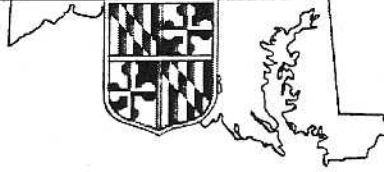


**STATE BOARD OF ELECTIONS**  
**P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840**

Robert L. Walker, Chairman  
Bobbie S. Mack, Vice Chairman  
Rachel T. McGuckian  
David J. McManus, Jr.  
Charles E. Thomann



Linda H. Lamone  
Administrator

Ross Goldstein  
Deputy Administrator

Agenda  
State Board Meeting  
December 17, 2009 – 2:30 P.M.  
State Board Office  
151 West Street, Suite 200  
Annapolis, Maryland 21401

1. Declaration of Quorum Present
2. Approval of Prior Meeting Minutes
3. Additions to the Agenda
4. Administrator's Report
5. Assistant Attorney General's Report
6. Selection of Voting System
7. Regulations
8. Approval of Early Voting Centers
9. Waivers of Campaign Finance Late Fees
10. Old Business
11. New Business
12. Confirm Next Meeting Date
13. Adjournment

**Public Participation**

The members of the public may address the Board on any item on this agenda. Pursuant to §3.2B of the Board's bylaws, public participation at a meeting must be pre-scheduled and pre-approved by the Chairman. To obtain approval to speak at the December Board Meeting, please contact Ross Goldstein at 410-269-2877 or by email [rgoldstein@elections.state.md.us](mailto:rgoldstein@elections.state.md.us) no later than Tuesday, December 15<sup>th</sup> by 5:00 pm.

Attendees: Robert L. Walker, Chairman  
David McManus, Member  
Rachel T. McGuckian, Member  
Linda Lamone, Administrator  
Ross Goldstein, Deputy Administrator  
Jeff Darsie, Assistant Attorney General  
Mary Wagner, Voter Registration Director  
Donna Duncan, Election Management Director  
Paul Aumayr, Voting System Director  
Nikki Trella, Election Reform Director  
Jared DeMarinis, Candidacy and Campaign Finance Director  
John Clark, Voter Registration System Project Manager  
Stacey Johnson, Voter Registration System Deputy Project Manager  
Keith Ross, Project Management Office  
Matt Libber, Project Management Office  
Kathy McClellan, Project Management Office  
Michael Kortum, CIO  
Valerie O'Connor, Budget Director

Also Present: Allison Murphy, Caroline County Board of Elections  
Anthony Gutierrez, Election Director, Wicomico County  
Jerrold Garson, Chairman, Montgomery County Board of Elections  
Mary Kiraly, Member, Montgomery County Board of Elections

Holly Joseph, Save Our Votes  
Stan Boyd, Save Our Votes  
Barbara Sanders, League of Women Voters Maryland  
Gilberto A. Zelaya, Montgomery County Board of Elections  
Wayne Burton, Wicomico County Board of Elections  
Debra E. Hickman, Wicomico County Board of Elections  
Sara Harris, Montgomery County Board of Elections  
Joanne Barthman, Wicomico County Board of Elections  
Walter Maddox, Howard County Board of Elections

#### DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:42 p.m.

#### APPROVAL OF THE PRIOR BOARD MEETING MINUTES

The minutes of the September 24, 2009, board meeting were presented for approval. Mr. McManus made a motion to approve the minutes, and Ms. McGuckian seconded the motion. The motion to approve the minutes was approved unanimously.

Chairman Walker then read the following summary of the September 24<sup>th</sup> closed meeting:

*On September 24, 2009, at 3:45 p.m., the members of the State Board of Elections met in closed session to be briefed by staff and counsel on certain legal and procedural issues regarding the procurement of a new voting system and services, and SBE's budget submission to the Department of Budget and Management. All five members of the Board present at the September 24<sup>th</sup> public meeting voted to have a closed session under the authority provided in sections 10-503(c) and 10-508(a)(14) of the State Government Article of the Annotated Code of Maryland. In addition to the board members, Ms. Lamone, Mr. Goldstein, Ms. O'Connor, and Assistant Attorney General Jeffrey Darsie were present. No actions were taken.*

Mr. McManus made a motion to amend the September minutes to include the close meeting summary, and Ms. McGuckian seconded the motion. The motion to amend the minutes was approved unanimously.

## ADMINISTRATOR'S REPORT

### 1. Meetings and Important Dates

#### Election Directors' Meeting

Ms. Lamone reported that an election directors' meeting was held on Tuesday, October 20<sup>th</sup>. A summary of the meeting was provided in the meeting materials folder.

### 2. Election Reform & Management

#### Regulations Update

Ms. Lamone reported that, in addition to the regulations on the meeting agenda, previously adopted regulations were at various stages of the adoption process. The regulations adopted as final at the September board meeting were published in the October 9, 2009, edition of the *Maryland Register* and were effective as of October 19, 2009. The regulations made changes to Subtitles 13 (Campaign Financing), 15 (Precincts, Polling Places, and Directories), and 16 (Provisional Voting). Notice to the local boards was provided in the October 10<sup>th</sup> edition of the County Bulletin.

