

State of Maryland 

State Board of Elections – August 5, 2020 Meeting

Attendees (via video conference call):

Michael R. Cogan, Chair
Patrick J. Hogan, Vice Chair
William G. Voelp, Member
Kelley A. Howells, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Andrea Trento, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy, Election Policy
Tracey Hartman, Director of Special Projects
Fred Brechbiel, Chief Information Officer
Erin Perrone, Director of Election Reform and Management
Shafiq Satterfield, Regional Manager Supervisor
Mary Cramer Wager, Director of Voter Registration

Also Present (via conference call):

Delegate Michelle Guyton, Legislative District 42B, Baltimore County
David Garreis, President, Maryland Association of Election Officials (MAEO)

DECLARATION OF QUORUM PRESENT

Mr. Cogan called the meeting to order at 2:04 pm. After taking roll call, he stated that all members were present, and that there was a quorum. He stated that the meeting was being livestreamed.

ADDITIONS TO THE AGENDA

Mr. Cogan stated that after the closed session, and before agenda item 4, the Board would address a letter from MAEO. He also stated that Delegate Guyton would address the members next. In response to Mr. Hogan and Ms. Howells, Mr. Cogan stated that the Board could discuss their concerns during new business.

REMARKS FROM DEL. GUYTON

Delegate Guyton requested the Board consider drive-through or curbside voting in Maryland for the general election. She stated that she introduced HB142 in the 2020 Legislative Session to expand voting accessibility by using drive-through or curbside voting. She stated that curbside voting has been successfully implemented in Albuquerque, NM, Milwaukee, WI, and multiple jurisdictions in Utah, Texas, Colorado, and Michigan. The idea has been promoted by both conservative and liberal advocates such as the National Review and Kamala Harris, as a viable option for holding elections successfully during COVID-19.

There were no comments or questions.

CLOSED SESSION

Mr. Cogan requested a motion to close the board meeting under General Provisions Article, §3-305(b) (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending or potential litigation. Meeting in closed session allows the members to be briefed on a personnel matter and share their views without compromising the confidentiality of those discussions, consult with Board counsel without waiving attorney-client privilege and obtain information relevant to potential or pending litigation. Mr. Hogan made a

motion to convene in closed session under General Provisions Article, §3-305(b)(7) and (8), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(7) and (8) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation.

The closed session began at 2:23 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, Mr. Voelp, and Mr. Funn attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, Ms. Duncan, and Ms. Perrone attended the closed meeting.

Mr. Trento provided legal advice and the board members consulted with staff about pending or potential litigation.

No actions were taken.

Mr. Hogan made a motion to adjourn the closed meeting, and Mr. Voelp seconded the motion. The motion passed unanimously.

The closed meeting adjourned at 3:29 pm.

The open meeting reconvened at 3:34 pm. After taking roll call, Mr. Cogan stated that all members were present, and that there was a quorum.

BOARD DISCUSSION REGARDING ELECTION OPTIONS

Mr. Hogan provided a brief summary of the options given to the Governor and the Governor's decision regarding the election and requested that the Board reconsider its position and urge the Governor to require ballots be mailed to voters. He cited the shortage of election judges, the cost of mail-in ballot applications, and the state of the COVID-19 pandemic as his reasons. Mr. Funn concurred with Mr. Hogan and reiterated his request, stating COVID-19 infection statistics, the number of mailings to voters, and health concerns as his reasons for supporting sending ballots to voters. He also stated that there is no evidence that mailing ballots to voters causes election fraud. Mr. Voelp stated that he shares Mr. Hogan's concerns, but stands by his decision to not mail a ballot to every voter. Mr. Cogan stated that many of Mr. Hogan's concerns would be addressed during the meeting.

