and the post-general report from 3rd Tuesday to 2nd Tuesday after the general election. Moves deadlines away from State holidays and allows for better staff support during the filing period. The law does not apply to 2014 Primary Election but future elections.
4. SB 243, SB 918, and HB 991 alters the Board membership for Cecil, Queen Anne's and Talbot counties. Moves from three regular members and two substitutes to five regular members. This arrangement is in place in Allegany, Baltimore City, Caroline, Charles, Frederick, Harford, Somerset, Washington, Wicomico and Worcester Counties.
5. HB 1406 - Signed Voting Authority Cards: Requires local boards to maintain signed voting authority cards for three years, instead of the current 22 months. This was requested by the State Prosecutor because the signed voter authority cards are needed to prosecute double voters.

There were two pieces of legislation that passed and will be placed on the 2014 General Election ballot as questions. HB 1097 - Garrett County - Alcohol Sales on Sunday – is a local referendum and HB 1415 - Special election to fill vacancy for Chief Executive Officer or County Executive – is a constitutional amendment. The final legislative tracking chart was provided in the meeting folder.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Darsie provided the following information:

1. On April 18, 2014, Barbara Kreamer filed an “Amended Petition for Writ of Mandamus, Temporary Injunction, and Preliminary Restraining Order” seeking to require the State Board of Elections to hold an administrative hearing on her residency challenge to the candidacy of Arthur Helton for State Senate in the 34th District and to prevent the State Board from certifying any ballot listing him as a Democratic Party candidate for that office. *Kreamer v. Maryland State Board of Elections*, No. 02-C-14-185386 (Cir. Ct., Anne Arundel County, Md.). SBE has declined to hold an administrative hearing for Mr. Helton, a filed candidate, because § 5-305 of the Election Law Article is the exclusive statutory mechanism for challenging the residency of a candidate.
2. Natalie Cabrera, an individual seeking the Democratic Party nomination for House of Delegates District 47B, has filed an appeal under EL § 12-203(a)(3) to the Maryland Court of Appeals seeking to reverse Judge Green’s order declaring her candidacy void. *Cabrera v. Penate*, Case No. 110, September Term, 2013 (Court of Appeals of Maryland). As of the candidate filing deadline on February 25, 2014, Ms. Cabrera did not meet the party affiliation requirements to run in the Democratic primary. Section 5-203(a)(2)(ii) of the Election Law Article bars an individual from being a candidate for nomination by a political party unless the individual is a registered voter affiliated with that party. The brief on behalf of Appellee Maryland State Board of Elections is due Monday, April 28 and a hearing is scheduled for Wednesday, April 30. Assistant Attorneys General Julia Bernhardt and Jeff Darsie are representing SBE.
3. Judge Rubin of the Circuit Court for Montgomery County last month issued an opinion deciding a case involving electioneering by county employees and spending county funds to oppose a local ballot question. *F.O.P. v. Montgomery County*, No. 370302V (Cir. Ct., Montgomery County, Md.) (Mem. Op., March 19, 2014). The case raises significant questions regarding the types of political activity that governmental units may conduct and, potentially, how statutes and regulations governing campaign finance activity may be applied to governmental units. The County has appealed the decision to the Court of Special Appeals.
4. Assistant Attorney General Sandra Brantley has advised the leaders of the General Assembly that the Supreme Court’s recent decision in *McCutcheon v. Federal Election Comm’n*, No. 12-536, 2014 U.S. LEXIS 2391 (April 2, 2014) makes unenforceable Maryland’s statutory limits on aggregate campaign contributions. EL § 13-226(b)(2). See Advice Letter of AAG Sandra Brantley to Senator Mike Miller, President of the Senate, and Delegate Michael Busch, Speaker of the House (April 8, 2014). In *McCutcheon*, by a 5-4 majority the Supreme Court ruled that provisions of federal law imposing aggregate limits on contributors, see 2 U.S.C. § 441a(a)(3), directly and unnecessarily abridged First Amendment rights and were therefore invalid. Because the same anti-circumvention rationale supports both federal and state restrictions on aggregate contributions, AAG Brantley concluded that the reasoning followed in *McCutcheon* to strike down the federal limits applied equally to Maryland’s limits and stating that “§ 13-226(b)(2) of the Election Law Article is unconstitutional and may not be enforced.”

