

D38I01
State Board of Elections

Executive Summary

The State Board of Elections (SBE) is a five-member board charged with managing and supervising elections in the State, registering voters, and coordinating candidacy.

Operating Budget Data

(\$ in Thousands)

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$8,614	\$12,174	\$12,859	\$685	5.6%
Adjustments	0	-309	110	419	
Adjusted General Fund	\$8,614	\$11,865	\$12,969	\$1,104	9.3%
Special Fund	11,250	15,773	14,042	-1,732	-11.0%
Adjustments	0	-332	9	341	
Adjusted Special Fund	\$11,250	\$15,442	\$14,051	-\$1,391	-9.0%
Federal Fund	0	668	707	40	5.9%
Adjustments	0	1,530	0	-1,530	
Adjusted Federal Fund	\$0	\$2,198	\$707	-\$1,490	-67.8%
Reimbursable Fund	3,072	625	0	-625	-100.0%
Adjustments	0	0	0	0	
Adjusted Reimbursable Fund	\$3,072	\$625	\$0	-\$625	-100.0%
Adjusted Grand Total	\$22,936	\$30,129	\$27,727	-\$2,402	-8.0%

Note: The fiscal 2019 appropriation includes deficiencies, a one-time \$500 bonus, and general salary increases. The fiscal 2020 allowance includes general salary increases.

Note: Numbers may not sum to total due to rounding.

For further information contact: Benjamin B. Wilhelm

Phone: (410) 946-5530

Analysis of the FY 2020 Maryland Executive Budget, 2019

D38I01 – State Board of Elections

- The Governor's budget plan for SBE includes fiscal 2019 deficiencies, which decrease the general fund appropriation by a net of \$309,104 and the special fund appropriation by \$331,637 due to the impact of increased federal grant funding, which is partially offset by statewide salary actions. The budget also includes a deficiency to add \$1.6 million in additional federal funds for election security.
- The fiscal 2020 allowance for the agency decreases by \$2.4 million (8.0%) due to declining special funds for voting equipment and federal funds for election security. General funds increase by \$1.1 million, largely due to increased contract costs for election services.

Personnel Data

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>
Regular Positions	41.80	41.80	41.80	0.00
Contractual FTEs	<u>0.38</u>	<u>1.88</u>	<u>3.38</u>	<u>1.50</u>
Total Personnel	42.18	43.68	45.18	1.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.86	2.06%
Positions and Percentage Vacant as of 12/31/18	2.00	4.78%

- The fiscal 2020 allowance increases by 1.5 contractual full-time equivalents (FTE) over the fiscal 2019 working appropriation. This increase includes two 0.5 FTEs for warehouse inventory specialists and 1 0.5 FTE increase for a database specialist to a 1.0 FTE.

Key Observations

- ***Looking Back at 2018:*** With a few notable exceptions, the 2018 election was generally smooth and well managed, and the State saw historically high turnout.
- ***Looking Forward to 2020:*** Preparations for 2020 are already underway, and two ongoing issues, the delayed Agency Election Management System replacement and the fix for confusing displays on ballot marking devices, are both on track to be resolved before the election.

Operating Budget Recommended Actions

1. Restrict \$1.3 million in general funds for the Maryland Campaign Reporting Information System to that purpose.
2. Adopt committee narrative expressing the intent that the State Board of Elections' ballot procurement process ensures that additional paper stock will be available should ballots in all or part of the State need to be reprinted prior to an election.

Updates

- This analysis includes an update on the status of the Fair Campaign Finance Fund.

D38I01
State Board of Elections

Operating Budget Analysis

Program Description

The State Board of Elections (SBE) is a five-member board charged with managing and supervising elections in the State; ensuring compliance with State and federal election laws, including the federal Help America Vote Act (HAVA); assisting citizens in exercising their voting rights; and providing access to candidacy for individuals seeking elected office.

Individuals from both major parties are appointed to SBE by the Governor with the advice and consent of the Senate for staggered four-year terms. The board appoints a State Administrator, also with the advice and consent of the Senate, who is charged with oversight of the board's functions and supervising the operations of the local boards of elections (LBE). LBEs process voter registration records for the statewide voter registration database, establish election precincts, staff polling places, provide and process absentee and provisional ballots, and certify local election results.

The mission of SBE is to administer the process of holding democratic elections in a manner that inspires public confidence and trust. SBE's key goals are:

- to ensure that all eligible Maryland citizens have the opportunity to register to vote; and
- to provide a voting process that is convenient and accessible.

