

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Bobbie S. Mack, Member
Linda H. Lamone, State Administrator
Jeff Darsie, Assistant Attorney General (by phone)
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy for Election Policy
Keith Ross, Assistant Deputy for Project Management
Paul Aumayr, Director, Voting Systems
Jared DeMarinis, Director, Candidacy and Campaign Finance
Erin Perrone, Director, Election Reform and Management
Mary Cramer Wagner, Director, Voter Registration and Petitions

Also Present: Meryl Governski, Boies, Schiller & Flexner
Mary Kiraly

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 2:15 pm and confirmed that a quorum was present. He stated that the meeting was being recorded and explained the process to address the State Board of Elections.

RATIFICATION OF MINUTES FROM FEBRUARY 25, 2016, MEETING

Ms. Mack made a motion to ratify the approval of minutes from the March 4, 2016, meeting, and Ms. Howells seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

FY2017 Agency Budget

The Senate's subcommittee considering SBE's FY2017 budget voted to reject the Department of Legislative Services' recommendation to defer funding for a new SBE election management system, and the House subcommittee concurred. The full House approved two amendments – one withholding and reserving funds for more wait time analyses and reports and one specifying how to audit paper ballots in the 2016 General Election – to SBE's budget. The full Senate has not yet considered these amendments. The amendment includes some but not all of the post-election audit options SBE will pilot after the primary election.

Ms. Lamone explained that the Department of Budget and Management recently proposed eliminating two vacant SBE positions in FY2017. She stated that we will request that these positions not be eliminated and explain the consequences of losing these two positions.

Election Directors' Meeting

A summary of the March 7, 2016, meeting will be provided. The next Election Directors' meeting (held via conference call) is scheduled for Monday, March 21, 2016.

MEMA Pre-Election Conference Call

Before each election, we schedule a conference call with representatives from the local boards of elections, State and local emergency management offices, National Weather Service, law enforcement officers, and others. For the upcoming election, the conference call is scheduled for Tuesday, April 12th at 2 pm. In addition to providing useful information to election officials, these conference calls serve to educate emergency management officials about elections and build relationships between the various agencies.

LBE Counsel Pre-Election Calls

Before each election, we host several conference calls for counsel to the local board of elections. During these calls, we explain what has changed since the last election cycle, discuss topics that are likely to arise in the upcoming election, and share contact information. The first call was held on March 23, 2016, and 15 local board attorneys participated. Two more calls are scheduled before the election.

2. Election Reform and Management

2016 Primary Election – Absentee Ballots

On March 11, 2016, SBE transmitted emails and Runbeck Election Services, the State's vendor for printing, inserting and mailing absentee ballot packets, mailed ballots to requesting military and overseas voters. We are happy to report that we complied with the deadline established in the federal Military and Overseas Empowerment Act and in response to a request from the U.S. Department of Justice, supplied data on our compliance.

On March 17, 2016, the first round of absentee ballots were transmitted to requesting domestic, civilian voters. This included ballots mailed by Runbeck and emails with ballot log-in information sent by SBE.

As of March 21, 2016, SBE has sent 13,878 emails with information about how to access SBE's online ballot delivery system. Over 7,800 voters have successfully logged into their accounts, and almost 3,700 voters printed their ballots.

Post-Election Audit - Paper Ballots

We continue to work on a pilot program to audit ballots cast in the 2016 Primary Election. The pilot program will include three ways of auditing the ballots – a manual tabulation of digital images of a randomly selected number of ballots, a manual tabulation of digital images of a randomly selected number of precincts, and an automated tabulation of digital images using independent software. We plan to include in our Memorandum of Understanding with the University of Baltimore assistance with statistical analyses and request a proposal from the company that offers automated tabulation software.

3. Voter Registration

MDVOTERS

Historically no development is performed on MDVOTERS software 60 days prior to an election. While no development is currently taking place, the voter registration team is reviewing specifications for Release 6.2 which will involve an ERIC interface. User testing on this release will begin in June.

