

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Andrew V. Jezic, Member
David McManus, Member
Charles E. Thomann, Member
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Donna Duncan, Election Management Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Liz del Castillo, Budget and Personnel Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Paul Aumayr, Voting System Project Manager
John Clark, Voter Registration System Project Manager
Karen Simpson, Candidacy and Campaign Finance Deputy Director

Also Present: Mary Kiraly, MD Elections Integrity Coalition
Holly Joseph, MD Election Integrity Coalition
Charles Johnson
Jerrold Garson, Montgomery County Board Member

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:35 p.m.

APPROVAL OF THE JANUARY 24TH BOARD MEETING MINUTES

Ms. Mack made a motion to approve the minutes, and Mr. McManus seconded the motion. The minutes of the February 28, 2008, board meeting were approved unanimously.

WAIVER OF CAMPAIGN FINANCE LATE FEES

Since there were two individuals present who wanted to address the Board regarding their waiver request, the Chairman changed the order of the meeting and asked Mr. DeMarinis to present the waivers.

Mr. DeMarinis briefed the Board on the filing status of the Allegany County Republican Central Committee, the role of the former chairman, Mr. Charles Albert Johnson, and why the committee was referred to the Office of the State Prosecutor. Mr. DeMarinis also informed the Board that it is the policy of the Board to deny any waiver request once a referral is made. Mr. Johnson explained that he and the Treasurer, Mr. Bernard Miltenberger, have not been members of the central committee since 2004 and had no access to the financial records of the committee. Mr. Johnson also informed the Board that both he and Mr. Miltenberger attempted to resign in January 2007 but only Mr. Johnson's resignation was accepted. He requested that the Board grant his waiver request. Mr. Goldstein explained to the Board that the resignation of central committee officers is a common problem because the officers usually resign with the central committee not with State Board. Mr. Goldstein noted that only resigning with the State Board would remove any liability of the officer. Additionally, Mr. De Marinis explained the reason why that Mr. Miltenberger's resignation was denied is that it is the policy of the Board not to accept a resignation if it leaves a committee without a single officer.

Mr. McManus asked if Mr. Johnson has retained counsel for the matter. Mr. Johnson answered he has an attorney in Iowa. Mr. McManus stressed that Mr. Johnson needs to retain local counsel for the issue and stated that the Board is currently unable to grant the waiver request.

Mr. DeMarinis presented to the Board the following 17 waiver requests for approval:

- Friends Of Alfred Carr, A4953
- Elect Harry M. Dunbar, Howard County Executive, A4603
- Charles County Democratic Central Committee, A124
- Friends Of Elbridge James, A6294
- United Industrial Workers Political Activity Donation PAC, A216
- Consulting Engineers Council-MD PAC CEPAC, A222
- Friends Of Sally Jameson, A2115

- Calvert County Democratic Central Committee, A120
- The Committee To Elect Gregory C. Johnson, A4561
- Friends Of Steve Abrams, A6483
- Friends Of Heather Mizeur, A4519
- Citizens For Helen Holton, A630
- O'Malley Brown Committee Slate, A6468
- Friends Of Stephen Wright, A5170
- Friends Of Phil Kauffman, A6620
- Friends Of Glen Glass, A6282
- Gordon T. Gates – Personal Treasurer, A1551

The Board reviewed the request letters. Mr. McManus made a motion to approve the recommendation of granting the waiver. Ms. Mack seconded, and it passed unanimously.

ADMINISTRATOR'S REPORT

1. Announcements

Legislative Session Wrap-Up

Ms. Lamone reported that the 2008 Session of the Maryland General Assembly ended at midnight on Monday, April 7th. During briefings before the Senate and House Committees that hear election legislation, Ms. Lamone had requested that the General Assembly refrain from passing legislation that would affect the 2008 General Election or create procedural or material changes between the primary and general election. Gratefully, the leaders understood, and as a result, there are little or no changes to make for the General Election.