The public comment period for the new regulations relating to the site selection process for early voting closed on October 13, 2009, and no public comments were received. Since this new regulation cannot be adopted as final until after October 27, 2009, it will be presented for final adoption at the next board meeting. The anticipated effective date for this regulation is December 28, 2009.

The agency's review of regulations under the Regulatory Review and Evaluation Act is nearing completion. Evaluation reports for 33.05 (Voter Registration) and 33.11 (Absentee Voting) – the final two subtitles – were submitted to the General Assembly's Administrative, Executive, and Legislative Review Committee, and a notice of public inspection of the evaluation reports will be published in the October 23, 2009, edition of the *Maryland Register*. Proposed changes to these subtitles will be presented at the January board meeting.

#### Federal Legislation

Ms. Lamone reported that Congress continues to hold hearings and consider election-related legislation. S. 1415 – Military and Overseas Voter Empowerment Act introduced by Senator Schumer has been amended into S. 1390 – National Defense Authorization Act for FY2010. Since the Senate and House of Representatives passed two different versions of S. 1390, the legislation was sent to conference committee. The conference committee in the House of Representatives passed the legislation with a few minor changes, and the Senate conference committee is expected to meet shortly.

The Subcommittee on Elections of the House Administration Committee is holding a hearing on October 21<sup>st</sup> on H.R. 1719 – Voter Registration Modernization Act of 2009 introduced by Congresswomen Lofgren. This legislation would require election officials to provide on-line voter registration and change of information, use of electronic mail to communicate certain information to certain voters, and authorize the use of Help America Vote Act funds to implement the requirements. While the general intent and timeframe of the legislation is reasonable, some of the provisions are problematic for election officials. Ms. Lamone noted that a summary provided of the most critical issues to counsel of the House Administration Committee was provided with the meeting materials folder. The specific issues of concern include the fact that there is no requirement that the online voter registration system be linked to motor vehicle databases and the elimination of National Voter Registration Act list maintenance procedures which will over inflate voter rolls which in turn will impact polling place planning and equipment allocation.

#### Election Official Preparedness and Professional Development Program

As previously reported, Rick Urps has been developing a certification program for election directors, deputy directors, and staff of the local boards. The program includes courses that will assist local board employees with preparing for an election as well as enhancing their professional development with courses such as project management and managing an election office. On September 29<sup>th</sup>, Keith Ross of the Project Management Office conducted a trial course of Project Management. Ms. Lamone, along with several SBE staff members and several representatives of the local boards, attended this trial course. The course was very well received and will be the first course offered in the program. This course and other courses will likely be presented at the combined SBE biennial/MAEO meeting in May 2010. Mr. Walker asked whether participants would have to complete a certain number of classes in order to achieve certification. Ms. Lamone responded that there were two tracks each with different set of class requirements to obtain certification. One track was for election directors and deputies and the other for staff.

#### Election Judges' Manual Committee

Ms. Lamone reported that the committee continues to work through the 2008 election judges' manual and update and improve it for the 2010 elections and has started identifying and working through issues related to early voting. This committee is doing yeoman's work that will continue through the winter with some of the material awaiting the selection of a voting system.

### 3. **Voter Registration**

#### Data Center Refresh

Ms. Lamone reported that the refresh of the data center is ongoing. The refresh is necessary to replace equipment originally purchased and installed in 2005. Currently, the new components (servers, firewalls, database and system software) are being prepared and tested by the Voter Registration Division team at the VROC data center in Annapolis. Once the testing is complete and the VROC is operational, new equipment will be transported and installed at the COOP data center in Cumberland. The expected date for the full operation of the new data centers is December 31<sup>st</sup>. There will be a required downtime when the system will not be available to users at all. However, this will occur between Christmas and New Year's so the impact will be minimal.

#### Software Release

Ms. Lamone reported that the mock election for MDVOTERS release 2.26 is currently being conducted. The expected completion of the mock election and the release being moved into production is October 25, 2009. Development of early voting software is ongoing.

#### MVA Mailings

Ms. Lamone reported that roughly 15,000 letters have been mailed from MVA to voters and applicants whose registration records either need to be updated or who believe they are currently registered but do not appear in MDVOTERS. The response has been overwhelming.

### 4. **Candidacy and Campaign Finance**

#### Candidate Filing

Ms. Lamone reported that, as of October 19, 2009, 47 candidates have officially filed for the 2010 Gubernatorial Election.

#### Audit of Campaign Finance Reports

Ms. Lamone reported that the Candidacy and Campaign Finance Division has finished its audit of the 2008 election-related campaign finance reports. 105 committees have received deficiency notices. During this review, the most common deficiencies were missing or incomplete address, incorrect entries for reimbursements, and a lack of explanation for expenditures. The committees have until November 13, 2009 to amend their campaign finance reports; otherwise, they will be charged late fees.

#### Training/Classes

Ms. Lamone reported that, on October 8, 2009, Jared DeMarinis spoke at the Farm Bureau candidate training forum on candidate filing and campaign finance requirements for the 2010 elections. It was attended by 30 people. In addition, 30 people have signed up for the Friday, October 23<sup>rd</sup> seminar at the SBE office on campaign finance regulations.