Electronic Registration Information Center (ERIC)

On February 18th, SBE sent to the local boards approximately 2,000 records for processing. The reports were In-state Duplicates and Social Security Death Records and must be processed by April 1st.

Voter Registration Deadline

The deadline to register to vote and provide updated voter registration information is 9 pm on Tuesday, April 5, 2016. The Voter Registration Division is preparing for this deadline by ensuring that adequate staff is available to process applications and answer questions from the public.

4. Candidacy and Campaign Finance (CCF) Division

Campaign Finance

The deadline to file the Presidential Pre-Primary 1 campaign finance report was March 22, 2016. This report is required only for the political committees participating in the upcoming Presidential/Baltimore City election.

Trainings

The CCF Division continues to offer online trainings for the public and has posted to the MD CRIS website a one hour video showing the basic functions and features of MD CRIS.

Contract Modification

On March 23, 2016, SBE presented to the Board of Public Works a modification to the existing contract with PCC. This modification was necessary to develop and implement a public financing module for Montgomery County. The cost of the modification is \$157,700 and Montgomery County is aware of the costs. The Board of Public Works approved this modification.

5. Project Management Office (PMO)

The PMO continues its support of the NVSR project. See the detailed report on the implementation of the new voting system.

Staffing Contract Management

In addition to other SBE contracts managed by SBE's PMO, the office is also managing the temporary staffing contract. This contract provides temporary, surge staffing for the 2016 elections.

Call Center Support

Logistic work continues between SBE and the Call Center support vendor in preparation for the start of the Call Center support scheduled to take place on Monday, April 4.

Helpdesk System

The PMO is setting up the Election Ally helpdesk system which SBE uses to track questions and issues received during the election period. The system will be set up and ready for use by the start of early voting on April 14, 2016.

6. Voting Systems

Electronic Pollbooks

Most local boards have updated the software for the election day pollbooks. SBE continues to test the software for the pollbooks assigned for early voting pollbooks and hopes to accept the software version this week. In response to a question, Mr. Aumayr explained that the pollbooks

have been used in Maryland since 2006. While the hardware is no longer manufactured, ES&S supports the current hardware and software version.

Ballot Printing

Test decks have been printed and delivered to the local boards. “Test decks” are sets of pre-marked ballots that include each ballot style and at least one vote for each candidate. The test decks include marked pre-printed ballots and ballot activation cards marked by the ballot marking device. Ballot activation cards for the test decks are created using the touchscreen interface and the headset and keypad. The ballots in the test decks are used during pre-election testing to validate the tabulation of the voting system.

SBE’s two ballot printers are currently printing the pre-printed ballots for early voting, election day, provisional voting, and some absentee voting (e.g., the nursing home and assisted living program, in-person requests, and ballot packets mailed after Runbeck stops mailing). We have ordered 2,785,200 ballots, and all ballots must be delivered by April 7th. One vendor has agreed to accommodate last minute requests for additional ballots.

Logic and Accuracy Testing.

The local boards have started the pre-election Logic and Accuracy testing of the voting equipment for the primary election. For each voting location, the local board will test one or more scanners and one ballot marking device. Each scanner will tabulate ballots in a test deck and generate results. The results are compared against the expected results to verify accurate tabulation. The local board then clears the test results and seals the unit for the election.

7. Information Technology

New WAN Circuit for Wicomico County Local Board of Elections’ Warehouse

The Wicomico County Board of Elections requested a new WAN circuit for its warehouse (located at 321 Tilghman Rd, Suite 204, in Salisbury). The new WAN circuit has been installed, and SBE’s IT Division has configured the new network device for that circuit and will be installing the device soon at the site.

Emergency Generator

SBE has rented an emergency standby generator for the upcoming primary election in the rare occurrence of a power outage at SBE. The emergency standby generator will be delivered, installed and tested on April 13, 2016. Within seconds of a power outage, an automatic transfer switch senses the power loss and commands the standby generator to start and then transfers the electrical load to the generator. The emergency standby generator is scheduled to be returned on May 13, 2016.

