

# State of Maryland

## State Board of Elections Meeting – August 25, 2011

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Attendees: Robert Walker, Chair  
Bobbie Mack, Vice Chair  
David McManus, Member  
Rachel McGuckian, Member  
Charles Thomann, Member  
Linda H. Lamone, Administrator  
Jeff Darsie, Assistant Attorney General  
Donna Duncan, Election Management Director  
Nikki Trella, Election Reform Director  
Stacey Johnson, Project Manager, MDVOTERS  
Jared DeMarinis, Director, Candidacy and Campaign Finance Division  
Paul Aumayr, Director, Voting Systems  
Keith Ross, Senior Project Management Director

Also Present: David Garreis, Anne Arundel County Board of Elections  
JB Howard, Attorney General's Office  
Kay Winfree, Attorney General's Office  
Anthony Gutierrez, MAEO Representative/ Wicomico County Board of Elections  
Alisha Alexander, Prince George's County Board of Elections  
Francis Nunez, Prince George's County Board of Elections  
Barbara Sander, League of Women Voters of Maryland  
Glynis Kazanjian, MarylandReporter.com  
Stan Boyd, Save Our Votes

### **DECLARATION OF QUORUM PRESENT**

Chairman Walker called the meeting to order at 2:10 pm and declared that a quorum was present.

### **APPROVAL OF THE PRIOR BOARD MEETING MINUTES**

The minutes of the July 28, 2011, board meeting were presented for approval. Mr. McManus made a motion to approve the minutes, and Mr. Thomann seconded the motion. The motion was approved unanimously.

### **PRESENTATION BY THE ATTORNEY GENERAL'S OFFICE**

Kay Winfree and J.B. Howard of the Attorney General's Office presented proposed changes to 33.13 of the Code of Maryland Regulations (COMAR) based on three recommendations from the Attorney General's Advisory Committee on Campaign Finance. The three recommendations were: (1) expanded reporting requirements for slates; (2) codifying Office of the Attorney General advice prohibiting the use of "sham" LLCs; and (3) allowing temporary investment of campaign funds in a broader range of investment vehicles.

The proposed changes to COMAR 33.13.06.03 would allow for the temporary investment of campaign funds as long as the investment vehicle or account is listed in State Finance and Procurement Article of the Annotated Code of Maryland. There was discussion about whether the investment vehicles or accounts listed in the State Finance and Procurement Article were too technical for candidates and treasurers. Mr. Howard explained that the Advisory Committee discussed referencing a list of investment vehicles already codified in the Annotated Code of Maryland as well as providing a specific list of authorized investment vehicles in COMAR 33.13.06.03. Mr. Howard reported that both were considered acceptable, but the Advisory Committee preferred referencing an existing list of investment vehicles. Mr. McManus asked how earnings and losses would be reported, and Mr. DeMarinis explained that interest is already captured in the existing reporting system and losses would be captured as a type of expenditure, similar to how bank charges are now captured. In response to a question from Mr. McManus about the Advisory Committee's support for this recommendation, Mr. Howard stated that, while the support was unanimous and uncontroversial, the Advisory Committee did not discuss the specific investment vehicles; they supported limiting investments to prudent, flexible and commonly accepted investment vehicles. In response to a question from Ms. Mack about the need to move forward when the General Assembly's task force has not completed its work, Ms. Winfree explained that waiting for the General Assembly's task force to complete its work will delay the change. Mr. McManus made a motion to redraft the proposed changes and include a specific set of investment vehicles in COMAR 33.13.06.03, and Ms. McGuckian seconded the motion. The motion passed unanimously.

A new regulation was proposed in COMAR 33.13.09 to prohibit the use of “sham” LLCs. In response to a question from Ms. McGuckian, Ms. Winfree responded that there was no opposition in the Committee to this recommendation. There was a discussion about whether the proposed text would prohibit political action committees and other entities that are not “created for a bona fide business reason unrelated to contributions” from making contributions. Mr. McManus made a motion to redraft the proposed regulations to ensure that the prohibitions do not exclude political action committees and other entities whose sole legal purpose is to make contributions, and Ms. McGuckian seconded the motion. The motion passed unanimously.

The proposed changes to 33.13.02.02 expand reporting requirements for slates. Mr. Walker asked whether the recommendation represents the position of the political parties’ leadership, to which Ms. Winfree responded no. Mr. DeMarinis noted that this issue was included as a specific mandate of the General Assembly’s task force. Ms. McGuckian stated that she would like to give the General Assembly the opportunity to pass legislation on this issue. Ms. McGuckian made a motion to table consideration of the proposed change to COMAR 33.13.02.02 until May 2012, and Ms. Mack seconded the motion. The motion passed unanimously.