#### Enforcement Actions

Ms. Lamone reported that on September 29, 2009, SBE referred 40 committees for failure to file 2008 Pre-General and Post General Campaign Finance Reports. Additionally, SBE referred over 90 committees for failure to file the 2009 Annual Report. Prior to the referral, every officer has received at least 3 notices from SBE as a reminder to file the report. In response to a question from Mr. Walker, Mr. DeMarinis stated that a notice are sent out 10 days after a report isn't received, an additional notice is sent a few weeks after that, and the final Show Cause notice is sent out approximately 60 days after the full late fee amount has accrued.

### 5. **Voting Systems**

#### Procurement

Ms. Lamone reported that evaluations have started on the responses to the voting system equipment contract and the voting system support services contract.

#### Municipal Elections

Ms. Lamone reported that several local boards have been preparing voting units and conducting Logic and Accuracy (L&A) for municipal elections to be held on November 3<sup>rd</sup>, 2009. These municipalities include



Annapolis, Frederick, Bel Air, Aberdeen and Chestertown. Since pollbooks will be used at these elections, databases, L&A test scripts and control count reports were prepared.

#### Electronic Pollbooks

Ms. Lamone reported that the functional requirements document for pollbook ballot-on-demand printing and client/server capability has been completed. Required changes are currently being programmed under the direction of ES&S' Electronic Pollbook service group in Roseville, California. A pre-release version of the software for testing by SBE is scheduled for delivery in mid-November.

#### Touchscreen Maintenance

Ms. Lamone reported that most local boards – all of Phase II and Baltimore City – have received new touchscreen batteries for the TS units that are to be retained for the 2010 election. The local boards have begun the process of installing these batteries for approximately 3300 voting units.

### 6. **Information Technology**

Ms. Lamone noted the information technology division is busy and noted some of the following actions:

- Updated several SBE hardware/software licenses and support
- Completed Oracle priority patch
- Completed several third party software upgrades/patches
- Posted updated candidate lists to the web
- Provided comparison tables for MVA voter look-ups
- Rebuilt 2 desktop computers and 2 laptops
- Provided expanded memory for and reimaged eight old computers to maintain operability
- Completed several Web site updates
- Completed numerous updates to the on-line library
- Completed monthly updates to PBX
- Facilitated VPN demonstration for future Early Voting Poll Book networking
- Completed material inventory updates to 6 local boards
- Completed updated Accessibility Training – Natasha W.
- Completed update FMIS training – Thomas Q.
- Completed Basic Virtual Ware – Vincent O.
- Processed 1 employee background check and 1 contractor clearance
- Conducted LBE Security audits at Allegany, Howard and Wicomico Boards of Election (for Legislative Audit)
- Updated 34 MDVOTERS user access accounts
- Conducted several MDVOTERS user access analysis for the legislative audit (system audit and LBE audits)
- Conducted a firewall configuration analysis for legislative audit team.

### 7. **Update from Prior Meeting**

#### Legacy Leadership

Ms. Lamone reported that staff has asked five of the ten legacy leaders who attended last month's meeting to fulfill specific internship roles at SBE. The five interns that will be working with SBE are:

1. Tim Lawrence – He has not begun working yet, but we plan to utilize his skills with tracking legislation during session.
2. Robert Bruce – He is working with the voting system team on the planning and execution of mock election testing.
3. LaVera Burnim – She is working with the Candidacy and Campaign Finance Division on reviewing referrals to the Central Collection Unit.
4. Edward Post – He has not begun working yet, but we plan to utilize his skills with a variety of projects including Candidacy and Campaign Finance and voting system project management.
5. Sandra Rayford – She is working on revising SBE's employee manual and other procedures.

The legacy leaders are primarily retired professional and executives and offer a great service.

#### Republican State Central Committee

Ms. Lamone reported that, pursuant to the agreement, the Maryland GOP made its first monthly payment to the Steele for Maryland Committee. The payment and accounts were verified by SBE via its monthly meeting with the Maryland GOP. Additionally, the Maryland GOP has been working on amending all of its campaign finance reports to accurately reflect the debt to the law firm and its subsequent payment by the Steele for Maryland Committee. The amended report issue should be resolved soon.

#### LBE By-laws status

Finally, Ms. Lamone reported that, in the meeting materials, is a status of all of the LBEs in adopting bylaws. There are only three counties that have not adopted bylaws – Baltimore County, Frederick County, and Montgomery County. All have indicated that they plan to take this issue up in the near future.

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

Mr. Darsie reported that on October 19, 2009, a federal district court judge dismissed all claims against all defendants in Kendall v. Howard County Maryland, Civil No. JFM-09-660, (U.S.D.C., D. Md.), among which were claims against defendants Robert L. Walker and Linda H. Lamone, in their official capacities, and against the State Board of Elections ("SBE"). Plaintiffs had challenged a decision of the Howard County Board of Elections not to certify plaintiffs' referendum petition due to their failure to submit the required number of valid signatures before the deadline. In dismissing plaintiffs' claims, the court found that Maryland's petition signature verification standards, set forth in Section 6-203 of the Election Law Article, are "non-discriminatory and content-neutral," as required by the First Amendment. Memorandum Opinion (Oct. 19, 2009) at 10. Assistant Attorney General ("AAG") Sandra Benson Brantley represented SBE in the litigation.

