Agenda
State Board Meeting
October 25, 2012
2:00 PM
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. Waivers of Campaign Finance Late Fees
7. Requests for Confidentiality
8. 2012 Presidential Election Update
9. Approval of Bylaws
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 a board meeting, please contact Ross Goldstein at 410-269-2877 or by email rgoldstein@elections.state.md.us no later than 5:00 pm the day before the meeting.
1. Meetings and Important Dates

MEMA Conference Call
On Tuesday, October 23rd, the Maryland Emergency Management Agency coordinated a conference call with State and local emergency managers, Homeland Security, weather service, and State and local election officials. A threat assessment was provided along with a report from the National Weather Service on the forecast for early voting. A future meeting was not scheduled, but close communications will be maintained – especially in light of the potential for a significant weather event.

LBE Attorneys – Pre-Election Conference Calls
Before each election, SBE schedules a series of conference calls with attorneys for the local boards of elections. To date, SBE hosted two conference calls and the final one is scheduled for October 31st.
Participation has been good, and we discussed electioneering on private property, ballot questions, challengers and watchers, and post-election requirements.

Election Directors’ Meeting
On October 16th, SBE hosted an election directors’ meeting by conference call. All local boards participated, and we discussed reminders related to the voter registration deadline, the voting system, and challengers and watchers regulations, absentee ballot mailing issues, and the importance of local board member attendance and participation in the canvasses. A copy of the meeting summary is provided in the board meeting folder.

International Observers
As election day approaches there are many groups of foreign visitors interested in U.S. Election Procedures. Representatives from the Organization for the Security and Cooperation in Europe (OSCE) had meetings with SBE staff over the past week to discuss a broad range of election administration topics – including voter registration, re-districting, campaign finance, and voting technology. The OSCE representatives also visited several local boards of elections to observe pre-election preparations. The OSCE will also have a team of observers in Maryland on election day. They will be provided authorization from SBE to enter polling places for observation purposes only. The United States is a member of the OSCE and is bound by the organization to permit election day observation.

Swedish Association of Local Authorities and Regions
On Wednesday, October 24th, nineteen members of the Swedish Association of Local Authorities and Regions came to Annapolis for an overview of our election procedures and technology. Paul Aurnay provided a demonstration of the voting units and pollbooks. Ross Goldstein and I provided an overview of the structure of Maryland election administration and answered questions about election practices in the United States.

2. Election Reform & Management

Election Judges’ Training Observation
Rick Urps completed his observation of election judges’ training classes for the 2012 General Election. In total, he observed trainings in nine different counties. All of the trainings have been sufficient, and he has provided feedback (where needed) to the local boards conducting these trainings. These visits are also part of SBE’s post-election LBE audit and will be referenced in the audit reports after the general election.

Voter Services Website
The voter services website – the voter look-up, polling place locator, online voter registration, and the online ballot delivery system – are working well. Over 10,000 military voters, their spouses and dependents, and voters who live outside of the United States are using the online ballot delivery system for this election. About two-thirds of the voters are using the online ballot marking wizard to make selections with the remaining voters downloading the blank pdf documents and marking the ballot by hand.

3. Voter Registration

Data Entry
SBE staff concluded assisting the LBEs with data entry of voter registration applications. It was a team effort with staff from all divisions participating.
MD VOTERS Precinct Pull
On Sunday, October 21, 2012, Stacey Johnson and Janet Smith completed the necessary steps to create the database of registered voters used to load into the poll books for election day and early voting.

New Voter Registrations
The following is a breakdown of NEW voters from June 1, 2012 through close of registration, October 16, 2012.

- Online voter registration (OLVR) – 46,991 (OLVR went live July 9, 2012)
- MVA – 81,522
- OTHER – 84,084

4. Candidacy and Campaign Finance
Reports
On Friday October 12th, a campaign finance report was due from the ballot issue committees formed to support an issue on the Presidential General Election ballot.

On Friday October 26th the Presidential Pre-General Report is due for committees that are participating in the Presidential Election. The majority of Maryland committees do not participate in Presidential Election. However, all of the ballot issue committees and other committees active with the questions will be required to file the report.

Training
Ruth Maynard and Jared DeMarinis conducted three online campaign finance seminars during the month of October. The classes were attended by 15 people.

5. Voting Systems
Logic and Accuracy
Logic and Accuracy of the voting units is complete, with 697 voting units prepared for Early Voting and just short of 16,800 voting units prepared for Election Day. This took place over the past month by the LBEs with assistance of additional L&A technicians supplied by Cirdan. SBE has received the LBE L&A databases for review.

Logic and Accuracy of the pollbooks began on Monday, following the precinct pull that occurred over the weekend. Approximately 5,000 pollbooks and printers will be used for the election. Staff has also been extensively conducting pollbook testing prior to this L&A process.

Transportation
Delivery of voting equipment for early voting has begun, and will be complete by Friday, October 26th. The pickup for the 46 early voting sites will take place on November 1st, following the close of Early Voting. Deliveries for election day will begin on Monday.

Election Night Results
There has been further testing on the election night unofficial results reporting process, using Logic and Accuracy results. Staff has also been reviewing the election night procedures for both SBE and the LBEs. It is anticipated there will be little change from the 2012 Primary procedures.