8. New Voting System Replacement Project

Administrative

SBE continues to host weekly GoToWebinars with the local boards. This forum enables SBE to provide project statuses and address questions or issues. SBE continues to manage and monitor contract agreements related to this project, including addressing issues (*e.g.*, equipment defects, temporary resource requirements) that arise.

Statewide Election Management (SWEM) Network

Background: This network includes: (1) Certified Network which tabulates and reports official election results; (2) Election Night Results Network which tabulates and reports unofficial election results on election night; and (3) Regional Collection Networks to collect

unofficial results from regional locations and transmit to a local board office on election night. The Regional Collection Networks are only used in Baltimore County (5 locations), Montgomery County (7 locations) & Prince George's County (6 locations)

Status: SBE continues to work with ES&S, the local boards, and the county offices of Information Technology on the need to stabilize the network environments and for the county Information Technology departments to notify their local boards of any changes to the networks prior to the changes taking place.

Agency Election Management System (AEMS)

Background: AEMS is the system that ensures that all other systems (e.g., MDVOTERS, the voting system, the pollbooks) can interface and generates the lists of candidates for office and defines the contests. The ballots are then created for the election. After the election, post-election reports are produced. This system needed to be updated to reflect the new voting system and tested.

Status:

1. Programming is complete. Candidates have been identified, contests have been defined, and ballots for the 2016 Primary Election were prepared.
2. Work continues to develop and test the post-election day reports and files that are used to record and report election night results.

Equipment Logistics/Delivery Status

Background: Voting system equipment is comprised of: (1) ExpressVote units (ballot marking devices); (2) DS200 scanners; (3) thumb drives; (4) ballot boxes; (5) ExpressPass printers (ballot activation card printers); and (6) DS850 high speed scanners. Ancillary equipment includes precinct voting booths and carts, hard cases & stands for ExpressVote units for early voting, soft cases for storing and transporting ExpressVote units, accessible tables for ExpressVote units on election day, and ballot transfer bins.

Status:

1. All local boards have all of their voting equipment and supplies, except for a small number of thumb drives that need to be delivered this week.
2. Several local boards have requested additional ballot bins, and others have reported that they will not use all of their ballot bins. These ballot bins will be re-allocated to the counties needing them for the 2016 Primary Election.
3. A local accessibility expert recently notified a local board that the height of the voting booth's writing surface when fitted with accessible legs is too high. The accepted height of writing surfaces is 26-34 inches, and the voting booths with the accessibility legs are over 35 inches high. To resolve this issue, ES&S has collected all of the legs and is adapting them to comply with the accessibility standards.
4. The reconciliation of all the equipment and supplies is an on-going process.

Issue Tracking Process

Status: As of March 22, 2016, the project team is tracking 6 "high" issues – 5 relate to the voting system hardware and one relates to an insufficient inventory of ballot bins. See #2 in Status for "Equipment Logistics/Delivery Status" above.

Documentation

Status:

1. The local boards have the final version of the *Conducting the Election Guide* for the 2016 Primary Election. This version was delivered on March 1.
2. The manuals for election judges are complete. These include the election day manual, instructions and forms for early voting (either as a separate manual or as a supplement to the election day version), and instructions for same day registration and address changes. The local boards customize these manuals and submit them to SBE for review and approval.

Ms. Charlson explained that additional written and verbal instructions for the ballot marking device have been distributed to the local boards. Changes to the election judges' manual are currently being reviewed and will be distributed shortly.