#### **REGULATIONS**

Ms. Trella presented proposed changes to 33.06 (Petitions), 33.07 (Election Day Activities), and 33.08 (Canvassing). She noted that the proposed changes were part of the agency's regulatory review process and included changes to update terminology, procedures, and references to the Election Law Article and suggestions by the local boards of elections. There were no questions or discussion about the proposed changes.

Ms. Trella then presented new proposed regulations for 33.17 (Early Voting) and explained that the proposed language generally tracked existing regulations for election day. Ms. Trella stated that Chapter 03 addresses the public education plan for early voting plan and incorporates the statutory requirements, Chapter 04 relates to preparing an early voting center and how much equipment to allocate per early voting center, and Chapter 05 addresses election judges for early voting. In response to a question from Mr. Walker, Ms. Trella explained the rationale behind the proposed allocation of voting equipment, electronic pollbooks, and ballot on demand printers.

[Pursuant to § 2-102(c) of the Election Law Article, the powers and duties of the State Board may only be exercised by an affirmative vote of a supermajority of the Board. Since a supermajority was not present, the Board did not vote on the proposed regulations.]

#### **APPROVAL OF EARLY VOTING CENTERS**

Mr. Goldstein reported that the Howard County, Harford County, and Dorchester County Boards of Elections had submitted their early voting site selection forms for the State Board's approval. Mr. Goldstein stated that staff had reviewed the forms and supporting materials from each county and found them to be complete and in compliance with the requirements established by the State Board in the recently approved proposed early voting regulations (33.17.02). Generally, the Board reviewed photos, maps, site layouts and population data for each of the sites. It was noted that the proposed Dorchester County site was located in the lobby of the government building in which the local board office was located. While the early voting center could not be closed off and secured during non-voting hours, the equipment and supplies could easily be relocated to and secured in the board office during non-voting hours.

Pursuant to § 2-102(c) of the Election Law Article, the powers and duties of the State Board may only be exercised by an affirmative vote of a supermajority of the Board. Since a supermajority was not present, the Board did not take any formal action to adopt the early voting centers. However, the three members present did indicate that they were inclined to approve the centers presented by Harford, Howard, and Dorchester Counties.

#### **WAIVERS OF CAMPAIGN FINANCE LATE FEES**

Since there was not a supermajority present, the Board did not review or vote to approve requested waivers of campaign finance late fees.

#### **OLD BUSINESS**

##### State Board of Elections Bylaws

Mr. Walker noted that, at the last meeting, the Board unanimously voted to approve the bylaws, subject to a final review and validation of the agreed upon amendments to the bylaws. The bylaws were amended and sent to all of the Board members for review. All of the members indicated that they agreed the bylaws were consistent with the amendments proposed at the September 24<sup>th</sup> meeting. Accordingly, the bylaws are formally adopted and confirmed. Mr. Walker directed staff to post the bylaws on the SBE website.

Public Testimony at State Board Meetings

Mr. Walker reviewed the procedure for a member of the public to address the State Board at a meeting. In advance of the meeting, an individual who wishes to address the State Board must submit to staff a written request, that includes the subject to be addressed. Whenever possible, the request will be honored at the next Board meeting. The participant will either be added to new business or asked to provide his or her input during the relevant subject.

Petition for Declaratory Ruling

Mr. Darsie noted that there was a memorandum from staff regarding the Petition for Declaratory ruling submitted by the Constitution Party Chairman. The memorandum advises no action be taken. Mr. Darsie also noted that a recent clarification memorandum submitted by the Constitution Party presented a slightly different request – specifically a petition for rule making – not a petition for a declaratory ruling. Ms. McGuckian asked whether the new request changed the advice in the memorandum. Mr. DeMarinis stated that it would not. Ms. McGuckian also asked whether the Board had the authority to make the rule change being requested.

**NEW BUSINESS**

There was no new business.

**SCHEDULE FOR THE NEXT MEETING**

The next meeting is scheduled for December 17, 2009, at 2:30 p.m.

**ADJOURNMENT**

Mr. Walker adjourned the meeting at 3:25 p.m.

**1. Announcements**

I am sorry to inform you that Thomas Queen passed away on November 8<sup>th</sup>. Thomas began working at SBE in 1990 while he was still in high school as part of a work study program. Thomas initially served as the office mail clerk. He received computer training and for the past several years served as part of the IT Division. Thomas will be missed in many ways. He filled an important role and was a key resource for the LBEs and campaign finance filers. He was well liked by everyone on the staff and always brought needed humor and lightheartedness to the office.

I am also sad to announce that Peggy Wilkerson retired this month. Peggy worked for the state since July of 1989. According to Peggy, she began her career in elections when her husband signed her up to be an election judge. After serving as judge, Peggy worked as a temporary employee with the Anne Arundel County Board of Elections. Peggy then moved to SBE and worked in the Campaign Finance Division where she was responsible for a variety of different tasks, including the late fee waivers that you will be reviewing today. Peggy did not want any fuss made over her retirement, but I would like to acknowledge her hard work and the conscientious manner in which she completed all of her assignments.