Performance Analysis: 2018 Election in Review

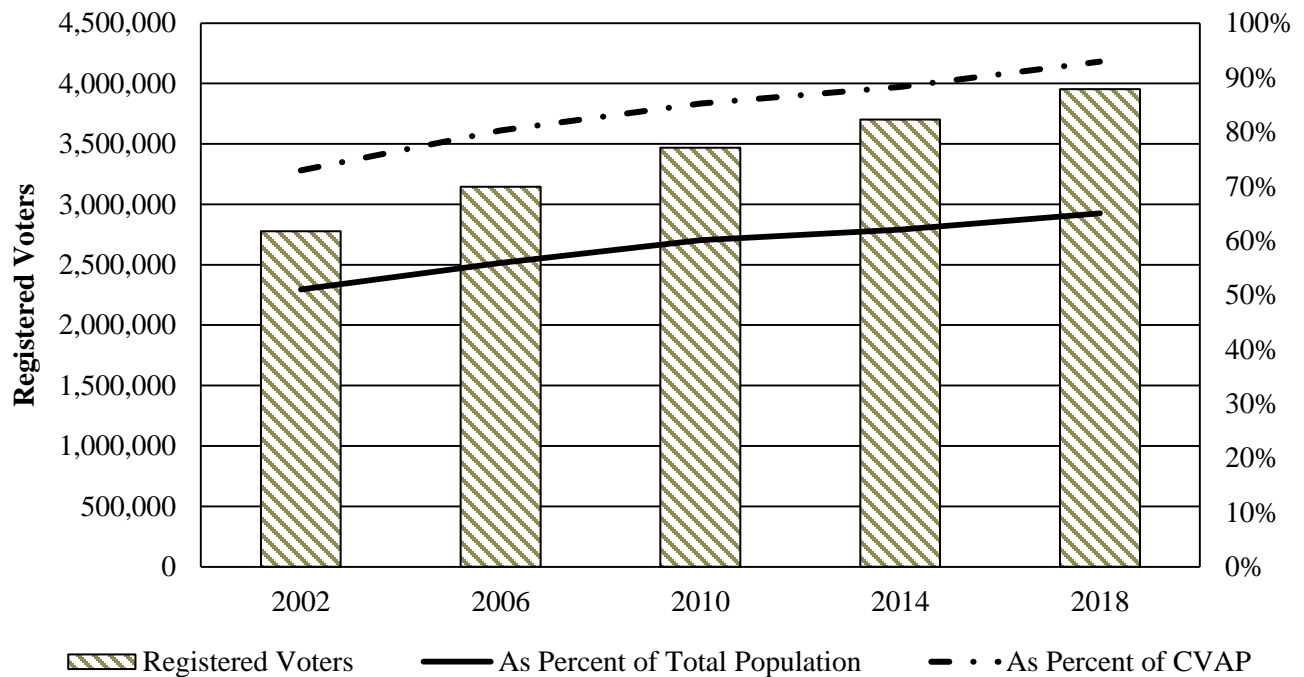
The performance of SBE is ultimately measured by the administration of the most recent elections. Since last session, there have been statewide primary and general elections. This section will provide a brief review of the administration of the 2018 election, including data on voter registration and voter turnout and a discussion of issues that arose throughout the election cycle.

Election Statistics

1. Voter Registration Continues to Grow

Growth in the number of registered voters in the State has been outpacing population growth since at least the 2002 election cycle. **Exhibit 1** provides three measures of voter registration in the State: total registered voters; registered voters as a percent of the total population; and registered voters as a percentage of the citizen voting age population (CVAP). By all three metrics, there has been a large increase in voter registration in the State.

Exhibit 1
Registered Voters in Maryland
Gubernatorial General Elections
Calendar 2002-2018



CVAP: civilian voting age population

Source: Maryland State Board of Elections; United States Census Bureau

The pace of growth in voter registration remained strong in 2018 with the number of eligible active voters for the general election growing by 6.8% over 2014 to nearly 4.0 million. However, it is also the case that the growth in registered voters in the 2000s and 2010s has brought such a large share of eligible unregistered citizens onto the voter rolls that it will be difficult to maintain those high growth rates much longer. Based on CVAP, less than 1 in 10 Marylanders who are eligible to vote are not currently registered, compared to nearly 3 in 10 during the 2002 election cycle.

The fact that a large majority of Marylanders who are legally eligible to register have already done so will be important to understand as the General Assembly considers implementing election day voter registration, which was authorized by the voters in November, and evaluates the impact of automatic voter registration (Chapter 19 of 2018). The rate of growth in registrations is likely to slow in the coming years, notwithstanding these new policies.

2. Voter Turnout Was Historically High for a Gubernatorial Election

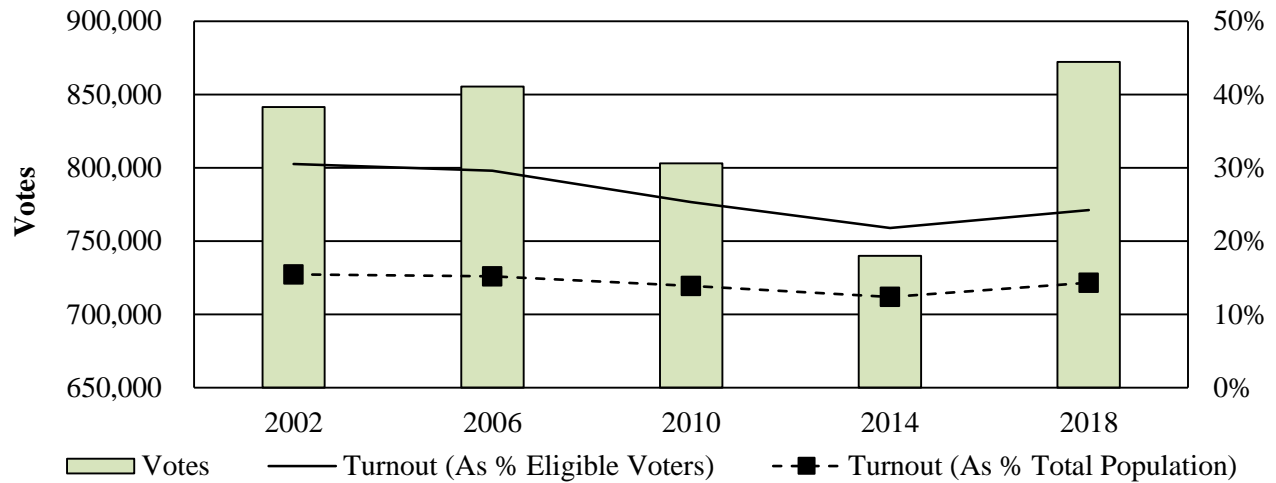
This election cycle also saw a significant upswing in voter turnout. A total of 2.3 million Marylanders voted in the 2018 general election, the first time that there were more than 2.0 million votes in a gubernatorial election in State history. Additionally, 872,207 voted in the primary election. This was also the largest raw vote count in a primary in State history by a small margin. While this increase in turnout is broadly consistent with the national trend, it is important to keep in mind that each state and locality is unique. Broader political and demographic trends are important to turnout but so are the candidates, the issues, and the individual voters in each district.

