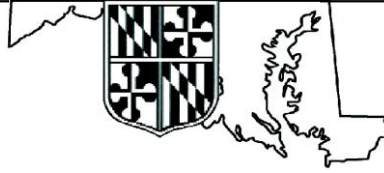


STATE BOARD OF ELECTIONS

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Memorandum

To: Senate Budget and Taxation Committee
February 12, 2019

House Appropriations Committee
Subcommittee on Public Safety and Administration
February 13, 2019

From: Linda H. Lamone, State Administrator of Elections

Subject: Response to Department of Legislative Services' FY 2020 Budget Analysis

Thank you for the opportunity to respond to the Department of Legislative Services' (DLS) analysis of the State Board of Elections' (SBE) Fiscal Year 2020 budget.

Issues Raised in the Department of Legislative Services' Analysis

1. ***SBE should comment on how the State and LBEs are preparing for the increasing utilization of early voting.*** (page 9)

As expected, early voting – as a percentage of total turnout – has increased since it was introduced in Maryland in 2010. This is consistent with trends around the country, and we expect the percentage of voters who vote during early voting will continue to increase for the next several elections.

Planning for the continued popularity of early voting means that the facilities used for early voting must be able to accommodate the increasing number of voters and each early voting center must have an appropriate number of election judges, voting equipment, and other supplies to facilitate voting by these voters. Finding facilities with adequate space that are available for exclusive use for eight days and recruiting enough election judges to staff the early voting centers are significant challenges for the local boards.

House Bill 79 of the 2019 Legislative Session proposes to increase the number of early voting centers and require the location of early voting centers to “maximize geographic dispersal”¹ for the voters of each county. Providing more early voting centers is one way to prepare for more participation during early voting. Another way is to increase the capacity of each early voting center by using larger facilities and deploying more equipment. As noted above, however, finding available larger facilities is not always an

¹ Proposed early voting centers must now meet certain population density requirements. If a county has one early voting center, 50% of the voters in that county must live within 10 miles of the early voting center. If a county has more than one early voting center, 80% of the voters in that county must live within five miles of one of the county's early voting centers.

option. SBE and the local boards will continue to provide enough equipment and supplies to facilitate expanded early voting.

2. *SBE should comment on how it is working with other parts of State government to ensure that the agency receives the necessary voter information on all transactions from those offices and departments.* (page 12)

With the July 1, 2019, implementation of the Secure and Accessible Registration Act (Chapter 19 of the *2018 Laws of Maryland* (Senate Bill 1048)), we will use with electronic voter registration agencies the audit model jointly implemented by the Maryland Motor Vehicle Administration and SBE. This model includes requiring each electronic voter registration agency to perform audits to verify that all of the records that should have been sent were sent and tell us how many records are transmitted in each file. These audits will confirm that the correct data is being transferred to and received by SBE. SBE's existing voter registration audit procedures will confirm that the appropriate local board processed the transactions from the electronic voter registration agencies.

3. *SBE should comment on how it will ensure that LBEs are prepared to accommodate the anticipated turnout.* (page 13)

Before each election, SBE and the local boards collaborate to estimate voter turnout. This estimate is based on various factors, including voter turnout trends, the competitiveness of contests on the ballot, any contests on the ballot without an incumbent candidate, and the public's level of interest in questions on the ballot. Because this estimate is then used for planning, State and local election officials typically overestimate turnout to ensure that adequate supplies and resources are available.

As is our practice, we will work with the local boards to estimate voter turnout for the 2020 Primary and General Elections. This data will be used to guide voting equipment allocation, printing of ballots and other supplies, recruiting and assigning election judges, verifying that voting locations are sufficient, and establishing support for SBE's call center. We will also work with the local boards to verify that an adequate supply of ballots and other supplies are deployed, develop solutions to track ballot usage during voting hours, and develop strategies for more rapid deployment of necessary supplies during voting hours.

4. *DLS recommends the adoption of a narrative expressing the intent that SBE's ballot procurement plan ensures that additional ballot paper will be available should SBE be required to reprint ballots before an election.* (page 14)

One of the lessons of the 2018 election cycle was that many key deadlines in the Election Law Article are no longer viable. While State and local election officials have always met the federal requirement that ballots must be transmitted to requesting military and overseas voters no later than 45 days before an election, deadlines for preceding tasks are not properly timed and result in an unworkable schedule².

² For example, the deadline to challenge the content and arrangement of the ballot is a mere five days before the federal deadline to transmit ballots to military and overseas voters. *See* Election Law Article, §§ 9-207(a)(2) and 9-209(a). This means that a voter could challenge the content and arrangement of the ballots and a court could decide the challenge *after* the ballots have been printed and likely after their transmission to our military and overseas voters.

Since the process of defining ballot content and designing and proofing ballots is a multi-week process and cannot be restarted just weeks before an election, the Election Law Article should reflect that reality. Legislation changing deadlines associated with candidacy and ballots and resolving the various conflicts of current law is expected shortly. Under the new calendar, a change to the ballot **must** occur before ballot printing begins. This means that additional ballot paper would not be needed because the ballot paper would still be blank.

If the committees decide to adopt the proposed narrative and the expected legislation is not enacted, SBE would need additional funds to procure and store additional ballot paper in the unlikely event that ballots are reprinted before an election³. If the additional paper was purchased for but not used in the 2018 General Election, it can only be stored for approximately one year before becoming unsuitable as ballot paper. As SBE does not have the capacity to store in a climate-controlled environment this quantity of paper, SBE would be required to pay for storage.