## **ADMINISTRATOR’S REPORT**

Ross Goldstein presented the Administrator’s Report.

### **1. Announcements**

Mr. Goldstein announced that Keith Ross, who was working at SBE as a project management consultant, has returned to SBE as a State employee in a new role as Senior Project Management Director. Keith will be responsible for strategic planning, agency wide projects and generally ensuring consistent project management practices and procedures are applied to agency projects. He reported that Vincent Omenka has assumed the role of Director of Information Technology.

### **2. Meetings and Important Dates**

On August 2, 2001, the County Council of Prince George’s County passed a resolution directing the Prince George’s County Board of Elections to conduct a special primary election and a special general election to fill the vacancy in the Sixth Council District. The dates for the special primary election and the special general election are September 20, 2011, and October 18, 2011, respectively. The polls for each election open at 7:00 am and close at 8:00 pm. There will be no early voting for this election.

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

#### Improving Accessibility for Voters With Disabilities

Worcester County Board of Elections has a new wheelchair ramp. This permanent ramp was purchased with federal Help America Vote Act funds to improve access for individuals with disabilities to the electoral process. Rick Urps and Whitney Faust worked hard to make this construction possible, and the Worcester County Board of Elections is thrilled with it.

#### Provisional Voting Manual

The 2010 manual is being updated for the upcoming election cycle. This manual is a step-by-step guide on processing provisional ballots from their return from the voting location through canvassing and post-election activities. The updated version should be completed by September 2011. Mr. Walker asked that the board members be briefed on any major changes to the manual.

### **4. Voter Registration**

#### Verizon issues

The Prince George’s County Board of Elections did not have access to the MDVOTERS for three days recently due to Verizon issues at the board of elections’ office. Verizon’s strike exacerbated the matter. During the downtime, SBE helped mitigate the issue by performing voter look-ups and reports, and the Anne Arundel County Board of Elections provided work space. Mr. Goldstein thanked the Public Service Commission and Verizon senior management, who helped ensure that the problem was addressed as quickly as possible during the strike. Linda Lamone recognized David Garreis of the Anne Arundel County Board of Elections for their assistance to the Prince George’s County Board of Elections.

#### Online Voter Registration/MVA Interface

SBE is currently on schedule to have the MVA interface in place by President’s Day weekend in February. The online voter registration system (OLVR) should be up by July 2012.

#### MDVOTERS

The MDVOTERS Joint Application Design (JAD) session for 2012 development is scheduled for September 26<sup>th</sup> – 28<sup>th</sup> at SBE. The focus of the session will be the election worker module of the application. The

December release 4.0 is on schedule; it will move the system up to a 64-bit operating system which improves performance and stability.

#### Baltimore City Election

With the voter registration deadline on August 23<sup>rd</sup>, the Voter Registration Division is ready to generate the precinct register data for the electronic pollbooks. Mr. Goldstein reported that the earthquake happened on the voter registration deadline, and the Baltimore City Board of Elections' building was evacuated. The board left a box in front of the building and extended the deadline to August 24<sup>th</sup> at 1 pm. The call center's building was also evacuated.

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

#### Candidacy

As of August 19, 2011, 13 candidates have filed for office for the 2012 Presidential Election.

#### Campaign Finance Committees – Required Closures

On August 1, 2011, the Candidacy and Campaign Finance Division sent out notices to six committees requiring them to close and file a final report by September 2, 2011. Five committees were required to close, because the candidate associated with the account had not sought elective office for over eight years. The other committee was required to close, because the candidate is exercising general overall control over a political committee not his own.

#### Disclosure Report

On August 5, 2011, the semi-annual Contribution Disclosure Form, a required filing by either a person who does business with the State involving consideration of \$100,000 or more and makes campaign contributions in excess of \$500 or a person who provides lobbyist compensation and makes campaign contribution greater than \$500, was due. The Candidacy and Campaign Finance Division received over 200 disclosure forms.

#### Campaign Finance Report Filing

On August 16, 2011, the 2011 Baltimore City Pre-Primary 1 Campaign Finance Report was due for all political committees participating in that election. The Candidacy and Campaign Finance Division has received reports from over 70% of the committees required to file. The remaining committees are late and are being assessed late fees. The maximum late fee penalty is \$250.