Post Election Audit and Verification
Three online training session for the the post election audit and verification requirements were provided for the LBE staff during the week of October 15th. The training provided an overview of the newly adopted regulations and the procedures for conducting the audit and verification using a spreadsheet developed by SBE.

6. Project Management (PM) and Information Technology (IT)
Emergency Generator
An emergency standby generator has been rented for the upcoming Presidential General Elections in the rare occurrence of a power outage at SBE. The emergency standby generator will be delivered, installed and tested on October 25, 2012. 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 will be returned on November 19, 2012.

Disaster Recovery Site Setup at Maryland State Archives
Kurt Snyder has setup a client workstation which was imaged by the IT staff at the Maryland State archives to 4 other client workstations. An Oracle database server was also setup to host the Ballot and Electrack databases
and lastly a sealed GEMS server will be taken over to the disaster recovery site on Friday October 26, 2012 in preparedness of any emergencies on election night.

SBE General Election Helpdesk
The new cloud based Election Ally helpdesk system from Dynamic Path, LLC has been implemented and is now in use by SBE staff to manage issues through the election period. Election Ally will be included in the SBE Help Desk/Command Center workflow for early voting and election day.

General Election Call Center Support
The Call Center support did begin on October 1 for SBE and October 8 for the five participating local boards (Anne Arundel, Baltimore City, Baltimore County, Harford, and Prince George's). As of this past Monday, October 22, approximately 50,000 calls came into the Call Center. The Call Center volume is greater than expected mostly due to the voter outreach mailing to 1.1 million unregistered individuals at the beginning of the month. However, the calls have now settled back to the normal inquiries regarding voter registration, absentee ballot, and questions pertaining to the content of the ballot. Call Center support will continue until the day after election day on Wednesday, November 7th.

7. Election Issues
There have been several issues that have been widely reported in the media. Below is a summary and explanation of those issues.

Missing Page
SBE has received 15 reports from absentee voters that they did not get the second page of their ballot. It should be noted that not all of the voters who reported this problem were fully confident that the second page wasn’t delivered or was just misplaced. Of the 15, four of the voters were from Prince George’s County and the remaining eleven were from Montgomery County. While there is no reason to believe that this is a widespread problem, we are planning to send a team down to Montgomery and Prince George’s County to examine (by weighing) the returned absentee ballots in order to determine whether they were returned with both pages. It is certainly reasonable to expect some voters not to return both pages. Based on prior election information, a rate of 10% not returning both pages is within expected ranges. Accordingly, if our examination discovers over 10% rate of absentee ballots returned with only one page, this would signal a more significant problem (the solution to which is to re-send absentee ballots to those locations).

Incorrect Postal Bar Code
In the first set of absentee ballots mailed out during the first week of October, the postal bar code was incorrect (it did not match the written address). This affected close to 10,000 absentee ballots. As a result of the incorrect bar code, the ballots were routed incorrectly. The majority of those ballots ultimately reached the voters, but they took longer to get there and some were returned as undeliverable. When we became aware of this problem, we decided to re-send the ballots to ensure that there were no unreasonable delays for the voters.

We provided a very prominent notice with the second ballot that informed the voter that if the he or she already received and voted the first ballot to dispose of the second ballot. If they voted the first ballot, but also voted the second ballot – only the second ballot will be counted.

Use of a Vendor for Absentee Ballot Mailing
The postal bar code error and the missing ballot page was made by our vendor, Runbeck Election Services. The press also seemed interested in the fact that we have "outsourced" the absentee fulfillment process. While this is our first year doing so, this is a very common practice in the elections community. The rational for using this type of service is that it saves significant time and resources for the local boards of elections, improves accuracy, and adds mail tracking capabilities.

Unregistered Voters
There were approximately 380 online voter registration transactions that that had a problem causing those applicants not to be registered. The problem was that, due to a software issue in the voter registration system, the image of the individual’s registration application was getting attached to another applicant’s record. This resulted in staff not seeing the application and not entering the application into the voter registration system. All of those applicants are now registered to vote - but some of them did not get into the system in time for their names to appear in the pollbooks. If these voters show up to vote on election day or during early voting they will have to vote a provisional ballot. The ballot will be counted.
ASSISTANT ATTORNEY GENERAL'S REPORT  
October 25, 2012

1. The Court of Appeals on October 23, 2012 issued its written opinion in *Whitley v. Maryland State Board of Elections*, No. 133 (September Term, 2011), a case challenging certain signatures on a referendum petition to refer the congressional redistricting law to the voters at the 2012 general election. The Court had on August 17 affirmed by *per curiam* order the Circuit Court’s decision that signatures affixed to an electronically-generated signature page could be accepted and that the requirement that each signature be attested by a circulator under penalty of perjury did not preclude an individual from attesting to his or her own signature, noting that, whether attesting to one’s own or another’s signature, the circulator’s oath under penalty of perjury was protection against signature fraud.