Policy changes and computerization since the 2000 election have significantly changed registration in the State, as discussed prior. The increase in the share of eligible citizens registered to vote since 2002 renders the traditional voter turnout measure less useful, especially when comparing recent cycles to historic numbers. For instance, when comparing the 2002 and 2018 general elections by the traditional metric, voter turnout was 1.9 percentage points higher in 2002. However, when measuring turnout based on total State population, turnout in 2018 was higher by 6.7 percentage points. Despite this limitation, the discussion below includes the traditional turnout measure to be consistent with historic practice.

Primary Election

Turnout for primary elections since 2002 is detailed in **Exhibit 2**. As shown in the exhibit, the official turnout statistic (turnout as a share of eligible voters) increased 11.0% above the historically low turnout for the 2014 election. When expressed relative to the total population, the increase was even larger (15.3%). While turnout in the primary was still relatively high, the increase over 2014 was smaller than for the general election. Turnout by county is included in **Exhibit 3**.

Exhibit 2
Voter Turnout
Gubernatorial Primary Election
Calendar 2002-2018



Source: Maryland State Board of Elections

Exhibit 3
Turnout by Jurisdiction
2018 Gubernatorial Primary Election

<u>Jurisdiction</u>	<u>Turnout</u>	<u>Jurisdiction</u>	<u>Turnout</u>
Allegany	28.4%	Harford	24.4%
Anne Arundel	20.5%	Howard	23.4%
Baltimore City	26.0%	Kent	35.4%
Baltimore	24.6%	Montgomery	24.6%
Calvert	31.4%	Prince George's	26.9%
Caroline	29.3%	Queen Anne's	22.8%
Carroll	20.5%	St. Mary's	21.2%
Cecil	20.3%	Somerset	27.3%
Charles	21.8%	Talbot	35.7%
Dorchester	26.9%	Washington	21.1%
Frederick	22.4%	Wicomico	17.4%
Garrett	23.5%	Worcester	28.3%

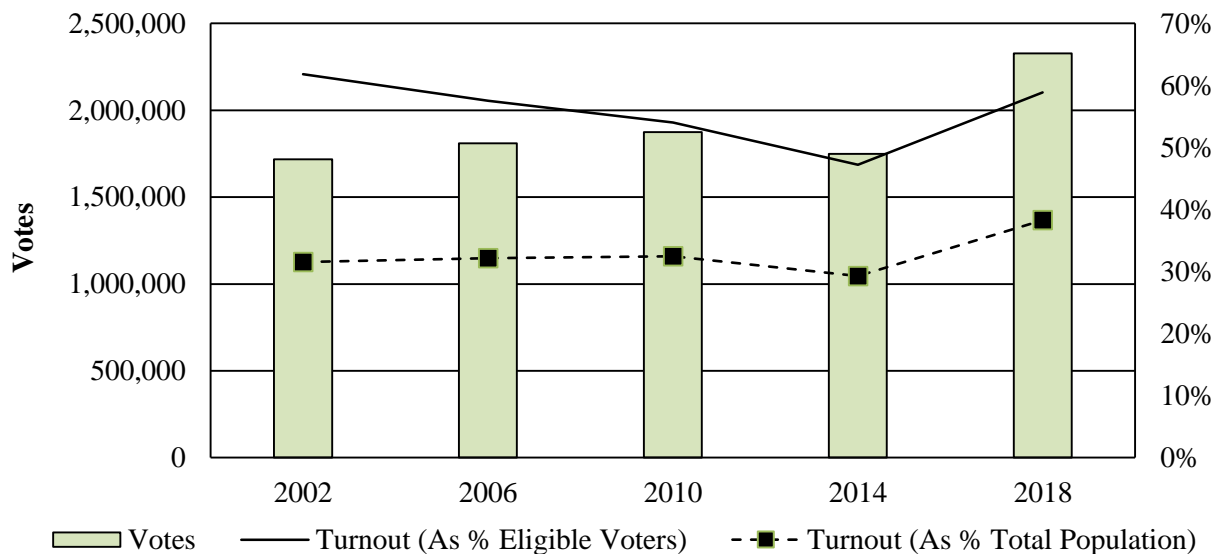
Statewide: 24.3%

Source: Maryland State Board of Elections

General Election

Turnout for gubernatorial general elections since 2002 is shown in **Exhibit 4**. Official turnout increased by 24.6% compared to 2014 and grew to 59.1% of registered voters, the highest turnout since the 2002 election. Even this figure, though, masks how much larger turnout in 2018 was than other recent elections. Taken as a percent of the total population, turnout was 38.3%, the highest since at least 1990, and an increase of 30.7% over 2014.