SBE staff contributed over \$300 in contributions and gifts for the Salvation Army Holiday Gift Drive. We bought clothing, food, and toys for an 8 year old girl and her mother. These gifts were presented to the Salvation Army on December 8<sup>th</sup>. The collection was coordinated by Christine Oswald and she did a great job in making sure the family will have a nice Christmas.

As you can see, SBE has undergone several office renovations as part of the lease renewal agreement. The office has been painted and re-carpeted and new doors will be installed at the entrance to the suite and to close off the voter registration division from the main lobby. In addition staff has been (and will continue) working hard to clean up, eliminate unneeded files and supplies, and generally reorganize. While it was often disruptive and messy, the effort was definitely worthwhile. Donna Wiltshire coordinated this project and we thank her for hard work and extra hours spent making sure the project was completed on time.

**2. Meetings and Important Dates**

EAC's Technical Guidelines and Development Committee (TGDC)

Under the Help America Vote Act, the Technical Guidelines and Development Committee was established to develop the voluntary voting system guidelines. The membership of the TGDC includes representatives of the EAC's governing boards – the Board of Advisors (on which I sit) and the Standards Board, representatives of technical and standards associations, representatives of the National Association of State Elections Directors (NASED), and other individuals with technical and scientific expertise relating to voting system. I was appointed to the TGDC as the EAC Board of Advisors' representative and attended my first meeting on December 9<sup>th</sup> – 10<sup>th</sup> at the National Institute of Standards and Technology in Gaithersburg. At this meeting, the TGDC received a briefing on various work being conducted by the EAC, including its Standards and Certification Programs, accessibility grants program, and threat assessment, and an overview and status of the Voluntary Voting System Guidelines.

Election Directors' Meeting

An election directors' meeting was held on Tuesday, November 17<sup>th</sup>. During the meeting, the following topics were discussed: an update on the voting system and electronic pollbooks, an overview of the expected mock election, and how to obtain information from MVA's database. A summary of the meeting will be provided at the board meeting. No election directors' meeting has been scheduled for December.

Local Board Attorneys' Meeting

We held a conference call with the attorneys for the local boards of elections to review the proposed regulations in Subtitle 17 (Early Voting). We provided an overview of the chapters that had been adopted as well as those that are on the agenda for the December meeting.

United States Postal Service



Roger Stitt, Natasha Walker and Nikki Trella met with representatives of the Baltimore Region of the United States Postal Service (USPS) to discuss the mail design approval process (specifically absentee voting envelopes), new postal requirements for election-related mail in 2010, impact of SBE's development of an on-line absentee ballot delivery system, and the impact of bulk mail facilities consolidation. It was a very productive meeting, and we hope to schedule a similar meeting with representatives from the Capital Region.

### **3. Election Reform & Management**

#### Federal Legislation

Congress enacted and President Obama signed into law S. 1390 – National Defense Authorization Act for FY2010 – which included Senator Schumer's Military and Overseas Voter Empowerment (MOVE) Act. Generally, the MOVE Act makes it easier for military and overseas voters to register to vote, vote, and obtain election-related information. One of the most significant requirements of the MOVE Act is to require that States transmit absentee ballots to these voters at least 45 days before an election. States that are unable to meet this 45 day requirement are allowed to submit a request for a waiver of this provision to the Federal Voting Assistance Program. As Maryland is unable to meet this requirement for the gubernatorial general election, we will be submitting a request for a waiver. A memo summarizing the impact of the 45-day requirement on Maryland will be provided at the board meeting. We are currently reviewing the other requirements of the MOVE Act to determine whether any legislative or regulatory changes are necessary.

H.R. 1719 – Voter Registration Modernization Act of 2009 introduced by Congresswomen Lofgren – has had a hearing and is likely to be significantly amended. As introduced, this legislation would require election officials to provide on-line voter registration and change of information, use of electronic mail to communicate certain information to certain voters, and authorize the use of Help America Vote Act funds to implement the requirements. While the general intent and timeframe of the legislation is reasonable, many election officials expressed concern with some of the provisions, and it is expected that some of the provisions will be removed by amendment.

#### HAVA Requirements Payments

As you recall, we amended Maryland's State Plan to prepare for additional requirements payments from FY08 and FY09. The final revised State Plan was submitted to the U.S. Election Assistance Commission and published in the Federal Register. After the publication period, Governor O'Malley and I submitted the required certification, and we were notified last month that Maryland has been awarded \$3,893,622 in requirements payments for FY08 and \$1,810,987 in requirements payments for FY09. We are in the process of submitting the final accounting paperwork and then will receive these funds. These funds are earmarked for specific projects in the proposed FY2011 budget.