Ms. Lamone noted that one bill that passed improves campaign finance laws. HB 1432, Campaign Finance - Affidavit and Signature provides the authority for the State Board to accept electronic signatures for campaign finance documents – including reports and affidavits. Second, the bill allows a committee to file an affidavit in lieu of a Campaign Finance Report if the committee has had less than \$1,000 in contributions and expenditures since the last report it filed. These provisions will make compliance easier for filers.

Ms. Lamone reported on other miscellaneous bills that passed:

SB 755 - Campaign Finance Reporting - Slot Machines Gaming Referendum - Corporations - This bill requires any person that spends over \$10,000 to support or oppose the slot machine gaming referendum to notify SBE, submit the name of the entity and responsible officer, and report its expenses in the same manner and times as a ballot issue committee files Campaign Finance Reports.

SB 1014/HB1627 - Special Congressional Election - Authorizes the Governor to hold only a Special General Election instead of two special elections under certain circumstances for a congressional vacancy.

SB 177 - State Personnel - Accrual and Carryover of Annual Leave - Increases from 50 to 75 days of annual leave that State employees can carry over to the next calendar year. This is extremely helpful for many LBE employees especially after an election year.

Ms. Lamone then reported on local bills that passed:

SB 33/HB 1041 - Prince George's County Board of Education (effective for 2010 election) Redefines the method of election for the Board of Education and the Education Districts but creates the need to hold a special election in case of a vacancy.

SB 675 - Carroll County Commissions - Alters the method of election for Carroll County Commissioners from at-large to by district and redefines the Commissioner Districts.

HB 276 - Garrett County - Sunday Sales of Alcoholic Beverages Referendum - this local referendum will affect Sunday Sales for each election district, and therefore the results must be reported by election district.

HB 1002 - Worcester County Democratic Central Committee - corrects uncodified language from a previous bill that staggered the terms and election of the members.

2. Meetings and Important Dates

Ms. Lamone reported that on April 17th, Jared DeMarinis met with Ramin Nuralyev, Rasid Yusifbayli and Nurida Turabova, election officials from the Republic of Azerbaijan. Jared gave an overview on the candidate process and general synopsis of Maryland election law. Jared noted that the group was particularly interested in the presidential election process, especially the nominating process and the Electoral College.

3. Election Management and Reform

Federal Legislation

Ms. Lamone reported that last week, Representative Holt's H.R. 5036 – Emergency Assistance for Secure Elections Act of 2008 – failed to pass on a House floor vote. This bill provided financial incentives for jurisdictions to implement paper-based voting systems or retrofit DREs with paper trails, provide emergency paper ballots in polling places, conduct manual audits, and hand count paper ballots.

EAC's Election Data Collection Grant Program

Ms. Lamone reported that the Election Assistance Commission (EAC) released a request for proposals for states to implement a data collection program to improve the collection of precinct-level data. This is a \$10 million grant program, and five states will each be awarded a grant of \$2 million. With UMBC, we are preparing to submit a grant proposal to create a central repository of election-related data and develop logic to identify potential data entry errors or discrepancies in the data. The grant proposal is due on Monday, April 28, 2008, and the awards are expected by the end of May.

Ross Goldstein explained that SBE submitted a grant in cooperation with a team from UMBC led by Dr. Allen Sherman. The proposal is to create a database capable of combining all of the disparate databases used by SBE in order to create the EAC reports and provide analysis of the data. The system being created will be made available for other states.

Regulation Review

Under Executive Order 01.01.2003.20, each State agency with authority to adopt regulations is required to review current regulations periodically and submit a report to the General Assembly's Administrative, Executive, and Legislative Review Committee. The review process includes the development of a work plan, review of existing regulations, and the submission of an evaluation report. The evaluation report for the first section of the regulations (Title 33 has been divided into five sections for this review process) has been submitted for public comment, and the work plans for the second and third sections have been submitted and approved. SBE and LBE review of the second and third sections is on-going. The proposed changes based on the review of the first section will be submitted for discussion and approval at the May board meeting.