Exhibit 4
Voter Turnout
Gubernatorial General Election
Calendar 2002-2018



Source: Maryland State Board of Elections

Further, turnout was higher in each jurisdiction, as shown in **Exhibit 5**, and for all partisan affiliations and unaffiliated voters. While election data is still being processed and reviewed nationwide, it appears that turnout in Maryland was slightly above the national average and that turnout was up nationwide with some states approaching turnout levels from the 2016 presidential election.

Exhibit 5
Turnout by Jurisdiction
2018 Gubernatorial General Election

<u>Jurisdiction</u>	<u>Turnout</u>	<u>Jurisdiction</u>	<u>Turnout</u>
Allegany	55.8%	Harford	61.9%
Anne Arundel	60.1%	Howard	67.6%
Baltimore City	48.1%	Kent	67.0%
Baltimore	59.4%	Montgomery	63.0%
Calvert	61.1%	Prince George's	55.8%
Caroline	57.5%	Queen Anne's	64.9%
Carroll	62.6%	St. Mary's	58.0%
Cecil	54.5%	Somerset	60.2%
Charles	58.5%	Talbot	68.4%
Dorchester	58.9%	Washington	54.2%
Frederick	62.9%	Wicomico	55.5%
Garrett	57.0%	Worcester	62.4%
Statewide: 59.1%			

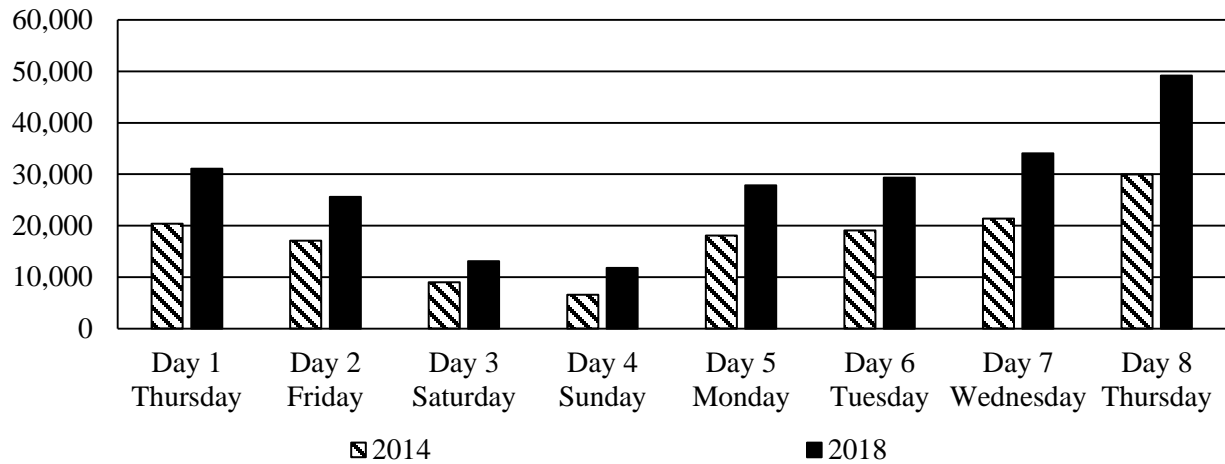
Source: Maryland State Board of Elections

3. Adoption of Early Voting Continues

Maryland law provides for early voting in the weeks immediately prior to elections. Since the 2014 gubernatorial election, the early voting window has opened the second Thursday before Election Day and closed the next Thursday, providing eight days for early voting, including one weekend. **Exhibits 6 and 7** provide a comparison of early voting by day between the 2014 and 2018 primary and general elections, respectively. Each day of early voting in both the 2018 primary and general elections saw higher turnout than the same day in the 2014 cycle. Overall, early vote counts increased by 56.9% and 116.2%, respectively. While there were not major issues reported at early voting sites, there were limited reports of long lines at peak hours.