Testing

Status:

1. User Acceptance Testing is complete for the voting system equipment and the Certified and the Election Night Reporting networks.
2. On March 21, 2016, the central network in Wicomico County was successfully moved from the local board's office to the warehouse facility. This move was to facilitate the upload of unofficial election night results.
3. The Talbot County Board of Elections elected to relocate its networks from the main office to their warehouse facility. This work was successfully completed on March 21, 2016.
4. The final regional collection network location was successfully tested on March 24, 2016.
5. The secure connection between SBE and Sidus, the vendor hosting SBE's election results server and website, was successfully tested on March 24, 2016.

Training

Status:

1. ES&S has provided on-site refresher training on ElectionWare and the DS850 high speed scanner and online training for its web results reporting tool. This tool will enable the local boards to produce web-friendly unofficial election night results.
2. Training of the temporary Logic and Accuracy testers finished with a series of one-day trainings on March 14, 15, and 16. These individuals were then deployed to the local boards who requested help with this testing.
3. The training team is finalizing the curriculum for the upcoming election field support (EFS) resource training. This training will be provided to the temporary trainers who will be training the EFS personnel at the local boards.

SBE's Central Warehouse

Status:

1. Efforts continue to reorganize and reduce the space needed in SBE's Central Warehouse. By June 30, 2016, SBE expects to downsize and relinquish the unneeded warehouse space back to the landlord.
2. The Central Warehouse main conference/training room continues to be heavily used for conducting training classes and other meeting events.

Ms. Duncan explained that unofficial results from early voting will be posted about 8:30 pm on election night, and unofficial results from election day voting will likely start arriving about 9 pm. The timing will depend on how quickly the local boards receive the memory devices from

the election judges. As unofficial results are loaded, SBE will update the unofficial results every five minutes.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Darsie did not have a report for this meeting.

APPROVAL OF CAMPAIGN FINANCE WAIVER REQUESTS

Mr. DeMarinis presented requests from 17 committees to waive late fees incurred by the committees. The requesting committees are:

1. Boyce, Tom Republican Committee, Committee to Re-Elect
2. Coalition For A Better Future Slate
3. Currie, Ulysses Friends Of
4. Desabla, Tom For Commissioner
5. District 17 Democratic Team Slate, The
6. District 35 team Slate
7. Ebron, Kenneth Community Run
8. Etienne, Roussan Jr. Friends of
9. Kelley, Delores Citizens for
10. Kiple, Carol M. Friends to Elect
11. Klauda, Sarah Campaign
12. Miles, William M. Citizens to Elect
13. Munyan, Lisa, Citizens for
14. Orem, Vicky L. Citizens To Elect
15. Solesky, Tony The Write Committee for
16. Walsh, Cindy For Mayor of Baltimore
17. Yeagley, Erin Friends of

In response to a question from Ms. Howells, Mr. DeMarinis explained the general grounds for granting a waiver request. They include requests from new filers, delays caused by weather, evidence of serious illness of the treasurer, whether the late fee is the only impediment to closing the account, and whether the amount of the late fee is considered de minimis by the Office of the State Prosecutor. Mr. Hogan noted that, in his review of these requests, he has not seen any pattern suggesting that there are different review standards for incumbent committees and challenger committees.

Ms. Howells made a motion to grant the requests for waivers of late fees and request that SBE reconsider the denial of the request submitted by Friends of Jim Mullin, and Ms. Mack seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 14 WAIVER REQUESTS – REQUESTS TO WAIVE LATE FEES

Mr. DeMarinis explained that no action was required on the entities listed in the memo and accompanying documents. All of these requests were denied. The next filing deadline is May 31, 2016.

ANNUAL REVIEW OF SBE BY-LAWS

Ms. Charlson presented various statutory duties of the State Board and made recommendations as to whether the duty should remain with the State Board or be delegated to the State Administrator and staff.

1. Election Law, §3-204.1(a): May operate an online voter registration system

Ms. Mack made a motion to delegate to the State Administrator and staff this authority, and Mr. Hogan seconded the motion. The motion passed unanimously.

2. Election Law, §9-207(e): Begin printing ballots after 2 days of public display and correct any noted errors

Ms. Mack made a motion to delegate to the State Administrator and staff this authority, and Mr. Hogan seconded the motion. The motion passed unanimously.