2. A lawsuit to challenge the write-in laws for presidential candidates of all fifty States was filed September 24, 2012 in federal district court in California. *Draper v. The 50 States Comprising the United States of America*, No. 8:12-cv-01602-SVW-JPR (C.D. Cal.). Plaintiffs seek, in essence, an order requiring every State to accept, count, and report write-in votes for any individual for the office of President, whether or not that individual has officially filed as a candidate in that State. Because Maryland’s laws already require tabulation of all write-in votes, Plaintiffs on October 22 agreed to voluntarily dismiss Maryland and eight other States from the case.
All local boards were represented at the meeting.

**Voter Registration**

1. **Voter Registration Deadline Procedures:**
   a. Transferring forms among local boards: Mary thanked the local boards for quickly transferring to other local boards forms and asked that they continue to do so.
   b. SBE processing of forms: Starting Friday, SBE will process all forms received by SBE.
   c. Generating data for the electronic pollbooks: At 1 pm on Sunday, October 21st, MDVOTERS will not be available so that SBE can generate the electronic pollbook data.
   d. VR processing assistance: Mary offered to assist local boards with processing voter registration forms.

2. **ERIC:** Because there was no timely report, SBE loaded and verified DHMH data from 1990 through 2004. When necessary, voters' records were cancelled. Chere' recently loaded into MDVOTERS a small DHMH file that needs to be processed.

3. **MDVOTERS Outage:** MDVOTERS' outage yesterday was caused by a NetworkMD router. NetworkMD was very responsive, and MDVOTERS was up and running very quickly. Mary reiterated the importance of reporting to the MDVOTERS' help desk all issues immediately. NetworkMD is on alert that this is a critical time for election officials.

4. **OLVR/MVA Interface Statistics:** Since the MVA interface was implemented in February 2012, 492,275 records or 3,000 records/day were processed. Since OLVR was implemented in July 2012, 107,383 records were submitted. By 9 am on October 16th, over 1200 records were submitted.

5. **OLVR as of Close of Registration:** When voter registration closes at 9 pm, OLVR will only be available for already registered UOCAVA voters requesting an absentee ballot. If a UOCAVA voter uses OLVR to register to vote, SBE will send the individual an email telling him or her that the deadline to register to vote has passed. Local boards do not need to remove links to OLVR as SBE's website will display a message saying that OLVR is no longer available. SBE will start the upload process earlier today to ensure that all OLVR records are loaded and ready for processing on October 17th. Mary will report back on when OLVR batches will be loaded today.

**2012 General Election**

1. **Absentee Ballot Mailing by Runbeck:** Ross identified the following issues with mailed absentee ballots:
   a. Envelope images on Runbeck’s portal: Initial mailings do not include images of all envelopes. These envelopes were mailed; the images are just sometimes not available. Internet Explorer does not display images, while Firefox and Chrome do.
   b. USPS scan rates: The scan rates by USPS are lower than expected. SBE is working with the USPS on why this is happening. The lower scan rates mean that we are unable to provide specific tracking information to voters. While the scan rates statewide are improving, Montgomery County indicated that the scan rate is decreasing.
   c. Incorrect Intelligent Mail Barcode (IMB): The IMB is the barcode above the voter’s mailing address, and there are several thousand of ballot packets that have the wrong IMBs for the voter. SBE and Runbeck had a conference call yesterday with the affected local boards and there will be another conference call today to identify next steps. If affected voters need their ballots, the local board should issue a replacement ballot. If a local board needs more ballots, please let Rick know.
d. Sending via 1st class: After discussion, SBE will direct Runbeck to begin mailing packets via 1st class mail.

Track My Mail Information: Ross will follow up with Runbeck about what “in home” delivery date means when it is blank and what the various codes mean.

2. **Call Center**: The call center has handled almost 30,000 calls to date. SBE provided the call center with the phone numbers of non-participating local boards. These local boards may receive referrals from the call center.

### Voting Systems

1. **CF cards for electronic pollbooks**: Paul reported that the CF cards should be ready about 11 am on Monday, October 22nd.

2. **L&A Databases**: Paul asked each local board to put in the inbox a copy of the final L&A database. This copy can also serve as an off-site storage.

3. **Flier with timeout and scroll bar messages**: This flier will send with Friday's County Bulletin.

4. **Election Results and Reporting**: Except for updated dates, there are no changes from the primary election.

5. **Extra and Reserve Voting Units**: Paul will get specific delivery dates for local boards receiving extra voting units. Local boards should deploy the quantities of voting units they need and not try to maintain the 10% units in reserve.

### Other Topics

1. **Election Observers**: Ross reported that OSCE representatives are in the United States to observe pre-election activities. Ross may contact local boards and ask that they show these individuals around their local board offices.

2. **MEMA Conference Call**: On October 23rd at 10:30 am, MEMA will host a conference call with representatives of State and local emergency management, law enforcement, and election officials. During this call, there will be a discussion about security and weather-related planning. MEMA will notify local emergency management and law enforcement agencies.