#### Election Official Preparedness and Professional Development Program

The inaugural courses of this program will be offered in January and February 2010. The certification program includes courses that will assist local board employees with preparing for an election as well as enhancing their professional development with courses such as project management and managing an election office. The Project Management Course (conducted by Keith Ross) will be offered on Friday, January 15<sup>th</sup> and Friday, February 26<sup>th</sup>, and the Voter Registration Policies and Procedures Course (conducted by the Voter Registration Division) will be offered on Friday, January 22<sup>nd</sup> and another date to be determined. We expect to present additional courses at the combined SBE biennial/MAEO meeting in May 2010.

#### Election Judges' Manual Committee

The committee continues to work through the 2008 election judges' manual and update and improve it for the 2010 elections and has started identifying and working through issues related to early voting. Work will continue through the winter with some of the material awaiting the selection of a voting system.

### **4. Voter Registration**

#### Data Center Refresh

The refresh of the MDVOTERS data centers continues, adding new components (servers, firewalls and software) to prepare for the 2010 elections. In November the Voter Registration Division/Saber team installed and tested new equipment and software at the voter registration data center in Annapolis. During that time all 24 local boards operated using only the Cumberland data center. In December, work begins on the Cumberland site and the local boards will all operate on the Annapolis site.

When both sites are ready, the system will be brought down statewide for four days, December 25-28, to synchronize the databases at the two locations. Local Boards have been notified to make plans for the short downtime; many are closed for furlough and holiday. The expected date for return to full operation of the new data centers is Tuesday, December 29.

#### User Acceptance Testing

User Acceptance Testing of MDVOTERS release 2.27 began Monday, December 14. This is a major release, with 40 changes being made to the system to prepare it for Early Voting. The Voter Registration Division has enlisted the help of local election board experts to test the new software, scheduled to be installed in January, 2010. The next MDVOTERS release will also focus on early voting, and is scheduled for March. These changes are being made based on the joint design sessions held with local election board members this summer.

#### Motor Vehicle Administration Driver's License Verification

SBE is still in dialog with MVA to obtain the remaining 40% of Driver Licenses not yet in MDVOTERS. Cost may be a factor that prevents obtaining this data. MVA would like to split the \$10,000.00 cost, however SBE does not have the money to move forward at this time.

#### New Voter Registration Application (VRA)

Voter Registration Division has redesigned the Maryland VRA form to make it easier to complete and mail back. The data fields on the VRA have been realigned to match the order of the data entry fields in MDVOTERS; this should speed the registration process at local boards, and help during "crunch" times before statewide elections.

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

#### Candidate Filing

As of December 10, 2009, 59 candidates have officially filed for the 2010 Gubernatorial Election.

#### Audits

CCF has finished its audit of the 2008 election related campaign finance reports. 105 committees have received deficiency notices. During the audit review, the most common deficiencies were missing or incomplete addresses, incorrect entries for reimbursements, and a lack of explanation for expenditures. The amendments were due on November 13, 2009. Currently, 62.5% of the committees have filed the Pre-Primary campaign finance amendments, 70% have filed Pre-General and Post-General campaign finance amendments. Non-filers are being assessed late fees.

#### Upcoming Report

CCF is preparing for the 2010 Annual Campaign Finance Report due on January 20, 2010. The transaction period ends on January 13. This report is required for all registered political committees regardless of their election designation.

#### Prohibition on Fund Raising During Session

The fundraising prohibition will begin on January 13 at noon for all current office holders. This prohibition on raising or depositing funds applies to the Governor, Lieutenant Governor, Attorney General, Comptroller and members of the General Assembly.

#### Seminars/Trainings

On December 16, 2009, CCF held a training on using ELECTTrack EFS and electronic filing. As of December 10, 17 people signed up.

The Friday, October 23<sup>rd</sup> seminar on campaign finance compliance was attended by 45 people.

#### Enforcement Actions

On October 29, 2009, SBE referred to the Office of State Prosecutor a complaint regarding vote buying in the mayoral and councilmanic elections in the Town of Hurlock. On November 13, 2009, the Office of the State Prosecutor determined that there was insufficient evidence to merit further investigation and subsequently has closed the case.

On November 4, 2009 SBE referred the following committees to the Office of the State Prosecutor:

- Employees Action Movement- Maryland Classified Employees Association PAC for failure to make disbursements by check, failure to designate a campaign account in a financial institution, and failure to deposit campaign funds into a permissible campaign account
- Committee to Elect Scott Rolle- failure to report all outstanding obligations

#### Republican Party

CCF continues to monitor the Maryland Republican State Central Committee progress in repayment of the outstanding debt to the Michael Steele for Maryland Committee. All parties are in compliance with the MOU.

On December 7, Jared DeMarinis and Ross Goldstein met with the new chairman of the Maryland Republican Party, Audrey Scott and counsel, Bob Ostrom. The meeting was to brief Ms. Scott on the outstanding issues between the Maryland Republican Party and SBE. The meeting was productive and both Ms. Scott and Mr. Ostrom noted their appreciation for Jared's cooperation and willingness to work with them to ensure full compliance with Maryland Campaign Finance Laws.

## 6. Voting Systems

### Electronic Pollbooks - Municipal Elections

A total of 180 Electronic pollbooks were deployed in 7 municipal elections across the State on November 3. Pre- and post- election processes were conducted smoothly by LBEs in conjunction with the ES&S support team, and the electronic pollbooks themselves had no problems whatsoever.