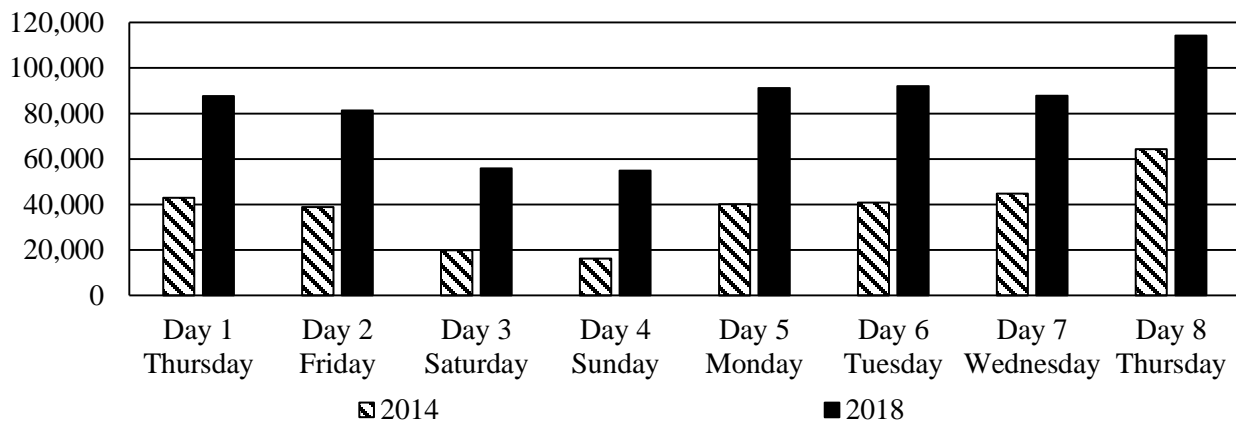
The Department of Legislative Services (DLS) recommends that SBE comment on how the State and LBEs are preparing for the increasing utilization of early voting.

Exhibit 6
Early Voting
Gubernatorial Primary Election
2014 and 2018



Source: Maryland State Board of Elections

Exhibit 7
Early Voting
Gubernatorial General Election
2014 and 2018



Source: Maryland State Board of Elections

Election Issues

1. Motor Vehicle Administration Fails to Send Over 80,000 Voter Updates to SBE Before Primary Election

On June 15, 2018, 12 days before the 2018 primary election, the Motor Vehicle Administration (MVA) discovered that, due to a code change in one of MVA's databases, 83,493 updates made by voters through MVA between April 22, 2017, and June 15, 2018, were not forwarded to SBE as expected. While all impacted voters were entitled to vote provisionally under federal law, and at least 3,538 did so, this incident was a significant breakdown in the State's voter registration system. MVA is the most common place that residents of the State register to vote and update their voting information. This error led to approximately 20% of these requests to go unprocessed for over a year.

The Cause

In testimony before a joint hearing of the Senate Education, Health, and Environmental Affairs and the House Ways and Means Committees on July 13, 2018, MVA provided the following explanation for the problem. In April 2017, MVA implemented changes to its public-facing online portal as part of a customer service initiative. The purpose of the change was to allow MVA customers to begin MVA transactions online or at an MVA kiosk before completing their transaction with an MVA employee. This feature was put in place in order to reduce the time and complexity of interactions with staff at MVA.

This change in business process meant that customer applications were held in a pending status until the transaction was completed at an MVA branch or online. These pending applications cannot be processed by SBE because they have not been signed and, therefore, are not legally sufficient for voter registration purposes. To address that issue, an MVA contractor coded the system to change the status of applications from pending to complete when a transaction with MVA, such as a vehicle registration or driver's license application, was finished. However, this coding did not capture those instances in which the customer was updating their personal information or registration status but did not have additional business with MVA. In those cases, while the interaction was complete from the perspective of both MVA and the customer, the system did not forward those records to SBE.

While MVA is responsible for the error that led to this deficiency, SBE did not identify the decrease in registration activity from MVA. SBE has reported that the daily count of MVA transactions varies widely day to day (from less than 100 to more than 2,500), which obscured the decrease in transactions. Nonetheless, now that SBE is aware that an error like this may not be detected by a cursory review of transactions, additional checks should be implemented to confirm that all data is being received. SBE reported after the primary that the agency now compares data received from MVA to the number of records that MVA reports sending to ensure that SBE is receiving data on all MVA transactions.

The Effect

According to an analysis conducted by SBE, over 70,000 individuals who were eligible to vote in the June 2018 primary in partisan and/or nonpartisan races were impacted by the MVA error. Of this group, SBE reports that 5,163 individuals were able to vote normally, either because they provided their voter information directly to SBE or because they were able to update their registration information (with the exception of party affiliation) as allowed by law. In addition, another 3,538 of the affected individuals submitted provisional ballots on Election Day, of which 3,205 were accepted in full or part.

This data indicated that turnout for the affected population was about 12%, less than half the overall turnout in the 2018 primary. Given that all available information indicates that the MVA error did not disproportionately impact individuals based on geography or political affiliation, it is troubling that the turnout rate was so much lower in this subset than among the general population. However, DLS is not aware that any more sophisticated statistical analysis has been done to determine whether turnout for this group was actually depressed due to this event.

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.

2. Precinct Level Issues

For the 2018 general election, LBEs operated 1,991 precincts spread across 1,578 polling places (some polling places service multiple precincts). Each polling place is used for other purposes the rest of the year and is converted into a voting site immediately prior to the election, including the delivery and set-up of voting equipment, arrangement of rooms to facilitate the efficient flow of voters through the process and to ensure the secrecy of ballots, and the establishment of the appropriate legal boundaries for electioneering activity. On the day of the election, while full-time staff of LBEs and SBE run the election, most of the work is done by temporary poll workers. Under these circumstances, it is inevitable that there will be some precinct level issues.

Every instance in which there is a delay, error, or other problem represents a real voter who had more difficulty voting than they should have, and, therefore, every report is important. There were some reports of delays in the opening of precincts as well as long lines at certain locations on Election Day and in early voting, but overall voting in the 2018 election cycle went smoothly for almost all voters.