#### Campaign Finance Reporting and Management System (CFRMS)

On August 23<sup>rd</sup>, PCC Technology Group demonstrated the public site for the online, browser based campaign finance reporting system. The demonstration included registering a political committee with electronic signature capabilities and verification. Additionally, SBE and PCC have completed functional requirement documents for the filer software and administration management and look forward to those demonstrations shortly. Ms. Mack asked about the impact of the Attorney General's Advisory Committee's recommendations will have on the new system, to which Mr. DeMarinis responded that minor changes would be needed.

### **6. Voting Systems**

#### Electronic Pollbook Software

SBE has received updated software for the electronic pollbooks, which implements some of SBE's requests for changes. This is an intermediate software release, and ES&S is continuing to implement other changes requested by SBE. Testing is ongoing, but the results are promising.

#### Batteries

The local boards are continuing to receive batteries for the voting system. 300 batteries have been delivered for the new TSX units, and the local boards have been carrying out the acceptance test of these units. All the optical scanners will also receive new batteries.

#### Servers

SBE is continuing the implementation of the new servers for the voting system election management system (GEMS). All of the servers will be configured and delivered in the coming weeks.

#### Election Night Reporting

Andrew Johnson has redesigned the election results web reporting process and brought it in house. The new design will show the results broken down into three vote categories – early voting, election day, and absentee/provisional. A map will show summaries for early voting locations and the precincts reporting in three stages – not reported, partially reported and fully reported and include information specific to each

precinct and early voting center. Mr. Goldstein noted Mr. Johnson is automating functions to get results quicker and earlier and provide maps for users.

**7. Information Technology**

SBE Wide Area Network (WAN) Redesign Project

SBE has successfully been progressing with the redesign of its WAN, which entails decommissioning the legacy frame relay circuits and migrating to the Ethernet WAN. The work is 90% complete.

Filing Report Deadline

Members of the IT Division provided assistance to campaign committees with their report filing and other technical issues, such as database rebuilds.

Ballot Production and Proofing Review Group

Natasha Walker met with Margaret Jurgenson and Michelle Gonda (Montgomery County), Stuart Harvey (Frederick County), Jim Massey (Harford County), Kaye Robucci (Washington County), and Allison Murphy (Caroline County) to discuss the process of ballot production and review the ballot proofing process to make it more efficient and effective – with the ultimate goal of creating a process that avoids last minutes changes to the ballots.

2011 Baltimore City General Election and PG Special Elections Ballot Production

Ms. Walker will program the ballots for the Baltimore City General Election and the Prince George’s County special elections for County Council District 6. This will include recording the audio ballot using our in-office voice talent, Stacey Johnson. Screenshots for the sample ballots will also be created in office for the elections.

New T1 Circuit Connections

New T1 data circuits were installed at four warehouse locations for the following local boards: Anne Arundel County, Baltimore City, Frederick County and Washington County. These connections will help the local bards improve on their business processes by avoiding the need to have to go back to the offices to accomplish several tasks that can be completed at their warehouse locations.

**ASSISTANT ATTORNEY GENERAL’S REPORT**

Jeff Darsie noted that an appeal of the decision in *Libertarian Party, et al, v. Maryland State Board of Elections* was noted on July 18<sup>th</sup> in the Court of Special Appeals and a writ of certiori was filed with the Court of Appeals on August 19<sup>th</sup>. The appeals concern the proper signature standard for new party petitions and whether State law requires that duplicate or multiple signatures on a petition by the same individual should be reviewed if the signer’s name has not already been counted in support of the petition.

Mr. Darsie also reported that a lawsuit was filed on August 1, 2011, seeking review of SBE’s certification of a referendum petition on SB 167, a measure that would enable undocumented immigrants to qualify for in-state tuition at public higher education institutions in Maryland under certain circumstances. The complaint alleges that SB 167 is a non-referable appropriations bill and that more than 50,000 signatures on the petition should not have counted, in particular those submitted using partially pre-printed forms generated through a website operated by petition sponsors. Mr. Darsie noted that approximately 35,000 signatures were submitted using the website-generated forms. In response to questions from Mr. McManus, Donna Duncan responded that no other petitioner efforts in Maryland had previously used a website in this manner and that the petition sponsors discussed with her, Mary Wagner, and Mr. DeMarinis their concept for the website.

**APPROVAL OF EARLY VOTING CENTERS FOR 2012 PRESIDENTIAL ELECTIONS**

Mr. Goldstein presented the following early voting centers from 2010 as proposed early voting centers for 2012.