3. **Challengers & Watchers**: Nikki reminded the local boards about the 3 substantive differences in the challengers and watchers regulations:
   a. Location in Voting Room – Chief judges decide where challengers and watchers can sit or stand in the voting room. They must be able to see or hear voters check in to vote, but there is no requirement that the challenger or watcher must be able to see the electronic pollbooks.
   b. Access to Voting Room – Challengers or watchers must be granted access as long as they arrive 30 minutes or more before voting starts. If they arrive 30 minutes or less, they must wait until voting starts.
   c. Designating Entities’ List of Challengers and Watchers – Designating entities are required to submit the names of individuals they designated, but there is no date by which the entity must submit this list. If a designated entity does not submit a list of names, this does not prevent one of its challenger and watcher from serving as such. If the challenger or watcher has a signed certificate, the challenger or watcher can enter and stay in the voting room.

4. **Bipartisan Representation at Canvass**: If a local board of canvassers does not have bipartisan representation during a canvass, the local board must delay the canvass until it has it. Ross will send to all local board members a letter stressing the importance of attending canvassing and other election critical events.

5. **Precincts to Estimate Turnout**: Ross will send a list of precincts that will be asked to provide turnout on election day.

### Closing

Linda thanked the local boards for their hard work and recognized how busy they are and SBE is working hard to smooth out the kinks in the system.
State of Maryland
State Board of Elections Meeting – September 27, 2012

Attendees:

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<th>Bobbie Mack, Chair</th>
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<tr>
<td>David McManus, Member</td>
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<td>Rachel McGuckian, Member</td>
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<td>Chuck Thomann, Member</td>
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<td>Patrick Murray, Member</td>
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<td>Linda Lamone, Administrator</td>
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<td>Ross Goldstein, Deputy Administrator</td>
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<td>Jeffrey Darsey, Assistant Attorney General</td>
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<td>Donna Duncan, Election Management Director</td>
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<td>Nikki Charlson, Election Reform Manager</td>
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<td>Paul Aumayr, Director, Voting Systems</td>
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<td>Keith Ross, Assistant Deputy for Project Management</td>
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<td>Mary Wagner, Voter Registration Director</td>
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<td>Victoria Smith, Campaign Finance</td>
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<td>Michelle Holland, Chief Financial Officer</td>
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Also Present:

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<th>Robert Walker</th>
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<td>Barbara Sanders, League of Women Voters of Maryland</td>
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<td>Mary Ann Keeffe, Montgomery County Board of Elections</td>
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<td>Mary Kiraly, Montgomery County</td>
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<td>Holly Joseph, Montgomery County</td>
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<td>Lynn Garland, Montgomery County</td>
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<td>J.H. Snider, iSolon.org</td>
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DECLARATION OF QUORUM PRESENT
Vice-Chairman Mack called the meeting to order at 2:00 pm and declared that a quorum was present.

Robert Walker introduced Patrick Murray, who was recently appointed to serve as a member of the Board. Mr. Murray is the director of State affairs at Johns Hopkins University. Prior to that position, Mr. Murray served for six years in various positions with General Assembly leadership offices. With this appointment, Mr. Walker stated that his five and half year tenure with the Board has come to an end. He thanked the Board for their support and collaboration.

Bobbie Mack thanked Mr. Walker for his service to the Board and his 18 month extension while a replacement member was sought. Ms. Mack presented Mr. Walker with a plaque acknowledging his service and commitment to the State Board of Elections and the voters of Maryland.

ELECTION OF OFFICERS
Ms. Mack noted that the Board needed to select new officers and asked for nominations. Mr. Thomann nominated Bobbie Mack to serve as Chairman of the Board and for David McManus to serve as Vice Chairman of the Board. The nominations were unanimously approved.

APPROVAL OF THE PRIOR BOARD MEETING MINUTES
The minutes of the August 23, 2012, board meeting were presented for approval. The minutes were approved unanimously.

ADMINISTRATOR'S REPORT
Ross Goldstein presented the Administrator's Report.

1. Meetings and Important Dates
   Staff provided an orientation program for Kevin Keene, the recently appointed Harford County Election Director. While Mr. Keene is familiar with elections as a former board attorney and board member, the orientation was designed to familiarize him with the specific requirements of the LBE Audit and ensure that he understood the areas that SBE will be reviewing after each election. Ross Goldstein and Paul Aumayr provided an overview of the voting system requirements; including logic and accuracy testing, post election maintenance, post election audit and verification, and general security protocols. Nikki Charlson and Rick Urps provided an overview of the requirements for canvassing minutes and related
documentation, the polling place evaluation program, and election judge training. Finally, Mary Wagner and Janet Smith provided an overview of the voter registration critical data oversight and list maintenance requirements. Each session was conducted in Harford County and included several members of the staff.

2. Election Reform & Management

Compliance with the Military and Overseas Voter Empowerment (MOVE) Act
Under the federal MOVE Act, election officials must transmit to certain military voters, their spouses and dependents and voters who reside outside of the United States ("UOCAVA voters") absentee ballots on or before the 45th day before an election. If a UOCAVA voter requested an absentee ballot prior to the 45th day before an election, election officials must transmit the ballot - by the means the voter requested - by the 45th day. Requests received from UOCAVA voters after this date must be processed as quickly as possible.

For the 2012 General Election, the 45th day before the election was Saturday, September 22, 2012. On Friday, September 21st, over 5,000 emails were sent to UOCAVA voters who requested electronic absentee ballots. On Friday, September 21st and Saturday, September 22nd, Runbeck Election Services, SBE's vendor for preparing and mailing absentee ballot packets, mailed over 2,400 absentee ballots to UOCAVA voters. There were a handful of requests received on September 20th and September 21st, and ballots for those requests were either emailed on September 24th or mailed no later than September 25th. This information was provided to the U.S. Department of Justice.