The most significant voting day issue that has been reported was several precincts in Prince George's County ran out of ballots before the polls closed. SBE reports that sufficient ballots were printed, but additional ballots had to be delivered to the impacted precincts during rush hour. In at least one voting location, it took until just before 10:30 p.m., two and one-half hours after the polls closed, for all voters to finish casting their ballots. All voters who were in line at the close of polling are entitled to vote, though some were unwilling or unable to wait so long. Precincts did not have

sufficient ballots onsite due to turnout that was much higher than expected, and, in some polling places, reported turnout exceeded the 2016 presidential election, which is unprecedented.

Given the expectation that turnout will be historically high for the 2020 election, SBE should comment on how it will ensure that LBEs are prepared to accommodate the anticipated turnout.

3. Candidacy Rules Strained

The 2018 election cycle included several prominent circumstances in which the State's candidacy laws led to outcomes that were unsatisfactory to candidates and voters. This includes the deaths of Senator H. Wayne Norman, Jr. on March 4, 2018, and Baltimore County Executive Kevin B. Kamenetz on May 10, 2018, and the ineligibility of former Senator Nathaniel T. Oaks due to a guilty plea to two federal wire fraud charges between the primary and general elections. While the issue of whether the General Assembly should consider amendments to State election law based on this experience is beyond the scope of this analysis, there are logistical limitations to SBE's ability to change ballots that are strongly tied to agency operations that warrant discussion.

The most significant limitation is the federal requirement that ballots be mailed to overseas voters 45 days prior to Election Day. While there is a limited ability to send notice to those voters regarding candidacy changes and the practical effect of a vote for impacted candidates, this is essentially a hard deadline on any changes, even when SBE is authorized to order the printing of new ballots.

The actual production of ballots also creates logistical limitations. First, because of the paramount importance of ballot accuracy and the large number of ballot styles across the State, each ballot template undergoes extensive checking, proofreading, and testing, including a period of public review prior to the printing of ballots. This process of updating the election management system, generating new ballots, and reviewing those ballots would take a minimum of several days to complete and limits SBE's ability to make last minute changes.

SBE identified an additional obstacle regarding the actual printing of ballots. The State uses high-speed scanners to tabulate paper ballots. While this system allows local boards to quickly process millions of votes and provide preliminary results for most races on election night, these scanners are highly tuned equipment that can only function reliably with specific paper stocks. SBE has reported that it becomes difficult or impossible to source the correct kind of paper immediately prior to an election, due to high demand across the country.

In spring 2018, as a legal challenge seeking the removal of former Senator Oaks from the Democratic primary ballot for legislative district 41 moved through the courts, SBE did discuss contingency plans with its printing vendor. That vendor indicated that there was not enough of the correct paper available at any price but that a similar stock that could be run through the high-speed scanners was obtainable. However, the supplier also warned that, because the machines were not

designed for that paper, there would be a substantially higher rate of mechanical errors that would dramatically slow and complicate the tabulation process.

DLS recommends that the committees adopt 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.

Fiscal 2019 Actions

Proposed Deficiency

The Governor's budget plan for SBE includes the following deficiency appropriations:

- ***Federal Funds for Election Security:*** In March 2018, the federal Consolidated Appropriation Act of 2018 (Omnibus Budget) provided a total of \$380 million for state election security grants under the HAVA. Maryland's total grant, which will be spent over several years, is \$7.1 million. The budget includes a \$1.5 million deficiency for the portion of these funds that will be spent in fiscal 2019.
- ***General and Special Fund Savings Due to HAVA Funding Audit:*** In calendar 2018, the federal government conducted an audit of grant awards under HAVA and determined that the State had available \$667,716 in funds that were awarded in calendar 2003 and 2004 but never spent. The committees approved a budget amendment in the first half of 2019 to appropriate the federal funds so that they could be used for costs associated with administration of the 2018 election. This deficiency appropriation withdraws general funds (\$333,858) and special funds from local jurisdictions (\$333,858) that were replaced by these federal funds.
- ***Employee Compensation:*** The fiscal 2019 budget includes funding for a 0.5% general salary increase and a \$500 bonus for qualifying employees on April 1, 2019. For this agency, these actions add \$24,754 in general funds and \$2,221 in special funds for fiscal 2019.