<u>Municipality</u>	<u>Registered Voters</u>	<u>Voted DRE</u>	<u>% Turnout</u>	<u>Pollbooks Used</u>
Aberdeen	8,154	1,855	22.8%	5
Annapolis	22,983	7,904	34.4%	51
Bel Air	6,046	864	14.3%	4
Chestertown	2,603	442	17.0%	3
Frederick	30,647	6,909	22.5%	81
Rockville	33,775	6,127	18.1%	33
Takoma Park	10,893	1,728	15.9%	3
Total Nov 3, 2009	115,101	25,829	22.4%	180

### Electronic Pollbook Software Upgrade

A pre-release evaluation version of ExpressPoll software version 2.6 plus associated EPIC server application upgrades have been received from the ES&S software development team. The software has been installed on electronic pollbooks as well as the EPIC server, and preliminary testing has been conducted for both early voting and election day scenarios.

## 7. Information Technology

### Technical Updates and Activities

- Updated several SBE hardware/software licenses and support
- Completed several third party software upgrades/patches
- Provided updates to the data tables for the Uof M
- Completed several corrections to the latest ELECTTrack release.
- Rebuilt 1 desktop computer
- Upgraded 2 laptops for MDVOTERS
- Completed several website updates
- Completed numerous updates to the on-line library
- Completed monthly updates to PBX
- Received and installed the PBX expansion to add up to 25 additional lines for internal users and Election Help Desk expansion
- Organized a VPN demonstration for future Early Voting Pollbook networking
- Completed material inventory updates to 4 LBEs

### Local Boards and Users

- 4 assists to install/check-out new equipments
- 10 assists with Network issues
- 4 assists to troubleshoot and repair of peripheral devices
- Provided help to 12 campaign committee treasurers
- Completed data file rebuilds for 3 campaign accounts.

Security

- Processed background check for one contractor clearance
- Conducted 15 LBE Annual IT & Physical Security Audits (inclusive of LBE offices, warehouses and some proposed early voting centers)



This meeting was held by conference call. All local boards of elections, except for Garrett and Queen Anne's Counties Boards of Elections, were represented during the conference call.

### **Voting System**

RFP Status – The evaluation process continues to remain on schedule. The contract is expected to be before the Board of Public Works in January or February of 2010.

#### TS Units Assigned for Early Voting

1. *Logic & Accuracy Testing* – Paul explained that the process for conducting L&A on the touchscreen units will be similar to the process used when L&A was conducted on the SUDs units in 2008. Generally, use the fully automated testing process to test all ballot styles, and use the manual testing process to test at least one ballot style.

2. *Flash Drive Capacity* – For early voting in 2006, 128 megabyte flash cards were purchased, and these flash cards should be used for early voting. Each local board should have a sufficient number of these flash cards, but if not, SBE will order more cards.

#### Current Voting System

1. *Upgrades* – Ross reported that SBE is awaiting an evaluation copy of the latest versions of the GEMS and ballotstation software. Once they are received, the changes will be reviewed and a recommendation will be made as to whether any upgrade should take place.

2. *Storage of TS Units at Central Warehouse* – TS units stored at the central warehouse will be stored in county order.

Mock Election – Ross provided an overview of the planned testing and mock election and explained that SBE is in the process of developing a comprehensive plan for testing, including mock election. The draft plan includes, at this point, two phases.

In Phase I, there will be a series of tests verifying the functionality of the equipment and related procedures. These tests will include volume testing, network testing, procedures in the election judges' manual, etc. SBE will be asking for assistance with testing from the local boards. Phase I is scheduled from December 1<sup>st</sup> through April 30<sup>th</sup>.

Phase II, scheduled for June 2010, will be a complete mock election or "dress rehearsal" for early voting through election day. For example, Phase II will include two days of early voting (opening and closing on Day 1, uploading voter history, opening and ending early voting on Day 2), through election day and election night reporting. Again, there will be an opportunity for the local boards to participate in the mock election.

In response to a question about whether the Phase II testing must occur at early voting centers, Ross explained that we are still considering how best to conduct the mock election but if a local board has access and can use its early voting center for the mock election, it would be preferred.

Interface between GEMS and New Voting System EMS – Ross reported that SBE has been looking at the capabilities of ES&S' EMS but will not be able to formalize any process until the new voting system has been selected.

T1 Lines at Early Voting Centers – It is possible that a DSL or wireless connection will be used for connecting early voting centers. Testing of the connection will be part of Phase I functional testing.

Changes to Security Processes and Practices – There will not be an overall change in how we approach the security and integrity of the new voting system. Local boards should expect the same emphasis on the care, custody and control of the new voting system as is expected with the current voting system.

Requirement for Ballot Transfer Cases with Wheels – There is no requirement in the voting system RFP for ballot transfer cases with wheels, but SBE can consider this requirement when evaluating ballot transfer cases.