3. Election Law, §9-308.1: Online ballot marking tool

Ms. Mack made a motion to delegate to the State Administrator and staff this authority, and Mr. Hogan seconded the motion. The motion passed unanimously.

4. Election Law, §9-503(d): Approve change in voting centers for special elections

The State Board will retain this duty.

5. Election Law, §10-301.1(b)(6): Collaborate with local boards and county governing body to establish an additional early voting center

The State Board will retain this duty.

6. Election Law, §10-301.1(c): In collaboration with local boards, designate each early voting center

The State Board will retain this duty.

7. Election Law, §10-301.1(f): Inform the public about early voting and the locations of early voting centers

Ms. Mack made a motion to delegate to the State Administrator and staff this authority, and Mr. Hogan seconded the motion. The motion passed unanimously.

8. Election Law, §13-235: May institute a civil action on fundraising during the legislative session

Since there is legislation in the 2016 Legislative Session that amends this section, the State Board deferred action on this statutory duty until after the legislative session ends.

9. Election Law, §13-333(b): Certify that all campaign finance reports due on behalf of an individual have been filed

Ms. Howells made a motion to delegate to the State Administrator and staff this authority, and Ms. Mack seconded the motion. The motion passed unanimously.

10. Election Law, §13-334: May investigate and hold a hearing for withholding a salary of an elected official who has failed to file a campaign finance report and failed to pay any late fee

Mr. Hogan made a motion to delegate to the State Administrator and staff the investigative authority and retain the authority to hold a hearing, and Ms. Howells seconded the motion. The motion passed unanimously.

11. Election Law, §13-505(b)(7): County system of public campaign financing shall be subject to regulation and oversight by the State Board

Mr. Hogan made a motion to delegate to the State Administrator and staff the oversight authority and retain the regulation authority, and Ms. Mack seconded the motion. The motion passed unanimously.

12. Election Law, §13-601.1: May impose civil penalty for enumerated violations

Mr. Hogan made a motion to delegate to the State Administrator and staff this authority, and Ms. Mack seconded the motion. The motion passed unanimously.

13. Election Law, §14-104(c)(2): May waive the contract information for persons doing business with the State

The State Board will retain this duty.

14. Election Law, §14-107(c): May impose late filing fees for failure to file by persons doing public business

Mr. Hogan made a motion to delegate to the State Administrator and staff this authority, and Ms. Howells seconded the motion. The motion passed unanimously.

15. Election Law, §15-105(c): Determine the population of the State

Mr. Hogan made a motion to delegate to the State Administrator and staff this authority, and Mr. Cogan seconded the motion. The motion passed unanimously.

16. Election Law, §15-106(a): Authorize the distribution of public campaign funds

Mr. Hogan made a motion to delegate to the State Administrator and staff this authority, and Ms. Mack seconded the motion. The motion passed unanimously.

17. Election Law, §§15-106(b) & 15-106(c) & (d): Allocation of money if State Board determines there is not sufficient money in the Fund and authorize distribution of funds for primary and general elections

Ms. Mack made a motion to delegate to the State Administrator and staff this authority, and Mr. Hogan seconded the motion. The motion passed unanimously.

Mr. McManus referenced the letter from Common Cause Maryland that urges the State Board members to disclose at meetings their attendance at political events. Section 4.2(B)(3) of the draft by-laws currently do not require that the State Board members disclose their attendance. Ms. Howells stated that the State Board is a bipartisan – not non-partisan – board and expressed her support of the draft by-laws. Ms. Mack stated that she represents all voters, not political party, when she serves and does not believe that disclosure is necessary. Mr. McManus stated that he is comfortable with the draft language.