- |                           |   |
|---------------------------|---|
| Allegany                  | Allegany County Office Complex, 701 Kelly Road, Suite 212, Cumberland 21502   |
| Anne Arundel<br>(4 of 5)  | 1) West County Library, 1325 Annapolis Road, Odenton 21113<br>2) Severna Park Library, 45 W. McKinsey Road, Severna Park 21146<br>3) Edgewater Library, 25 Stepneys Lane, Edgewater 21037<br>4) North County Library, 1010 Eastway, Glen Burnie   |
| Baltimore Co.<br>(4 of 5) | 1) Bloomsbury Community Center, 106 Bloomsbury Avenue, Catonsville 21228<br>2) Randallstown Community Center, 3505 Resource Drive, Randallstown 21133<br>3) Honeygo Community Center, 9033 Honeygo Boulevard, Perry Hall 21128<br>4) North Point Library, 1716 Merritt Boulevard, Dundalk 21222 |

Calvert	Calvert County Board of Elections, 30 Duke Street, Prince Frederick 20678
Caroline	Caroline County Board of Elections, 403 S. Seventh Street, Room 112, Denton 21629
Carroll	Westminster Senior Activities Center, 125 Stoner Avenue, Westminster 21157
Cecil	Cecil County Government Offices, Elk Room, 200 Chesapeake Boulevard, Elkton 21921
Charles	Charles County Elections Office, 201 E. Charles Street, LaPlata 20646
Dorchester	Dorchester County Office Bldg. Lobby, 501 Court Lane, Cambridge 21613
Frederick	Frederick Senior Center, 1440 Taney Avenue, Frederick 21702
Garrett	Oakland Community Center (The Armory), 14 N. Eighth Street, Oakland 21550
Howard	1) Florence Bain Senior Center, 5470 Ruth Keeton Way, Columbia 21044 2) Ellicott City Senior Center, 9401 Frederick Road, Ellicott City 21042 3) Ridgely's Run Community Center, 8400 Mission Road, Jessup 20794
Kent	Kent County Public Library, 408 High Street, Chestertown 21620
Montgomery	1) Bauer Drive Community Recreation Center, 14625 Bauer Drive, Rockville 20853 2) Executive Office Building, 101 Monroe Street, Rockville 20850 3) Germantown Community Recreation Center, 18905 Kingsville Road, Germantown 20874 4) Marilyn Praisner Community Center, 14906 Old Columbia Pike, Burtonsville 20866 5) Silver Spring Civic Building, One Veteran's Plaza, Silver Spring 20910
Prince George's	1) College Park Community Center, 5400 Marlboro Race Track Road, College Park 20744 2) Bowie Library, 4041 Pierce Avenue, Bowie 20715 3) Upper Marlboro Community Center, 15210 Annapolis Road, Upper Marlboro 20772 4) Wayne K. Curry Sports & Learning Center, Landover Room A, 8001 Sheriff Road, Landover 20785 5) Oxon Hill Library, 6200 Oxon Hill Road, Oxon Hill 20745
St. Mary's	Potomac Building, Room 14, 23115 Leonard Hall Drive, Leonardtown 20650
Somerset	Somerset County Office Complex, 11916 Somerset Avenue, Princess Anne 21853
Wicomico	Wicomico County Youth and Civic Centre, 500 Glen Avenue, Salisbury 21804
Worcester	Gull Creek Community, Sunroom, 1 Meadow Street, Berlin 21811

Ms. Mack made a motion to approve the proposed early voting centers, and Mr. McManus seconded the motion. The motion passed unanimously.

Mr. Goldstein presented the following new early voting centers with the recommendation to approve. He explained that the early voting centers used in 2010 were either too small or did not have sufficient parking and that site surveys and accessibility surveys have been completed on each of the proposed early voting centers.

County	2010 Location	Proposed 2012 Location
Anne Arundel	Annapolis Senior Activity Center 119 South Villa Ave	TBD
Baltimore County	Towson University Administration Building, 7720 York Road, Towson	TBD
Harford	Bel Air Public Library, 100 E. Pennsylvania Avenue, Bel Air	McFaul Activity Center, 525 W. MacPhail Road, Bel Air 21014
Queen Anne's	Queen Anne's County Free Library, 121 So. Commerce Street, Centreville	Queen Anne's County Department of Aging Facility, Kramer Building, 104 Powell Street, Centreville 21617
Talbot	Talbot Operations Center, 605 Port Street, Easton	Easton Firehouse, 315 Aurora Park Drive, Easton
Washington	PNC Bank Building, 128 W. Washington Street, Hagerstown	Red Cross of Washington County, 1131 Conrad Court, Hagerstown 21740

Ms. Mack made a motion to approve the above new early voting centers subject to the proposed early voting center for Harford County meeting the requirement that 50% of the county's registered voters live within ten miles of the proposed center, and Ms. McGuckian seconded the motion. The motion passed unanimously.