5. ***SBE should discuss why the costs to procure these services are increasing, including any enhancements that might contribute to the growth*** (page 22)
Staffing Contract

We expect that the local boards will request more support for the 2020 Primary and General Elections than they did for the 2018 General Election⁴. The expected increase in support is due to extra technical support⁵ needed in a presidential election cycle (as compared with a gubernatorial election cycle) and a change in how election judges are trained⁶. We also plan to conduct centralized training of these technical resources. Although this plan will increase travel expenses for these individuals, we will be able to assess the abilities of these individuals before they are deployed to the local boards, provide more hands-on training, and resolve scheduling conflicts that occurred when the training was conducted at the local boards' facilities.

Transportation Contract

SBE's FY 2019 budget request for transportation services was an estimate as the budget was submitted before the transportation contract had been finalized. The transportation costs for the 2018 General Election were \$1,611,300. SBE's FY 2020 budget request for transportation services for the 2020 Primary Election is \$1,671,990. The difference

³ In the 2018 General Election, SBE's ballot printer printed 11.2 million sheets of paper. If the proposed narrative was in effect for that election, SBE would have needed an additional 11.2 million sheets of paper or a total of 22.4 million sheets. The cost of this additional paper would have been \$672,000 (\$0.06 per sheet of ballot paper).

⁴ Typically, we ask the local boards for their staffing needs about six to eight months before an election. Although we have not yet surveyed the local boards about the 2020 elections, our expectations are based on lessons learned from the 2018 election cycle and discussions with the local boards.

⁵ The local boards can use this contract to obtain individuals to serve as LBE Technicians, LBE Support Technicians, Logic and Accuracy Testers, and Field Support during early voting and on election day. LBE Technicians and LBE Support Technicians provide on-site technical support starting up to 10 weeks before election day, while Logic and Accuracy Testers perform the pre-election accuracy tests on voting equipment.

⁶ Historically, election judge training was conducted "lecture style" with some hands-on training. For the 2020 elections, we expect that the "lecture style" training will be replaced with complete hands-on training. This training method better prepare election judges for their service but requires more trainers (at least three per class) than the traditional lecture style training (one to two trainers per class).

between the FY 19 actual expenditures and the FY 2020 budget request is the 3.7% increase authorized in the contract.

MDVOTERS and MD CRIS contracts

In the past, the Office of the Legislative Auditor (OLA) issued findings related to “bundled” contracts and recommended dividing into separate contracts contracts with different tasks. OLA noted in its audit report that unbundling contracts would increase competition. It was for this reason why we divided the hosting and maintenance of the MD CRIS and MDVOTERS systems into two contracts – one for hosting the system and one for software maintenance.

Based on the procurement of the MD CRIS hosting contract, it appears that that cost of hosting this type of system has increased since the procurement of our current contracts. Additionally, we incorporated into this procurement best practices for hosting and securing IT systems, expanded capacity, and increased technical support, all of which may also contribute to the increased cost for hosting and securing MD CRIS.

Since the MDVOTERS contracts (hosting and software maintenance) expire on December 31, 2019, we will issue this year procurements for the hosting and software maintenance of this system. As we did for the MD CRIS procurements, we intend to incorporate best practices for hosting and securing IT systems.

6. *SBE should comment on the status of the new pollbook project and when the new pollbooks are expected to be deployed.* (page 23)

The vendor is scheduled to deliver a prototype of the new hardware no later than March 30, 2019. After comprehensive testing of the prototype in April 2019, we will decide whether to use the new hardware in the 2020 elections. We are currently evaluating alternate options in case we decide not to use the new hardware.

7. *SBE should discuss the steps it is taking to protect State elections from interference and how these federal funds will support that effort.* (page 25)

Election security is and will continue to be a priority for State and local election officials in Maryland as we strive to keep our election systems and data as secure as possible. We protect the systems and data with industry accepted best practices for critical information systems. From the voter registration process to the voting process to the posting of election results, we have ways to protect, monitor, test, and restore the systems and processes and are constantly looking for ways to enhance how we protect these systems and respond to new risks.

Our partnerships with State, federal and private sector security experts is working. The rapid evolution of physical and cyber risks requires that we be constantly vigilant, sharing information with federal, State and private sector partners, and holding vendors to tough standards of accountability. While there is no evidence of security breaches at this time, we are and will continue to utilize every appropriate and available resource to safeguard our election system from malicious intent.

The federal funds for election security will enhance our ability to safeguard our election systems and data. We plan to hire an election security team to develop short, medium, and

long term recommendations to enhance how we protect the systems and data, continue to implement best practices for information systems (e.g., requiring multi-factor authentication), update equipment and software, conduct information security training and hands-on disaster recovery exercises, and perform recommended security assessments.

The federal funds will enable Maryland's elections community to build on its already strong cyber posture and enhance the existing ways we protect, monitor, test, and restore election systems and data.

Recommended Actions (page 26)

1. SBE agrees with the proposed restriction of funds for MD CRIS, the online campaign finance filing system.
2. For the reasons stated above, SBE advises that the committees consider the fiscal impact and election calendar before adopting the proposed narrative.