4. Candidacy and Campaign Finance

Special Elections

Ms. Lamone reported that the Candidacy and Campaign Finance Division is monitoring and regulating all of the campaign finance reporting for both county council special elections. The 2008 Montgomery Pre-Primary 2 campaign finance report was due on April 4, 2008. The 2008 Prince George's Special Election Pre-General campaign finance report is due on April 25, 2008.

Candidate Filing

Ms. Lamone reported that candidate filing is now open for the 2008 Special General Election for the 4th Congressional District. As of April 21, 2008, no candidates have filed for the office. The deadline to file a Certificate of Candidacy is May 9th. The deadline to file as a write-in candidate is June 10th.

Ms. Mack asked when the voter registration deadline for the Special Congressional election was. Ms. Lamone responded that the registration deadline will be May 30th.

Closing Candidate Committees

Section 13-310(b) of the Election Law Article requires a campaign committee to terminate and file a final Campaign Finance Report within 8 years after the candidate's most recent term of office or the date of the election in which the candidate last filed to run, whichever is later. The Division will be notifying several candidate committees that they meet the requirements for mandatory termination. Those committees will be required to dispose of any surplus funds and file a final report pursuant to §13-311.

5. Voter Registration

MDVOTERS Software Release Training

Ms. Lamone reported that make-up training on the latest version of MDVOTERS software, version 2.21 was provided by SABER for LBE staff unable to attend the March training sessions due to election related work. The training was in the areas of voter registration, elections management and reports. Every local board has now been trained on the latest software.

Support for Local Board Municipal Elections

Ms. Lamone reported that the Voter Registration Division continues to work with Prince George's and Montgomery County local boards as they prepare for their special councilmanic elections on May 6th and May 13th, respectively. Voter registration data for their precinct registers will be pulled from MDVOTERS by the

county elections offices, and the VR Division will work with Bob Murphy to prepare files for loading into the electronic poll books.

Change Control Board (CCB) Session Conducted

Ms. Lamone reported that on April 18th, representatives from local boards of elections and the State Board participated in an MDVOTERS Change Control Board (CCB) session. The Change Control Board process is used by the Voter Registration Division to ensure continual improvement of the statewide voter registration system (MDVOTERS) through local board input. Representatives from Baltimore City and Wicomico, Somerset, Cecil, Baltimore, Carroll, Anne Arundel and Montgomery Counties reviewed suggested improvements to MDVOTERS submitted by users statewide. The CCB reviewed each recommended improvement for its practicality and value to all local boards. Board-approved suggestions were assigned to Saber for development this calendar year. All persons who submitted ideas that were not approved by the Board will be notified and thanked for their contribution.

6. Voting Systems

Electronic Poll books

Ms. Lamone reported that electronic pollbooks were used in the Prince George's Council District 5 primary on April 1st and the Montgomery Council District 4 primary on April 15th. Turnout for both elections was low (7.4% and 10.4% respectively), and there were no significant problems with pollbook data or hardware. Ms. Lamone noted that given the low voter turnout, the cost per voter to conduct these special elections is very high.

Bob Murphy, the electronic pollbook project manager, was able to visit 7 precincts during these elections and observed the pollbooks being used in an actual election, with the result being some useful lessons learned. For example, several check-in judges were observed using the electronic pollbooks in "statewide search" mode rather than precinct search, making the lookup process more difficult and time-consuming than necessary. This issue will be addressed in training and future software modifications.

Electronic poll books are currently scheduled to be used in the following elections:

- Prince George's Council District 5 (Primary April 1st, General May 6th)
- Montgomery Council District 4 (Primary April 15th, General May 13th)
- Montgomery Student School Board (April 30th)
- St Michael's Town Election (May 4th)
- Havre de Grace Municipal Election (May 6th)
- Cambridge Municipal (Primary June 10th, General July 8th)

Elections Support

Ms. Lamone reported that the Voting System Division has updated the Post Election Maintenance procedures, and the LBEs have begun performing the maintenance on their voting equipment. Some 16,600 voting units were used in the Presidential Primary, and all of them go through the maintenance process

Special Election Support

The Voting System Division has provided ongoing support to both Prince George's and Montgomery Counties for their Special Elections, which have both been for county council vacancies. As well as being 'on the ground' on election day the Division has overseen the printing of ballots. The Division will also be supporting the special election to be held in Congressional District 4 on June 17th. Ballot programming for this election is scheduled to commence on May 13th.