### **APPROVAL OF NURSING HOME AND ASSISTED LIVING FACILITY MANUAL**

Nikki Trella presented an updated *Licenses Nursing Homes and Assisted Living Facilities: Absentee Ballot & Voter Registration Procedures* manual for approval. Ms. Trella explained that changes made were to improve readability and incorporated suggestions from the local boards. In response to a question, Ms. Trella explained that there were no policy changes being proposed in the updated manual. Ms. McGuckian made a motion to approve the manual, and Mr. Thomann seconded the motion. The motion passed unanimously.

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

Mr. DeMarinis presented waivers of late fees for the following political committees along with the Administrator's recommendation for approval.

1. Abrams, Steve Friends Of, A6483
2. Aiken, Bill Committee To Elect, A4790
3. Andrews, Phil Friends Of, A558
4. Ballinger, Robert Friends To Elect, A7933
5. Bates, Gail Friends Of, A820
6. Bethea, Venus Friends To Elect, A7059
7. Collins, Gary The Solution by, A6780
8. Committee of Ten Slate, A4386
9. Fannie Lou Hamer- PAC, A8933
10. Fennell, Diana Friends Of, A1971
11. Griffith, Melony Citizens For, A492
12. Gross, Otto "Butch" for Citizens, A7795
13. Hixon, Orlando Xavier Friends of, A7704
14. Hughes, Mark E. Committee To Elect, A5286
15. Kent County Democratic Central Committee, A130
16. Lucas, Scot Citizens for, A7411
17. Miller, Ron Team, A6544
18. Oputa, Michael Citizens for, A7420
19. Polish American Political Action Committee of Maryland, A4198
20. Rettig, (Robert) Bree Friends Of, A8835
21. Rogers, Patricia Friends of, A7378
22. Smith, Will Friends Of, A7038
23. Taxicab, Sedan and Para Transit Association PAC, Maryland, A1865
24. Washington, Alonzo Friends For, A8602

Ms. McGuckian made a motion to approve, and Ms. Mack seconded the motion. The motion was approved unanimously.

### **APPROVAL OF PROPOSED REGULATIONS**

Mr. DeMarinis presented proposed changes to 33.13.02 (Campaign Finance Reports), 33.13.03 (Electronic Filing of Reports), 33.13.05 (Electronic Signature Requirements), and 33.13.06 (Campaign Accounts) and two new proposed regulations – 33.13.08 (Independent Expenditure Requirements) and 33.13.09 (Electioneering Communication Requirements). He provided an overview of each proposed change and the proposed new regulations. Mr. McManus asked what prompted the proposed changes, and Mr. DeMarinis responded that the proposed changes to 33.13.06 and new regulations 33.13.08 and 33.13.09 were in response to action by the General Assembly, others were due to the development and implementation of the new online, browser based campaign finance filing system, and the proposed change to 33.13.02 was in anticipation of campaign practices. Ms. McGuckian made a motion to approve the proposed changes to 33.13.02, 33.13.03, 33.13.05 and 33.13.06 and the new regulations of 33.13.08 and 33.13.09, and Ms. Mack seconded the motion. The motion passed unanimously.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

There was no new business.

### **SCHEDULING OF NEXT MEETING**

The next meeting was scheduled for September 22, 2011, at 2:00 pm.

### **ADJOURNMENT**

Mr. Walker adjourned the public meeting at 3:30 pm.

### **CLOSED MEETING**

Mr. Walker called for a motion to close the board meeting under State Government Article, §10-508(a)(12) to discuss an investigative proceeding on actual or possible criminal conduct. Ms. Mack made a motion to close the meeting, and Mr. McManus seconded the motion. The motion passed unanimously.

During the closed session members were briefed by the State Administrator on an investigation being conducted by the Office of the State Prosecutor. Ms. Lamone informed the Board that staff made the referral to the State Prosecutor after finding evidence that voter status changes in the voter registration system were intentionally being done improperly and contrary to State and federal law.

In addition to the board members, Ms. Lamone, Mr. Goldstein, Ms. Smith, and Mr. Darsie were present.

No actions were taken.