Voter Services Website
All four components of the voter services website - voter look-up, polling place locator, online voter registration, and the online ballot delivery system - are now live and available and being used. On September 21st, the last component to be activated - the online ballot delivery system - went live for over 5,000 military voters, their spouses and dependents, and voters who reside outside of the United States. These voters requested an electronic absentee ballot and can use either the online ballot marking wizard to make their selections and print a ballot with their selections or download and print a blank ballot and vote the ballot by hand.

Ms. Mack asked about an email the Board received from Rebecca Wilson of SaveOurVotes.org and several computer scientists regarding alleged vulnerabilities to the online voter registration system. Specifically, Ms. Wilson contends that since there are websites that can calculate a driver's license number based on the individual's name and date of birth, a bad actor could utilize the system to create or change numerous voter registrations. In response, Mr. Goldstein noted that staff has looked at the report and are taking it very seriously. From the initial analysis of the report, it appears that the existing procedures and practices already address many of the concerns raised. Staff will continue to review the document for opportunities to make improvements where necessary and appropriate.

Mr. Goldstein also noted the following facts about the system:
1. Each voter registration transaction is individually reviewed by an LBE staff member - using the online system does not connect to or automatically update the voter registration database
2. A staff member reviews usage patterns on a daily basis and would be able to detect an attack or attempt to change or create thousands of voter registrations
3. The firewall detected multiple attempts from the same range of IP addresses and performed as expected
4. Staff has not seen any evidence of fraudulent activity to date
5. CAPTCHA is a program that displays an image of a word that a user must accurately type and submit. CAPTCHA was mentioned by the computer scientists as a way to thwart an automated attack on the website. This option was reviewed by staff but it was determined that it would make the site inaccessible to voters with disabilities. Staff is continuing to explore other options.
6. Staff will continue to engage and work with a security consultant.

Ms. Lamone stated that there is always tension between security and accessibility. In this instance, some of the proposed security measures might be effective, but they also might limit the usability for voters with disabilities.

Mr. McManus stressed the importance of continuing to work with the security consultant to make sure the concerns raised by the Ms. Wilson and the computer scientists are adequately addressed.
On Friday, September 21st, we sent over 5,000 emails to these voters telling them how to access their absentee ballots. Voters immediately started using the online ballot delivery system, and to date, the most common issue is voters who reside outside of the United States forgetting their Maryland zip code and getting locked out of the system because they have tried to access it too many times. A few hours after we went live, we discovered an issue with two ballot questions in Howard County and one ballot question in Montgomery County. The ovals printed by the wizard were not correctly aligned with the oval on the printed ballot. The scope of the issue was quickly identified and the correction was implemented shortly thereafter. We contacted the 26 Howard and Montgomery County voters who used the wizard to access their ballots and asked them to re-access the website and make their selections again.

Printing of Absentee and Provisional Ballots
SBE's two vendors for printing ballots - Single Point and ES&S - are busy printing ballots for the local boards of elections. These ballots will be used for provisional voting and absentee voting at nursing homes, walk-in requests for absentee voting, and any manual ballot duplication required at the canvasses. The estimated delivery date is September 28th.

Election Judges' Training Observation
Rick Urps has observed three election judges' training classes for the 2012 General Election. To date, he has attended trainings for election judges in Baltimore City, St. Mary's County, and Howard County. All of the trainings have been sufficient, and he has provided feedback (where needed) to the local boards conducting these trainings. Rick will be observing trainings in Anne Arundel, Calvert, Caroline, Dorchester, Garrett, and Kent Counties before the election. These visits are also part of SBE's post-election LBE audit and will be referenced in the audit reports after the general election.

3. Voter Registration
MDVOTERS Data Entry
Staff at SBE is currently processing Prince George's County voter registration applications. It is expected as the voter registration deadline approaches, more jurisdictions will request that we process their applications as well.

Online Voter Registration
As of Monday, September 24, 2012, 11,198 individuals have registered to vote and 19,050 have made changes to their voter registration record.

ERIC
Approximately 1 million postcards will be mailed to individuals who have been identified as being eligible to register, but are not yet registered. The postcard directs the applicant to use the online voter registration system.

Ms. Mack asked how much this mailing was costing the State. Mary Wagner stated that production and postage would be $170,000. Ms. Mack stated that this was a very good voter outreach effort.

4. Candidacy and Campaign Finance
Commission to Study Campaign Finance Laws:
The Commission held meetings on September 13th and September 27th to discuss enforcement, states, LLC reform, public financing, independent expenditures, small dollar contribution disclosure, and additional reporting. The Commission will meet again to finalize areas of consensus and will publish its report by the end of the year.

Enforcement
The Candidacy and Campaign Finance Division notified the State Ethics Commission of late filings by the following entities regarding the semi-annual Contribution Disclosure Form:

- PPE Casino Resorts Maryland, LLC which failed to file 7 timely reports to the State Board of Elections dating back to February 1, 2009
- Ocean Enterprise 589 LLC which failed to file timely 3 reports due to the State Board of Elections dating back to February 5, 2010.