5. A federal district court judge on April 8, 2014, granted the motion to dismiss of State Board Chair Bobbie Mack against a challenge to Maryland's 2011 congressional redistricting. *Benisek v. Mack, et al.*, Civil No. JKB-13-3233 (U.S.D.C., D. Md., Mem. Op., April 8, 2014). Plaintiffs alleged that the structure and composition of four different congressional districts abridged their representational and voting rights under Article I, Section 2 of the Fourteenth Amendment and under the First Amendment. U.S. District Judge Bredar held the Article I claims to be non-justiciable and, further, that the First Amendment's protection of the rights of political association is no broader than the rights protected under the Fourteenth Amendment.
6. The Court of Special Appeals of Maryland affirmed the Circuit Court for Carroll County in dismissing, for laches, an action filed against state election officials challenging President Obama's eligibility to run for re-election and his right to appear on Maryland's 2012 Democratic Presidential Primary ballot. *Fair v. Walker*, No. 1287, September Term, 2012 (Md. Ct. of Special Appeals) (slip op., April 7, 2014) (unreported). Judge Nazarian's opinion stated: "We agree with the circuit court that Appellants had no excuse for filing their suit so late in the election process and that their delay prejudiced . . . [SBE] and the voting public"

RATIFICATION OF PRECINCT BOUNDARY CHANGES

Ms. Duncan explained that the Cecil County Board of Elections and the Talbot County Board of Elections discovered during the ballot preparation and integration process the need to alter precinct boundaries. Because of time constraints, Ms. Duncan requested and received email approval to change the boundaries for one precinct in Talbot County and six precincts in Cecil County.

Mr. McManus made a motion to ratify the approved precinct boundary changes, and Ms. McGuckian seconded the motion. The motion passed unanimously.

REQUEST FOR POLLING PLACE CHANGE

Ms. Duncan presented a requested change to a polling place in Wicomico County. Because of building renovations, the Pittsville Elementary School is not available for use as a polling place for the primary election. The Wicomico County Board of Elections identified the Pittsville Volunteer Fire Department as a replacement polling place.

Ms. McGuckian made a motion to approve the polling place change, and Mr. McManus seconded the motion. The motion passed unanimously.

APPROVAL OF PROPOSED REGULATIONS

Ms. Charlson presented proposed changes to Code of Maryland Regulations 33.01.05.06. The proposed changes define when the State Board is required to conduct a hearing under its administrative complaint procedure. The Help America Vote Act (HAVA) requires that a complainant be offered a hearing for alleged violations to the Act. The proposed changes give the State Administrator the authority to determine whether a hearing is necessary to decide a complaint regarding a non-HAVA requirement. Mr. Darsie explained that the proposed changes are consistent with other statutes that give hearing officers the discretion to determine whether a hearing is necessary.

Mr. Hogan made a motion to publish the proposed regulations, and Ms. McGuckian seconded the motion. The motion passed unanimously.

The board members had questions about the proposed changes to 33.13 Campaign Financing. Since Jared DeMarinis, Director of Candidacy and Campaign Finance, was unable to attend the meeting, Ms. Mack asked that the board members forward their questions to Mr. DeMarinis and tabled the proposed changes to 33.13.

APPROVAL OF CAMPAIGN FINANCE WAIVER REQUESTS

Ms. Smith presented five requests for waivers of campaign finance reporting late fees.

1. Blizzard, Mike Citizens for
2. Gerczak, (William) for Sheriff
3. Gordon, Brandon Friends Of
4. Green Party, Maryland
5. Next Generation Prince George's Slate

Mr. McManus made a motion to accept staff's recommendations on the waiver requests, and Mr. Hogan seconded the motion. The motion passed unanimously.

ONLINE BALLOT DELIVERY SYSTEM - CERTIFICATION

Public Comments

Ralph Watkins of the League of Women Voters summarized the League's correspondence dated April 14, 2014, supporting removing barriers to voting and the online ballot delivery system assuming that the security measures are in place. A copy of the League's correspondence was provided in the meeting folder.

Robin Sachs of Election Integrity Maryland expressed her concern with online voting and how to authenticate a voter using the system. A copy of Election Integrity Maryland's press release dated April 22, 2014, was provided in the meeting folder. Ms. Mack explained that online voting is not permitted in Maryland and the issue before the State Board was the online ballot marking tool.

Rebecca Wilson of SAVE Our Votes expressed her opposition to the online ballot delivery system because of the inability to authenticate voters and the failure to preserve the secrecy of the ballot. Mr. Darsie explained that there is opposing case law on whether a voter can waive his or her right to a secret ballot. Ms. Charlson noted that a voter could be instructed to tape or otherwise seal the voted ballot to enhance the secrecy of the ballot. A copy of Ms. Wilson's email dated April 24, 2014, was provided in the meeting folder.

IT Security Audit

Ms. Charlson stated that, at the last board meeting, she presented the opportunity to conduct an independent review of the security consultant's review of the online ballot delivery system. SBE used an existing Department of Information Technology contract with Mainstay Enterprises to secure these services. Ms. Charlson introduced Larry Riley, Principal Security Analyst, and Valeria James, IT Auditor, and asked Ms. James to present her findings.

Ms. James provided an overview of her experience in the IT field and performing IT security audits. She has extensive experience in determining if government IT systems are consistent with best practices. As part of her review, she evaluated the procurement process, SBE's security consultant's qualifications, and reviewed the submitted documents.