Mr. Cogan proposed a revision to §2.1 to bring this section into compliance the current law about where a member of the State Board can be sworn in. He proposed the following language:

Section 2.1 – New Members

New members must be sworn in by a Clerk of a Circuit Court of Maryland within 30 days of receiving the commission of appointment from the Governor. They must be either sworn in by the Clerk of the Circuit Court of the county in which they reside or, if sworn in another county, must file their commission with the Clerk of the Circuit Court in the county in which they reside.

Ms. Charlson explained that §1.3D requires that a member make a motion and present an amendment at a regularly scheduled meeting of the board and at the next regularly scheduled meeting of the board, make a motion to amend the by-laws.

Mr. Hogan made a motion to accept: (1) the by-laws as drafted except for §2.1, (2) Mr. Cogan's proposed language for §2.1 for consideration at the next regularly scheduled meeting; and (3) the *Delegation of Duties* document, and Ms. Howells seconded the motion. The motion passed unanimously.

APPROVAL OF LBE BY-LAWS

Ms. Charlson presented by-laws for the Carroll, Howard, and St. Mary's County Boards of Elections. She recommended approving the by-laws for the Carroll and Howard County Boards of Elections and requesting changes to the by-laws for St. Mary's County Board of Elections. The by-laws for the St. Mary's County Board of Elections do not include a deadline for taking the oath when an election has early voting.

Mr. Hogan made a motion to approve the by-laws for the Carroll and Howard County Boards of Elections, and Ms. Howells seconded the motion. The motion passed unanimously.

Mr. Hogan made a motion to request changes to the by-laws for the St. Mary's County Board of Elections, and Ms. Howells seconded the motion. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. McManus presented two mailings that were forwarded to him but should have been opened and handled by SBE staff. The first mailing included \$10 in cash for a late fee. Mr. McManus gave Mr. DeMarinis the letter and money. The second letter was from the President of the Baltimore County Board of Elections.

Mr. McManus asked for information on whether 16 years olds can register to vote, how applications from these individuals are handled, and what occurs at a voting location if a 16 year appears to vote. Ms. Wagner explained that Election Law Article, §3-102 authorizes a 16 year old to register to vote, the individual's information is entered into the statewide voter registration system, and the voter receives a voter notification card. Before each election, SBE provides to each local board a report of individuals who will not be 18 years old or older before the general election and instructs the local boards to send letters to these individuals. The letter informs the recipient that, while s/he is a registered voter, s/he is not eligible to vote in the upcoming election because of his or her age. The local boards will be sending 21,000 of these letters before the primary election. These voters' information will not be included in the electronic pollbook, and the only way they can vote would be by provisional ballot.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

No members reported any campaign contributions.

CONFIRM NEXT MEETING

The next meeting is scheduled for Thursday, May 19, 2016, at 2 pm.

ADJOURNMENT

Mr. Hogan made a motion to adjourn the open meeting, and Ms. Howells seconded the motion. The motion passed unanimously. Mr. McManus adjourned the meeting at 3:55 pm.

CLOSED MEETING

Mr. McManus requested a motion to close the board meeting under General Provisions Article, §3-305(b)(13), which permits closing a meeting to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. This exemption would apply to a briefing on a matter that is relevant to the Board's administration of elections but which, according to a specific statutory requirement, may not be disclosed to the public at this time. Meeting in closed session would allow the Board to receive the briefing without violating the statutory requirement to preserve the confidentiality of the matter. Once the statute permits public disclosure of the matter, the closed session minutes may be subject to public disclosure also.

Mr. Hogan made a motion to convene in closed session, and Mr. Cogan seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemption (b)(13) of Section 3-305 of the Open Meetings Act to receive a briefing on a matter that is relevant to the Board's administration of elections but which, according to a specific statutory requirement, may not be disclosed to the public at this time. The open meeting recessed at 3:55 pm.

In addition to the board members present at the open meeting, Mr. Darsie attended the closed meeting by phone, and Ms. Lamone and Ms. Charlson attended.

No action was taken.

The closed meeting adjourned at 4:19 pm.