Procurements
Jared DeMarinis is working with Whitney Faust to develop a TORFP under the CATS II contract for the support and maintenance of the Election Management System (EMS) and for assistance to begin
Incorporating portions of that system into MDVOTERS. Plans include eventually maintaining other portions of that system in-house.

Filings
SB1 of the 2nd Special Session required additional reporting by a ballot issue committee and persons engaging in independent expenditure or electioneering communications supporting or opposing the gaming referendum. These entities are required to report within 48 hours of receiving contributions of $10,000 or more by a single person or making aggregate expenditures of $10,000 or more. The fine for failure to report is $1,000 per day or 10% of the expenditure or contribution. The 48 hour reporting period started with the enactment of the bill and will continue until November 9, 2012. SBE has received 13 filings as of September 21. All are posted on the SBE website for public viewing.

5. Voting Systems

Pre-Election Preparation
The Voting System Division has ordered election supplies and materials for the November election, and the majority of those have been delivered – this includes items such as Touchscreen and Electronic Pollbook printer paper rolls, tamper tape, additional voter access cards. In addition, a small amount of voting units has been transferred between LBEs, to reflect their needs. Staff has also completed the process of changing the encryption keys to the voting system, which is done prior to every election.

Ballot programming was completed, and Logic & Accuracy testing has begun in a number of LBEs, including Baltimore City, Anne Arundel County and Harford County, and will continue statewide throughout October. LBEs are being assisted by the temporary County Technicians that start eight weeks before Election Day and stay until two weeks after the election. Each LBE has a County Technician.

Electronic Pollbooks.
The local boards of elections have completed the software upgrade on all 6,500 of their pollbooks.

Staff has been engaged in ongoing work on evaluating the signal strength and quality for the early voting centers. SBE has worked to improve signal quality where necessary, and has been utilizing 4g communication where appropriate.

Election Night Results
SBE has made some changes over the summer, including migration to a new server, for election results reporting. The Election Night Results website has been completed and is presently undergoing testing, using test results exported from the LBEs.

6. Project Management (PM) and Information Technology (IT)

SBE General Election Helpdesk
Mr. Ross is continuing to plan and conduct other tasks associated with the implementation and use of a new SBE helpdesk system (Election Ally) for the General Election. This system will be used by SBE staff to manage issues during early voting and on election day. During this past month, several members of staff successfully conducted testing of the Election Ally cloud-based system. We worked with the vendor (Dynamic Path) to resolve the issues found.

General Election Call Center Support
Plans for using the call center for the election are continuing on schedule. In the past couple of weeks staff held the kickoff meeting with the vendor (CR Dynamics) and the local boards being supported (Anne Arundel, Baltimore City, Baltimore County, Harford, and Prince George’s). Staff is continuing to update the needed documentation for the call center to include a contact list, escalation requirements, statement of work, and other material. The call center support is scheduled to begin on October 1 for SBE only and on October 8 for the five local boards. Support will continue until the day after election day, Wednesday, November 7th.

Contract Compliance Reviews
Mr. Ross has implemented an internal review process for time and material and deliverable contracts. Reviews include making sure that, when applicable, time sheets are being received and are correct and that the timesheets match what SBE is being invoiced. In addition, Mr. Ross reviews deliverable based contracts to make sure that what was to be delivered did happen as expected based on the contract
agreement. If necessary, the SBE Contract Manager is responsible for making any necessary corrective action identified by Mr. Ross.

New Optical Scan Voting System Planning
Several staff members are currently working on some of the preliminary tasks and coordination needed for the scheduled implementation of the new optical scan voting system in 2016. Recent efforts in the past few weeks included working with the Department of Information Technology (DoIT) to define the high-level timeline for the project in addition to discussing options for managing the project. There will be further high-level discussions held during an upcoming scheduled meeting with SBE, DoIT, and SBE’s budget analyst at the Department of Budget and Management.

2012 Annual Physical Inventory
SBE completed the milestone of baselining SBE’s inventory based on the 2012 physical inventory performed here at SBE and at all the local boards. As a result, SBE was able to timely submit the required two annual reports (Annual Report of Fixed Assets and Annual Report of State Property – Materials & Supplies) to the Department of General Service. We will continue to work with the local boards, as needed, to resolve any outstanding issues or questions as it pertains to the status of inventory items.

Emergency Generator
An emergency standby generator has been rented for the upcoming Presidential General Elections in the rare occurrence of a power outage at SBE. The emergency standby generator will be delivered, installed and tested on October 25, 2012. 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 will be returned on November 19, 2012.

Test of the Call Center
In preparation for the forthcoming Presidential General Elections, SBE and 5 of the LBEs will be having phone calls to the main office telephone numbers redirected to the Call Center. Tests have been scheduled to take place on 9/26/2012 for SBE and 10/3/2012 for the 5 LBEs. If the dry run tests are successful, SBE will be switched over to the call center on 10/1/2012 and the 5 LBE’s will be switched over on 10/8/2012. They will all be switched back to normal on 11/7/2012.