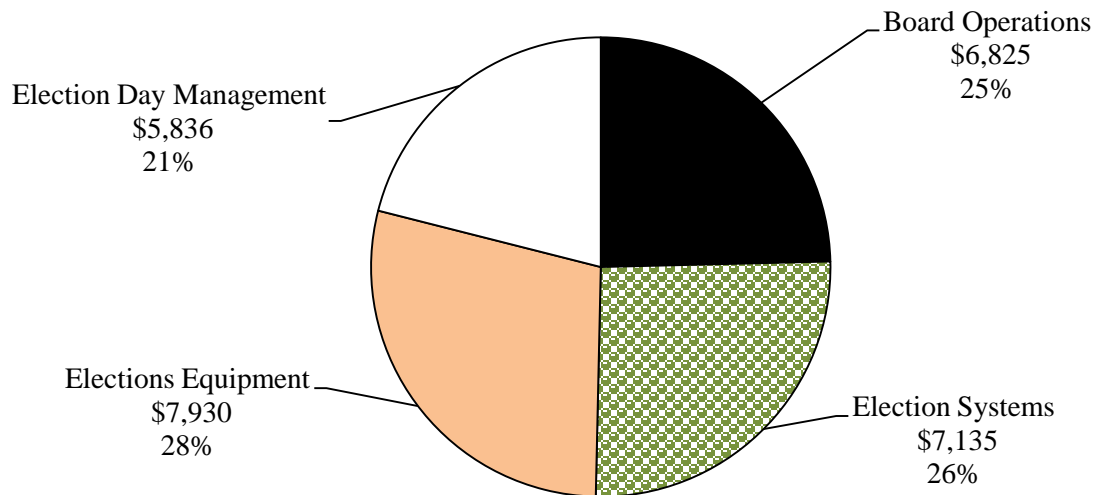
Fiscal 2020 Allowance

Overview of Agency Spending

The majority of SBE's budget is allocated to the direct costs of conducting elections. **Exhibit 8**, breaks the agency's fiscal 2020 allowance into four classes of expenditures. Board Operations includes all personnel costs for SBE as well as the costs associated with the day-to-day operations of the agency. Election Systems includes the costs of developing and maintaining SBE's election-related computer systems and federal election security grant funds. Elections Equipment includes costs directly related to voting machines and pollbooks. Finally, Election Day Management includes the logistical costs

directly associated with the conduct of the election. As the exhibit shows, about 25% of agency expenditures are for Board Operations.

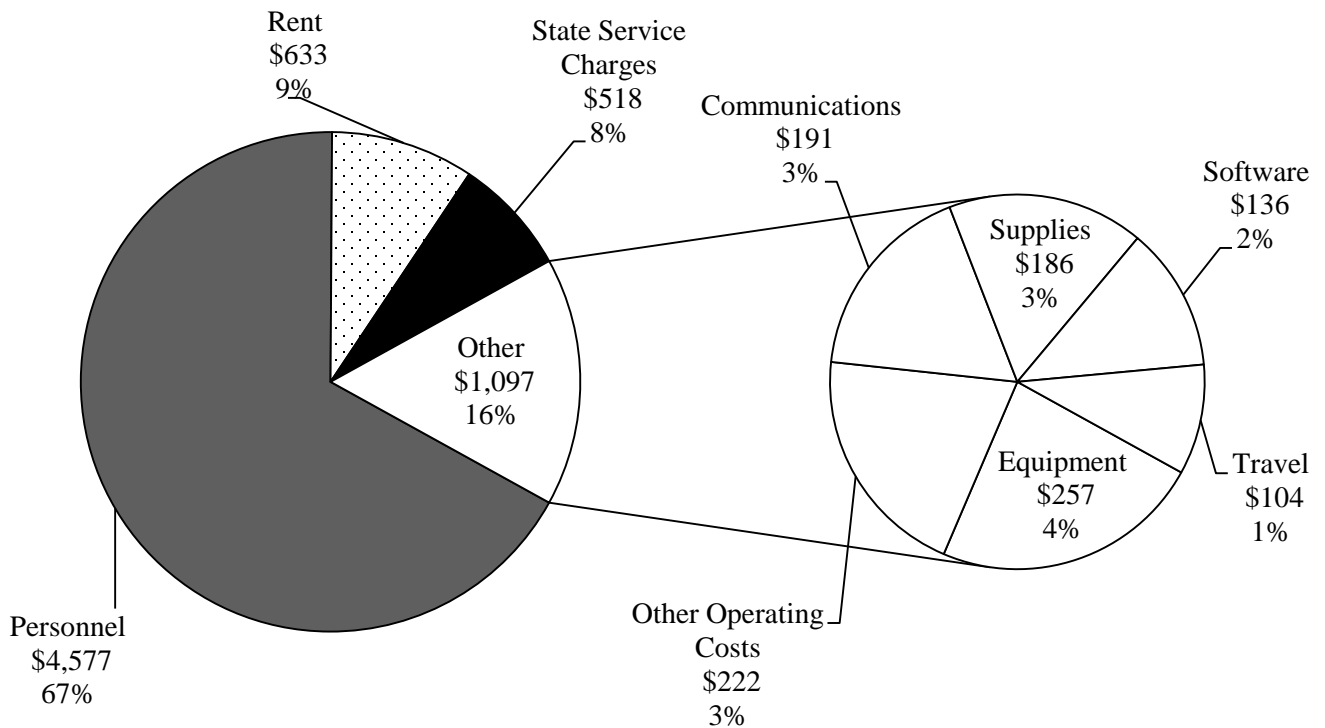
Exhibit 8
Overview of Agency Spending
Fiscal 2020
(\$ in Thousands)



Source: Department of Legislative Services

Exhibit 9 breaks out the Board Operations slice of Exhibit 8. These expenditures are typical for an agency of this size, with the majority of the allocation devoted to personnel (67%), and the next largest expense being rent (9%).