Ms. James reported that she reviewed the procurement documents, the technical questions asked of each candidate, and the qualifications of SBE's interview panel. She found that the procurement process was adequate to select a qualified candidate and that the interview panel was qualified to make the selection. She also reviewed the selected individual's qualifications and

found him to be well qualified and verified his professional security credentials. In response to a question about whether a security consultant needs to have experience with voting systems to be qualified, Ms. James responded that the methodology used to conduct a security analysis is the same regardless of what tasks the system performs. Ms. James stated that, to maintain her objectivity, she did not interview the current security consultant. She did not check his past performance, and she was not familiar with the security consultant or his firm.

Ms. James explained that she reviewed the documents the security consultant submitted to SBE and found the documentation to be excellent and consistent with best practices and industry standards. In response to a question about the public report, Ms. James stated that she thought the report was thin but explained the methodology he used and his findings and recommendations were clearly articulated in non-public reports.

Summary of State Survey

Ms. Charlson presented the findings of a survey SBE conducted on how other states deliver electronic ballots. 22 states offer online ballot delivery, and 16 of these states have a ballot marking tool. The remaining states email blank ballots as PDFs. Security testing of these systems varied greatly, with Maryland being in the “top tier” of states. Three states allow all voters to use the system, and one state allows military and overseas voters and voters with disabilities to use the system. Almost all states require two or more pieces of information to authenticate the voter, and four states (plus Maryland) have the voter create a password. 16 states allow voters to return a marked ballot electronically. In response to a question from Mr. McManus about how many of the states using online ballot delivery have “no excuse” absentee voting, Ms. Charlson stated that she did not know as this was not part of the requested survey.

Certification Requirements

Ms. Charlson referenced the certification standard table in the meeting folder. She explained that Election Law Article, §9-308.1 defines which of the certification standards for voting system apply to the online ballot marking tool. Two certification standards for voting systems – counting and recording votes accurately and shown to meet specific federal performance and testing standards – do not apply to the online ballot marking tool. The federal testing standards do not apply as the U.S. Election Assistance Commission has not approved specific standards for an online ballot marking tool.

Prior to the meeting, Mr. Darsie provided the State Board members his advice on the State Board’s authority with respect to the online ballot marking tool and the online ballot delivery system. Mr. McManus made a motion to release the memorandum, and Ms. McGuckian seconded the motion. The motion passed unanimously. The advice states that the State Board has the authority to certify the online ballot marking tool, but there is no certification process for the online ballot delivery system.

Mr. McManus noted that the advice was not an official opinion of the Attorney General but the memorandum stated that Mr. Darsie requested several colleagues review and comment on the advice. In response to a question from Mr. McManus, Mr. Darsie stated that he did not know if the Attorney General would sign a formal opinion with this advice. Mr. McManus stated that he did not agree with the advice but felt obligated to follow it.

Ms. Charlson reviewed the certification requirements and how the online ballot marking tool meets those requirements. The State Board members discussed their opinions on the online ballot marking tool and online ballot delivery system. Ms. McGuckian stated that she wanted

assurances that the system was 100% secure, wanted a second security assessment by a consultant with voting system experience or a critic of online ballot delivery, and was uncomfortable with moving forward with the online ballot marking tool. Mr. McManus stated he wanted to take incremental steps with online ballot delivery and preferred monitoring the system for the 2014 Primary and General Elections before deciding whether to certify the online ballot marking tool. Ms. Mack expressed her support for the online ballot marking tool and stated that no system can be deemed 100% secure and that a security consultant does not need to be familiar with voting systems to perform a security assessment. Mr. Hogan stated that he was comfortable with the security measures in place and supported the use of the online ballot marking tool.

Ms. Charlson reminded the members that the online ballot marking tool had been used in the 2012 elections without issue and explained that it was against State policy to select a biased individual to perform a security assessment or try to penetrate the system. To conduct a second security assessment, SBE would be required to procure the services of an objective security consultant. She also explained that if the State Board did not certify the online ballot marking tool, the online ballot delivery system would be used to deliver blank ballots to requesting voters, voters would print the ballot and mark by hand, and during canvassing, the local boards of canvassers would duplicate these ballots manually. Ms. Charlson also explained that voters with disabilities would not be able to mark their absentee ballots independently and SBE's federal funds may be in jeopardy.

There was no motion to certify the online ballot marking tool.

PARALLEL TESTING – SELECTION OF COUNTY

Ms. Mack randomly selected the Garrett County Board of Elections to provide a voting unit for SBE's election day parallel testing.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. McManus requested that the May meeting agenda include correspondence from Caroline County about the salary increases.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

As part of the process of closing his committee, Mr. Hogan stated that his committee made contributions to other committees. Mr. Hogan will provide the board members with a list of the committees receiving his committee's contributions.

SCHEDULING OF NEXT MEETING

The next meeting was scheduled for May 22, 2014 at 2:00 pm. Ms. Lamone stated that the State Board needs to certify the results of the 2014 Primary Election and the certification will need to occur the week of July 7, 2014.

ADJOURNMENT

There was a motion to adjourn the open meeting, and it was seconded. Ms. Mack adjourned the open meeting at 4:20 pm.