Firewall Upgrade
SBE makes use of Cisco Firewall appliances to protect the internal computer network. These devices make use of a core operating system called the Cisco Adaptive Security Appliance (ASA) software. This software integrates with other security technologies to deliver comprehensive solutions that meet ever changing security needs. In order to comply with certain DoIT security policies, the ASA software on the firewall devices were recently upgraded to the most recent stable version of the software.

ASSISTANT ATTORNEY GENERAL'S REPORT
Mr. Darios reported that the sponsors of the referendum petition to refer the Congressional Districting Plan to the voters for the 2012 General election filed a lawsuit on August 29th challenging the ballot language for Question #5 that had been prepared by the Secretary of State and certified to the State Board. Parrott v. McDonough, Civ. No. 02-C-12-172298 (Cir. Ct., Anne Arundel Co., Md.). Plaintiffs alleged that the certified language, which includes no description of the new districts, did not adequately apprise voters of the true nature of the Congressional Districting Plan. On September 6, after a hearing earlier that day, Judge Silkworth issued a written opinion granting summary judgment to the State defendants and upholding the certified ballot language. Plaintiffs immediately noted an appeal and petitioned for certiorari to the Court of Appeals. On September 7th, Defendants filed an answer opposing the certiorari petition, which the Court of Appeals denied later that day, effectively ending the litigation. Deputy Solicitor General William Brockman and Assistant Attorney General Julia Bernhardt were the attorneys principally responsible for defending the State Defendants, including SBE.

Mr. Darios also reported that a hearing before the Special Master, Judge Wilner, was held September 5th on the consolidated challenges to the State legislative districting plan. The Report of the Special Master was submitted to the Court of Appeals on September 20th. In re 2012 Legislative Districting of the State, Misc. Nos. 1, 2, 3, 4, 5, 9 (September Term 2012). Two of the five petitions (4 and 9) had previously been dismissed, leaving numbers 2, 3, and 5 for consideration on the merits, including various state and federal constitutional objections to the State’s plan. The Special Master recommended denial of all three petitions. Exceptions to the Report are due October 1, 2012.
Mr. Darsie stated that the Court of Appeals on September 25, 2012 issued its written opinion in Doe, et al. v. Maryland State Board of Elections, No. 131 (September Term, 2011), a case involving the referability of the Maryland Dream Act. On June 13th the Court affirmed by per curiam order the Circuit Court's decision that the Dream Act does not make an appropriation and therefore was not excepted from referendum under § 2, Article XVI of the Maryland Constitution.

Finally, Mr. Darsie reported that on August 23rd, the Circuit Court for Carroll County granted the State's motion to dismiss in Fair v. Obama, Civ. No. 06-C-12-060692-DJ (Cir. Ct., Carroll Co., Md.), a lawsuit challenging President Obama's candidacy for the 2012 Democratic Party primary and 2012 General Election on the grounds that he is not a "natural born citizen" as required by the Article II of the U.S. Constitution. Judge Stansfield's opinion dismissing the complaint rejected the various substantive arguments made by the plaintiffs regarding the President's eligibility, although the dismissal is also premised on laches (plaintiffs' undue delay in bringing their lawsuit) and the other contentions set forth in Defendants' motion to dismiss. Plaintiffs have noted an appeal to the Court of Special Appeals.

WAIVERS OF CAMPAIGN FINANCE LATE FEES

Victoria Smith presented a recommendation for approval of a waiver of late fees for the Baltimore County Fire Fighters PAC. A motion to approve the recommended waiver was made by Mr. Thomann and seconded by Mr. McManus. The motion was unanimously approved.

APPROVAL OF REGULATIONS

Ms. Charlson presented changes to COMAR 33.13.02.02 and 33.04.02.01 for final adoption. The changes establish guidelines for reporting contributor employer and occupation information and provide for the ability of a contributor to request that certain information be kept confidential, respectively. Mr. McManus made a motion to adopt the proposed changes, which was seconded by Mr. Thomann. The motion was unanimously approved.

Next, Mr. Goldstein presented the following changes to various regulations in Title 33 of COMAR for final adoption:

1. 33.08.01.10 (Post-Election Audit)
2. 33.08.05.01 - 04 (Reports and Accounting)
3. 33.10.02.38 (System Verification)
4. 33.10.11.38 (System Verification)
5. 33.08.05.01 - 07 (Post Election Verification and Audit)

Mr. Goldstein stated that during the public comment period, public comments were received from the following Lynn Garland of Montgomery County; Mary Kiraly of Montgomery County, and Jerrold Garson of Montgomery County. Mr. Goldstein noted that the complete comments were included in the folders. Mr. Goldstein summarized and responded to each public comment.

1. Insufficient Ballot Accounting and Reconciliation. Ms. Garland noted that the proposed regulations have eliminated the formalized ballot accounting procedures. She states that this type of ballot accounting is necessary for “catching uncounted ballots, double scanned ballots, and stuffed ballot boxes.” She states that ballot accounting should be comprehensive to include all votes, not just in precinct votes and should track the number of physical ballots sent, returned, spoiled, voted, accepted, and rejected. Finally, she states that there needs to be a reconciliation of memory cards.