MAIL IN VOTING

USPS Letter

Ms. Charlson summarized a letter from Mr. Thomas Marshall, General Counsel and Executive Vice President of the United States Post Office (USPS). In the letter, Mr. Marshall recommends specific timeframes for voters requesting ballots, mailing blank ballots to voters, and mailing voted ballots to election offices. Mr. Marshall specifically voiced concern regarding the deadline for voters to request a ballot be mailed to them.

Approval of Mail-in Ballot Application

Ms. Perrone presented the mail-in ballot application for approval. Mr. Voelp suggested that: 1) a sentence regarding pre-paid postage be included with the instructions, and 2) "Preferred Option" be included on the application next to the option to have the ballot mailed. Ms. Perrone stated that these suggestions could be incorporated into the document.

Mr. Hogan made a motion to approve the *Voting Information for Maryland Voters* and the *Maryland Application for a Mail-In Ballot* as presented and including the suggestion by Mr. Voelp, and Mr. Voelp seconded. The motion passed unanimously.

There was a technical difficulty preventing the Board from hearing guest speakers. As a result, Mr. Cogan suggested moving to agenda item 6.

SUSPENSION OF ELECTION LAW ARTICLE REQUIREMENT AND ADOPTION OF EMERGENCY AND PROPOSED REGULATIONS: SUBTITLE 17

Ms. Hartman stated that the proposed amendment to COMAR 33.17.02.01 and .02 allows a local board to establish a new early voting center if the number of active, registered voters increased in an amount that would have crossed the threshold for a new early voting center in the time since the number of early voting centers was determined (either months prior to the primary election). Ms. Hartman further stated that due to the short time frame before the general election, that the proposed amendment would be submitted as an emergency amendment.

Ms. Hartman further stated that in order to effectuate the proposed emergency amendment, the Board first needed to pass a motion to suspend the requirements of Election Law § 10-301.1(c), which requires each early voting center to be designated “no later than 6 months before a primary election.” The Board has the authority to do this under the Governor’s emergency delegation of suspension authority to agencies with regard to deadlines, timeframes, etc., in the statutes they administer, as outlined in the Governor’s Emergency Order dated June 19, 2020. Because the current regulations already build in a timeframe for submission and approval of early voting centers for this election, the suspension will not have an effect on existing early voting centers, except that it will allow the regulations contemplating late additions to early voting centers to come to pass.

Mr. Voelp made a motion to adopt the emergency and regular changes to COMAR 33.17.02.01 and .02, and Mr. Hogan seconded the motion. The motion passed unanimously.

Mr. Funn made a motion to motion to suspend the requirements of EL § 10-301.1(c) and directed SBE staff to notify the public and the Governor of the suspension, and Mr. Hogan seconded the motion. The motion passed unanimously.

REMARKS FROM MR. DAVID GARREIS

Mr. Garreis, on behalf of the Maryland Association of Election Officials (MAEO), presented the following requests regarding the conduct of the general election:

1. The use of election day vote centers;
2. A centralized vote by mail application processing center;
3. Permission for the local boards to begin canvassing vote by mail ballots 30 days before election day; and
4. Pushing up the deadline to request a mail-in ballot by one week.

Mr. Garreis cited the shortage of election judges, the unprecedented number of mail-in ballot requests received already, experience from the primary election regarding the time needed to canvass mail-in ballots, and previous experience with last minute mail-in ballot requests among MAEO’s reasons to explain the requests.

Board Discussion

In response to a question from Mr. Hogan, Mr. Garreis clarified that MAEO’s preference for the number of vote centers per local jurisdiction is equal to the number of early voting centers plus

two. He stated that he believed this was enough voting centers, as MAEO is expecting more election judges to drop out.

Mr. Voelp stated that the request for vote centers was moot, as the Board does not have the authority to authorize vote centers. In response to a question from Mr. Voelp regarding the deadline to request a mail-in ballot, Mr. Garreis clarified that MAEO's request applied to mailed ballots. Mr. Voelp stated that he supported this request, but thought that a new deadline should apply to mailed and downloadable ballots. In response to a second question from Mr. Voelp, Mr. Garreis stated that the local boards could staff canvassing at the same time as running early voting and election day. In response to questions from Mr. Voelp and Mr. Funn, Ms. Lamone stated that SBE is looking at State agencies that have the space and capacity for a central data processing center.