Other Voting System Questions: In response to a question about voting unit carts, Ross explained that new carts will be provided under the new contract and will be designed to transport both an optical scan voting unit and touchscreen voting units. A local board can keep the carts for the touchscreen units that will be used for early voting and election day; other carts will be used to transport and store the touchscreen units at the central warehouse. As previously reported, LBEs may keep any of the additional carts that they purchased.

### **Electronic Pollbooks**

SBE plans on having an off-site backup to the EPIC server.

### **Voter Registration**

In response to a submitted question about SBE's representative at MVA (Tarsha Jennings) being able to handle requests from all local boards to research potential duplicate records, Mary provided the following information:

- SBE will provide a sample letter that can be sent to potential duplicate voters requesting information to assist with determining whether the duplicate voters are the same person or two different voters. This letter can be used as an alternative to asking Tarsha to conduct research.
- MVA's database does not contain address history. When there is a request for address history, the request is forwarded to MVA's Imaging Department; this request may not be processed promptly.

In response to other voter registration questions, Mary provided the following information:

- Stacey is working on fixing the letters that are printing on two pages.
- If a local board requests MVA research, please email the request to Mary, Roger, Janet, Vince Scott, or Nikki and include the voter's ID number. Someone will respond with information from MVA's database. If a change can be made in MDVOTERS, the local board must:
  - Print the email;
  - Scan and attach the email to the voter's record; and
  - Make the appropriate change in MDVOTERS.

### **Responses to Other Questions**

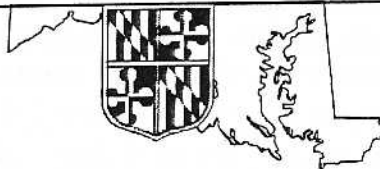
- A signed agreement for an early voting center must be submitted to the State Administrator within 30 days of executing the agreement.
- A revised cost analysis document will be distributed to the local boards with the understanding that the document is confidential and should not be distributed.
- The allocation of ballot on demand printers is one ballot on demand printer for every two electronic pollbooks.
- The formula for ballot on demand printer will be reviewed to assess whether the formula needs to be adjusted if a printer is not available for use.
- Jim Massey reported that, with the bulk rate consolidation, only certain post offices will be able to accept bulk rate mailings.

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**STATE BOARD OF ELECTIONS**  
**P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840**

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Administrator

Ross Goldstein  
Deputy Administrator

**Memorandum**

**To:** State Board Members  
**From:** Ross Goldstein, Deputy Administrator  
**Date:** December 16, 2009  
**Subject:** Participation in Meetings

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Recently, the election director for the Prince George's County Board of Elections (PGBOE) was asked to attend a meeting for the purpose of providing a briefing to the Prince George's County Senate Delegation. As is her practice, Ms. Alexander asked her Board President and Vice President to attend the meeting with her. The Prince George's County Republican Central Committee learned about the meeting and raised strong objections based on the fact that the meeting would not be open to the public (see Attachment 1). As a result of the letter, the PGBOE convened an emergency meeting to determine whether the election director should attend the meeting. They determined she should not attend.

In a subsequent letter (see Attachment 2) from Kenneth Barksdale, President of PGBOE to Prince George's County Senator Nathaniel Exum, Mr. Barksdale states that he will forward this issue to the State Board with a request that the Model Bylaws be amended to provide guidance on this issue.

The Attorney General's Office provided advice (see Attachment 3) to PGBOE that the meeting of the Prince George's County Senators was not covered by the Open Meetings Act. Accordingly participation in such a meeting is not impermissible. The determination on whether to attend is a matter of governance to be determined by the Board.

The Model Bylaws do not directly address this issue. However, the bylaws clearly prohibit partisan activity. The concern of PGBOE was that attending a closed meeting of the Prince George's County Senate Delegation (all of whom are Democrats) could be perceived as taking part in or supporting partisan activities, especially since the meeting is closed to the public. Apparently, the position of the Prince George's County Board is not to take part in any closed meeting that could create the perception of being partisan in nature.

In my view, the position of PGBOE is problematic. PGBOE should certainly make every effort to be non-partisan in its approach when dealing with the public, policy makers, and other stakeholders. But, PGBOE and all election officials have an equally strong obligation to ensure that they are a resource to all parties who seek their expertise. Establishing a condition that election officials will take part in meetings and briefings only if the meeting is open and/or there

is no possible perception of partisanship creates a vague, subjective, and ultimately unworkable standard. The following examples illustrate the problems created:

1. A county council member invites the election director to a private meeting to discuss budget issues. The above policy would require the election director to decline the meeting since it is private and, like most elected officials, the council member is a member of a political party.
2. A Senator calls PGBOE and asked the election director for information on the impact a proposed bill would have on her operations. Again, the above standard would suggest that the question not be answered – or answered at a later date at an open meeting of the Board.

The PGBOE standard is not only inefficient, but would frustrate the ability of state and local policy makers to understand important election administration issues. Instead, a preferable standard is that access to election officials and their expertise will be provided equally to all groups – regardless of political affiliation. Accordingly, in this instance it would have been more prudent for PGBOE to brief the Senators, while assuring the Republican Central Committee of their commitment to provide a similar briefing if requested.

If you are in agreement with this view I will inform Mr. Barksdale accordingly.