New Voting System Procurement

Ms. Lamone reported that the Division is currently reviewing the last solicitation issued by SBE for the current voting system, as well as solicitations from other jurisdictions to develop initial requirements for a new voting system procurement to procure an Optical Scan (OS), paper-verifiable voting system. A preliminary timeline and project management tools have been developed to ensure thorough and timely movement through the State's procurement process.

A Procurement Workgroup Meeting was held April 17, 2008 to discuss requirements/needs that should be included in the upcoming solicitation. The attendees included:

- a. Margaret Jurgensen, Montgomery County Election Director
- b. Alisha Alexander, Prince George's County Election Director
- c. Katie Brown, Baltimore County Election Director (acting)
- d. Anthony Gutierrez, Wicomico County Election Director
- e. Joseph Torre, Anne Arundel County Election Director
- f. Bill Bowser, Procurement Officer, DBM
- g. Joel Liberknight, Director of Procurement, DBM

- h. Gabe Gnall, Procurement Analyst, DBM
- i. SBE Staff

7. Budget and Personnel

FY 09 Budget

Ms. Lamone reported that the Budget and Personnel Division has been very busy managing the details of the budget process and HAVA federal funds financial reporting. SBE's FY09 budget totals \$29M (\$15.5M GF, \$10.9M SF and \$2.6M FF) with an additional \$2.03M GF in the DBM IT budget for the new voting system. Our General Administration budget totals \$4.2M GF. The MDVOTERS program, no longer a Major Information Technology Development Project but an Operations and Maintenance project, moved into Program 2, creating a total HAVA budget of \$22.84M (\$11.28M GF, \$8.92M SF and \$2.64M FF). SBE's new Major Information Technology Development Project, the new voting system, will have a total of \$4.06M in available funding (\$2.03M SF and as noted above, \$2.03M GF budgeted in DBM's IT Budget). These funds include consulting support and the first lease payment, anticipated in January 2009. Mr. Walker requested a comparison between the FY08 and 09 budgets.

Ms. Lamone reported that the budget group is working toward continued efficient use of existing funds and will set-up and introduce a more formal budgeting process for SBE for the FY2010 budget due in late August – early September 2008. The Director recently attended an Internal Controls seminar at the Comptroller's office and will be attending several budget process sessions at DBM in late June. As noted in the Budget Webinars to the LBEs and County Finance Managers, the FY2007 bills are being processed, with the FY2008 bills are following close behind. Thanks to Sue Holiway, our Fiscal Administrator, for keeping our financial paperwork moving. DBM has advised that additional reversions and cuts are possible for FY2008 budget and the recently approved FY2009 budget.

Ms. Lamone reported that an Open Enrollment Informational web seminar (webinar) was held. The webinar was seen and heard by an estimated 75 staff persons. This same presentation was provided to SBE's staff. SBE's Director, Liz del Castillo, developed and managed the webinar presentation, while Ms. Jackie Bryley explained the Open Enrollment process in a step-by-step manner and introduced several new changes to the State employee benefit package. Ms. Joanne Blackwell, SBE's Benefits Coordinator, very effectively fielded technical questions. LBEs have since picked up their benefit packages and should be returning them in early May. Open Enrollment runs from April 23, 2008 to May 14, 2008. Personnel will also be advising State employees regarding their leave bank renewals/enrollment submissions and preparing for the July 2008 increments/COLA adjustments. In addition, two LBEs, Anne Arundel County and Baltimore City, will be participating in a six-week training program, the YouthWorks Internship program, which will provide employment experience for young adults from the City of Baltimore. SBE is excited to be assisting with this very worthy effort!

Finally, Ms. Lamone noted that the Division is also facilitating/managing 15 personnel actions. Thank you very much for the support to get all of the SBE PINs un-frozen.