In response, I would argue that ballot accounting is not necessary to identify uncounted ballots or the introduction of unauthorized ballots. Instead, the required business processes and the audit that is performed are sufficient to address those concerns. It should be noted that paper ballots are only scanned in the local board office under the supervision of the bi-partisan canvassing board. Each ballot counted is directly correlated to a voter. This is checked in a variety of ways throughout the canvassing process. For example, each absentee voter receives a unique code. That code is on the return envelope and is scanned into the system upon return. Accordingly, only a ballot returned from a valid absentee voter is presented to the canvassing board (and this process is checked as part of the post election audit). Similarly, the canvassing process for provisional ballots assures that each provisional voter is associated with a registered voter and only those ballots are eligible for counting. Furthermore at the conclusion of each stage of the canvass, the canvassing boards are instructed to check the number of ballots counted against the number of ballots that were presented for canvassing.

Because SBE’s business processes and audit procedures are able to associate a voter with every ballot cast, ballot accounting ultimately only accounts for the ballots that were not used. The decision to no
longer include this process was done in consultation with local election officials after determining whether any security or accountability would be lost. Since no security or accountability concerns were identified, the process has been eliminated.

Accordingly, the post election audit and verification regulations are sufficient as proposed to provide meaningful assurance and confidence in the accuracy of the election. However, Mr. Goldstein recommended that this issue be revisited when the State begins to use optical scan voting in polling places.

2. Unacceptable Audit Practice. Ms. Garland, Mr. Garson, and Ms. Kiraly all commented on the fact that the precincts to be sampled for the audit and verification are selected during a public demonstration prior to the election. All of them state that the selection should be done after the election, immediately prior to the start of the audit and verification procedures. Mr. Garson notes that accounting procedures would normally not permit the person or entity being audited to know the sample in advance.

Mr. Goldstein noted his agreement with these observations and stated that he will propose a change to the regulations to require the selection of the audited precincts to occur on election day, prior to the start of the early voting results canvass. However, Mr. Goldstein suggested that the proposed regulations be adopted as final and an administrative policy to change the time of selection will be issued for this election. Mr. McManus stated that the selection should occur after the polls close.

3. Additional Audit Practice Issues. Ms. Garland also stated that the random selection process should be publicly observable, the results of the post election audit and verification should be public, and that the post election audit and verification should require escalation in the event that discrepancies are found.

Mr. Goldstein noted his agreement with these observations, but that they are already addressed. Currently, the selection of precincts is required to be done at the logic and accuracy public demonstration. Written notice of the public demonstration is provided to central committees and candidates unaffiliated with a political party. Finally, as a general rule, all documents created by this office or local boards are public documents that are available upon request.

Regarding escalation procedures, those are included in the proposed regulations. For the verification, where any discrepancy is not tolerable, the escalation procedure states that the local board may not certify the election until the cause of the discrepancy is discovered, resolved, and the State Administrator has approved of the resolution. For the audit, the process already includes 100% of the precincts. Accordingly, escalation procedures are not required. However, the regulations do state that if a discrepancy occurs that cannot be explained and it is greater than the vote margin of any contest on the ballot in that precinct, the local board of canvassers may not certify the election until any corrective actions required by the State Administrator are completed.

4. Definition of Precinct. Ms. Kiraly, Mr. Garson, and Ms. Garland all commented on the definition of the term precinct (which includes an early voting center) and the fact that this would change how election results are reported.

The purpose of the definition of the term "precinct" in COMAR 33.08.01 was to clarify that any audit and verification requirement for a precinct would also apply to an early voting center. The placement of the definition in COMAR 33.08.01 makes the definition applicable to the entire subtitle instead of just the post election audit and verification section. Mr. Goldstein noted that this is potentially confusing and agreed that the location of the definition should be changed. However, Mr. Goldstein disagreed that as currently proposed the definition will change the election results reporting requirements—that was not the intention and there are no plans to change how results are reported. As a matter of clarification, it should be noted that absentee and early voting results are reported by county and not by precinct. There is no requirement to report absentee and early voting results by precinct and doing so is administratively very complicated and cumbersome. Early voting and absentee voter history is, however, reported by precinct, and thus far that has been sufficient data for political scientists and other interested parties to understand Maryland voting trends.

Mr. McManus and Ms. Mack expressed their appreciation for the comments received, noting that a lot of work was put in to them and that they were helpful. Mr. McManus made a motion to adopt as final the regulations with the understanding that staff would submit a non-substantive correction (inserting the omitted word "place"), provide an administrative directive to randomly select precincts after 8 p.m. on election day, and, at a future
meeting, propose a change to the regulations to move the definition of the term “precinct.” Mr. Thomann seconded the motion, which was unanimously approved.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Mack noted that the State Board of Elections Bylaws were included in the meeting folder. Since a new board has been constituted, the members will need to re-affirm the bylaws. Ms. Mack asked the members to review the bylaws for discussion and approval at the next meeting.

Rick Urps asked Mr. Murray to select a county from which a voting unit will be randomly selected for parallel testing on election day. Mr. Murray selected Cecil County.

SCHEDULING OF NEXT MEETING

The next meeting is scheduled for October 26th at 2:00 p.m.

ADJOURNMENT

Ms. Mack adjourned the meeting at 3:35 pm.