

MARYLAND

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June 11, 2013

Sheila E. Hixson, Chair
House Ways and Means Committee
Maryland House of Delegates
Annapolis, MD 21401

John S. Cardin, Chair
Election Law Subcommittee
Maryland House of Delegates
Annapolis, MD 21401

Dear Delegates Hixson and Cardin:

I am writing in response to your June 6, 2014 letter regarding the studies mandated by Chapters 157 and 158 of 2013. Your additional instructions and guidance will be considered as we plan to undertake these studies. There are a few points in your letter that I would like to specifically address.

Sunday Early Voting - Your letter notes that a person who voted during early voting and on Election Day in their own name would be easily detectable, subject to prosecution, and therefore would be a rare occurrence. Based on this assessment, you direct SBE to consider not updating pollbooks as a possible solution to implementing early voting through Sunday.

As you may recall, when early voting was first enacted, Maryland policy makers wanted early voting administered in a manner that would be capable of preventing a voter from voting more than once. Evidence of this fact can be found in the 2006 initial early voting legislation (Chapter 61 of 2006), which specifically directed SBE to procure and implement electronic pollbooks. The purpose of the pollbooks was specifically to ensure that multiple voting could be prevented.

Abandoning the practice of updating pollbooks before Election Day with early voting information would address most of the administrative issues associated with early voting through Sunday. However, it would also represent a significant policy change from preventing a voter from voting more than once to relying on deterrence and prosecution after the fact.

Long Lines at Polling Place - Your letter incorrectly states that "20 of 24 counties failed to deploy at least one voting unit for every 200 registered voters." This misstatement originated in the Department of Legislative Services' budget analysis of SBE.¹

All of the counties deployed the correct number of voting units per SBE's regulations (our post election review indicates that 4 precincts were off by one voting unit).

The reason for this misstatement by the DLS analyst is likely a result of conducting the analysis countywide instead of by precinct and failing to take into consideration that the ratio of one voting unit for 200 voters assigned to a precinct is modified for early voting. The regulations

¹ <http://mgaleg.maryland.gov/pubs/budgetfiscal/2014fy-budget-docs-operating-D38101-State-Board-of-Elections.pdf> - See page 4, of analysis "only four counties met the requirement." However also see page 6 where, after discussion with SBE, the analyst provides clarification, "According to SBE, for the general election, almost all precincts met this requirement."

require one voting unit for every 200 voters assigned to a precinct – but the number of voters assigned to a precinct does not include the percentage of voters anticipated to vote during early voting. For example, if a precinct has 2,000 voters and early voting has an estimated turnout of 20% then the number of voters assigned to the precinct for purposes of applying the ratio is 1,800 (hence 9 voting units instead of 10).

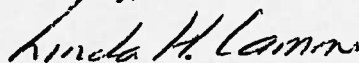
Accessibility Evaluation of Online Ballot Marking Tool - Your letter requests that the evaluation of the ballot marking tool include voters with certain types of disabilities who may not be able to place the printed ballot in an envelope for mailing without assistance from another person. The letter concludes that, for such voters, this situation would compromise the privacy of the ballot and the voter's ability to independently cast the ballot.

I agree that it is important for the accessibility evaluation of the ballot marking tool to review all aspects of the ballot marking and mailing process facing a voter with disabilities. I think such a review can identify ideas and process improvements that may provide greater access for voters with disabilities. However, the determination of whether the ballot marking tool should be certified must be limited to an analysis of the tool and how voters with disabilities interact with it. It should not and cannot include activities beyond the specified function of the ballot marking tool - accurately marking ballots.

Independent Consultant Report on Security of Voting Technology - In addition to working with a security consultant throughout the development of the online voter registration system, a consultant was hired to conduct a penetration test of the system. The consultant, who was an employee at NSA and participated in numerous penetration tests, concluded that the system was secure and noted that he was not even able to determine the type of database being used by the system (see attached test report).

Please do not hesitate to contact me if you have any other questions.

Sincerely,



Linda H. Lamone
Administrator