8. Information Technology

Website

Ms. Lamone reported that the Information Technology Division is working to ensure that the SBE website is up-to-date with all of the special election notices and information. In addition, a revised 2008 Election Calendar has been posted and includes all special election events. The Division has also reviewed LBE websites and made recommendations for information and links to the SBE site that should be included on each LBE website.

Network

Ms. Lamone reported that joint circuit testing for network certification has been completed for the following local boards of elections: Allegany County, Anne Arundel County, Baltimore City, Baltimore County, and Calvert County.

Local Board Services

Ms. Lamone reported that staff visited a total of 12 LBEs in the last month to provide the following services and assistance:

- a. 3 visits to collect excess equipment for disposal;
- b. 5 visits to install and set-up new equipments;
- c. 2 visits providing planning expertise for office relocation; and
- d. 3 visits to certify networks.

Cecil and Carroll Counties successfully completed office relocation.

Security

Ms. Lamone reported that security updates have been submitted by 13 LBEs in preparation for the annual security evaluations due in August. SBE and LBE disaster planning and alternate site locations have been established for all LBEs.

9. Updates from Prior Meeting

Montgomery County Board of Elections responded to Linda Lamone's letter requesting information on why the Board did not follow the *Provisional Voting Guidelines* during its canvass.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mark Davis reported that things have quieted down substantially and several cases are close to final resolution. In *Michael Schaefer v. Linda Lamone*, Mr. Schaefer has exercised his last option by filing a certiorari petition to review the 4th Circuit's affirmance of the dismissal of his complaint challenging the alphabetical ballot scheme in party primary elections. In *Stysley v. Carroll County Board of Elections*, the Green Party filed a petition seeking \$145,605 in attorney's fees. The court ordered that the Green Party lawyers are entitled to receive \$59,725. Neither party has appealed, but the Green Party has asserted a new claim of \$24,000 for fees-on-fees. Finally, the Maryland Green Party v. Maryland Board of Elections the judgment has been paid by the State, thereby concluding the lawsuit.

APPROVAL OF ELECTION DAY CONTINGENCY PLAN

Ross Goldstein presented the revised Election Day Contingency Plan to the members for adoption as a Board policy. Ross explained that the revised plan makes it mandatory for local boards to deploy extended hours provisional voting supplies to polling places. The change is requested after lessons learned in the primary that if an extension of voting hours is needed, it may not be possible to distribute the extended hours supplies. In addition, the revised plan requires local boards to prepare for and train election judges on extended hours voting procedures. Bobbie Mack made a motion to approve the changes to the Election Day Contingency Plan. The motion was seconded by David McManus and passed unanimously.

APPROVAL OF PROVISIONAL BALLOT APPLICATION

Ross Goldstein reported that in light of feedback received during the 2008 Primary Election, several minor changes are proposed to the Provisional Ballot Application. First, in the instructions, a statement is being added to clarify that provisional ballots are always counted – regardless of whether they will affect the outcome of the election. Second, the new voter registration application will be inserted into the application in place of the older version. Finally, in Part 3 of the application, the oath is amended to read, "I have not voted and will not vote again in the current election in Maryland or in any other state..." This clarification was requested because some provisional voters found the language, "I have not voted and will not vote in the current election..." confusing. Adding the word "again" should address the confusion.

Mr. Garson suggested that there were many voters who failed to sign the application. He suggested adding an "X" in the signature field of the oath to signal voter that they are required to sign.

Mr. Jezic made a motion to accept the proposed changes to the Provisional Ballot Application, including adding an "X" to the signature line. Ms. Mack seconded the motion, and the motion passed unanimously.

APPROVAL OF POLLING PLACE CHANGES

Natasha Walker presented 4 polling place change requests.

1. Somerset County – move the polling place in district 13, precincts 001, 002, and 003 from Westover Elementary School to Somerset Intermediate School.
2. Prince George's County – move the polling place in district/precinct 12-2 from Oxon Hill Lutheran Church to Oxon Hill Library.
3. Anne Arundel County – move the polling place in district/precinct 07-001 from Lothian Elementary School to Tracey's Elementary School.
4. Frederick County – move the polling place in district/precinct 12-001 from Famers Woods Club House to Faith Baptist Church.