In response to a question from Mr. Cogan, Mr. Garreis stated that the local boards are unanimous in their support of the four requests. There was a discussion with Mr. Garreis regarding the appropriate number of vote centers, if the Board was to agree to the request. Mr. Garreis stated that the local boards have some flexibility in the number of vote centers that can be staffed. Mr. Hogan stated his support for using the public high schools in the State, as most will be virtual for the fall semester. In response to a question from Mr. Cogan, Mr. Satterfield stated that signal testing would need to be completed, but that it would be possible to configure and set up the voting system at vote centers across the state.

In response to a question from Mr. Cogan, Ms. Charlson clarified that voters who have already requested a mail-in ballot would not have another application sent to them in the mail. Those votes will be removed from the list of voters who receive an automatic mail-in ballot application.

A short discussion followed regarding the appropriate next steps.

Mr. Voelp left the meeting at 4:58 pm.

In response to a question from Mr. Cogan regarding what immediate action the Board needed to take, Ms. Charlson stated that, if the Board was considering changing the deadline to request a mail-in ballot, the decision needed to be made to meet printing deadlines. After a short discussion regarding the options for moving up the deadline, Mr. Funn made a motion to move the deadline for requesting a mail-in ballot, regardless of how voter requests to receive the ballot, to October 20, 2020, and Mr. Hogan seconded the motion. The motion passed 4-0. Mr. Voelp was absent for the vote.

At the advice of Mr. Trento, Mr. Hogan made a motion to suspend Election Law §9-305(c)(1) & 9-305(c)(2), pursuant to the authority granted to the Board in the Governor's Proclamation dated June 19, 2020, and to direct the Administrator to file the appropriate notifications of the suspension, and Mr. Funn seconded. The motion passed 4-0. Mr. Voelp was absent for the vote.

APPROVAL OF EARLY VOTING AND POLLING PLACE CHANGES

Mr. Cogan requested to table the approval of early voting and polling place changes until the next meeting. No members objected.

OLD BUSINESS

NAACP Letter

Mr. Cogan stated that the members have received a letter from the NAACP and a draft response. There was no discussion regarding the letter or the response. Mr. Hogan made a motion to respond to the letter with the response as drafted, and Mr. Funn seconded. The motion passed 4-0. Mr. Voelp was absent for the vote.

NEW BUSINESS

Comments from Ms. Howells Regarding Internet-Delivered Ballots

Ms. Howells asked two questions regarding requests for internet-delivered ballots. In response to her first question, Ms. Hartman stated that SBE would be able to provide the number of mail-in ballot requests by delivery method. In response to Ms. Howells's second question regarding if language had been added to SBE's website discouraging voters from choosing internet-delivery of mail-in ballots, Ms. Charlson stated that the language the Board approved at this meeting would be incorporated to the online application.

In response to a question from Mr. Hogan, Ms. Charlson confirmed that, with the actions of the Board taken at this meeting, SBE is on track to meet the deadlines that Ms. Lamone outlined in her letter to the Governor dated August 4, 2020.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Hogan disclosed a \$250 contribution to Congressman Ruppertsberger.

Mr. Cogan disclosed the following contributions:

- \$30 McConnell for Senate
- \$30 McSally for Senate
- \$105 National Republican Senatorial Committee (NRSC)
- \$30 Republican National Committee (RNC)

SCHEDULE NEXT MEETING

The next meeting is scheduled for Friday, August 7, 2020, at 2:00 pm.

ADJOURNMENT

Mr. Funn made a motion to adjourn the open meeting, and Mr. Hogan seconded. The motion passed unanimously. The open meeting adjourned at 5:17 pm.