A motion to approve the polling place changes was made by Mr. Jezic. Ms. Mack seconded the motion, and the motion passed unanimously.

APPROVAL OF LOCAL BOARD BY-LAWS

Ross Goldstein stated that last summer model by-laws were developed and provided to local boards to govern the conduct of the boards. Since the by-laws do regulate the conduct of the boards, Mark Davis suggested that they be approved by the State Board in the same manner the State Board would approve a local regulation. Eleven counties have responded. One county, Montgomery County, has indicated that they may not adopt by-laws.

1. Allegany County –Generally follows the model except the Board President does not want to be the spokesperson. The election director is given that responsibility. Approval recommended.
2. Charles County – Follows the model except certain functions are specifically designated for the election director as opposed to staff in general. Approval recommended.
3. Calvert County – Follows the model. Approval recommended.
4. Garrett County – Follows the model. Approval recommended.
5. Harford County - Follows the model. Approval recommended.
6. Howard – A few changes to reflect the roll of the Board secretary which is unique to Howard County. Approval recommended.
7. Prince George’s – Follows the model. Approval recommended.
8. Somerset County – Follows the model. Approval recommended.
9. Wicomico County – Follows the model. Approval recommended.
10. Queen Anne’s County –Approval not recommended.
11. Dorchester County – Approval not recommended.

Mr. Goldstein explained his recommendation that the Queen Anne’s and Dorchester County by-laws be rejected because they improperly confer upon the Boards the authority to hire and discharge staff. Under State personnel rules, the local board is only the hiring authority for the election director. The election director is in turn the hiring authority for the staff. The boards do not have the authority to assume the role being proposed in these by-laws. Accordingly, since the by-laws are inconsistent with State Personnel laws, they are not recommended for approval.

Mr. McManus asked that staff write to Dorchester and Queen Anne’s County to inform them of the reason for the rejection and ask that they make appropriate changes to the by-laws so they can be approved.

Mr. Walker asked about the other 13 Boards of Elections. Mr. Goldstein stated that they have been sent an email to request that the by-laws be completed by May 30th. Mr. Garson stated that Montgomery County did not refuse to enact by-laws. Rather they have been tabled until there is more time to address the issue (after the Special Elections).

Mr. Walker commended the counties that responded promptly.

Mr. McManus made a motion to accept the staff recommendations. Mr. Jezic seconded the motion and the motion passed unanimously.

Mr. Walker stated that the SBE by-laws will be tabled until the full board is present.

OLD BUSINESS

No old business.

NEW BUSINESS

Mr. Walker asked whether Mr. Garson wanted to address the issue concerning the decision by the Montgomery County Board of Elections to conduct a food drive during the special election. Mr. Garson stated that he did not want to address that issue but had other issues regarding the special primary election that he wanted to raise. He noted his concerns about certain voting unit problems that he claimed occurred. He also invited Board members to observe the special general election. Finally, he noted his concern about potential lines during the upcoming Presidential General Election based on his assumption that no additional voting equipment can be procured in time for the election.

Mr. Garson also stated that there is no federal only ballot or ability to electronically transfer ballots to overseas voters. This would be beneficial for the many overseas federal employees from Montgomery County.

Mr. Garson also stated that the food drive would not be occurring.

Ms. Lamone and Mr. Walker congratulated the Mr. Jezic and Ms. Mack for being re-appointed to the Board and confirmed by the Senate.

Ms. Lamone also clarified that ballots are transmitted by fax and by email, contrary to what Mr. Garson had stated.

SCHEDULE FOR THE JUNE MEETING

Mr. Walker stated that the May meeting will be held on May 22, 2008 at 2:30pm.

ADJOURNMENT

Mr. Walker asked for a motion to adjourn. Ms. Mack made a motion to adjourn the meeting. Mr. Jezic seconded the motion, and the motion passed unanimously.