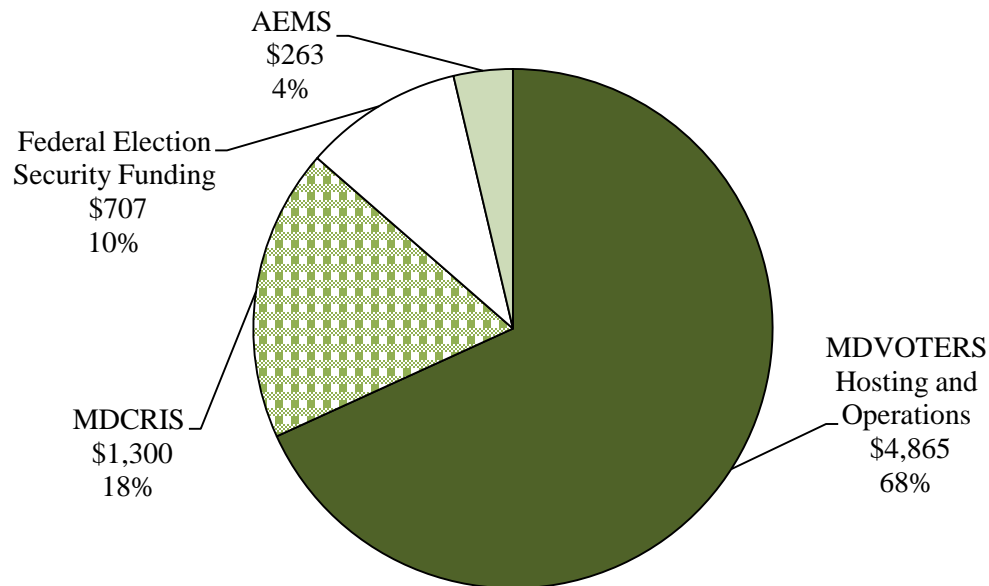
Exhibit 9
Allowance for Board Operations
Fiscal 2020
(\$ in Thousands)



Source: Department of Legislative Services

The State has computer systems for voter registration, campaign finance, and election management, as shown in **Exhibit 10**. This slice of the agency's allowance also includes federal election security funding, which will, broadly speaking, go toward protecting the State's online system from cyber threats. MDVOTERS, the State's voter registration system, is the most expensive system and processes the most transactions.

Exhibit 10
Allowance for Election Systems
Fiscal 2020
(\$ in Thousands)

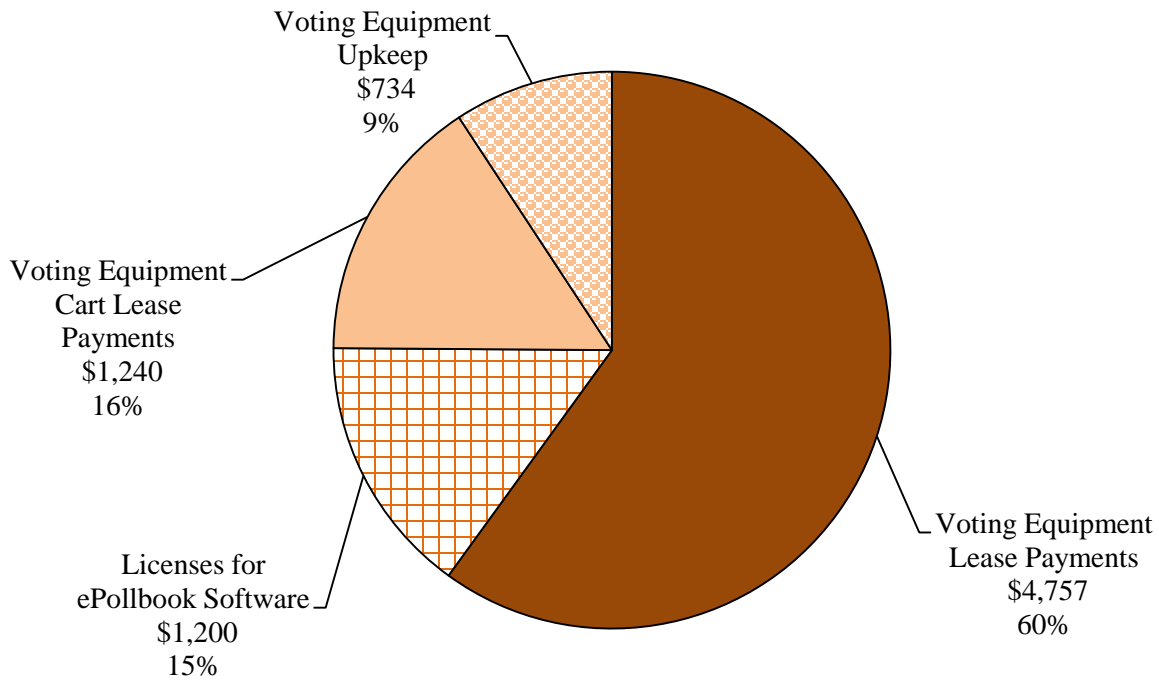


AEMS: Agency Election Management System
MDCRIS: Maryland Campaign Reporting Information System

Source: Department of Legislative Services

The portion of the budget identified as Election Equipment is specified in **Exhibit 11**. Lease payments toward the acquisition of the State's voting machines (carts, ballot marking devices, and scanners) account for 76% of this allocation, but there is also \$1.2 million for pollbook software licenses and \$734,105 for maintenance contracts for this equipment.

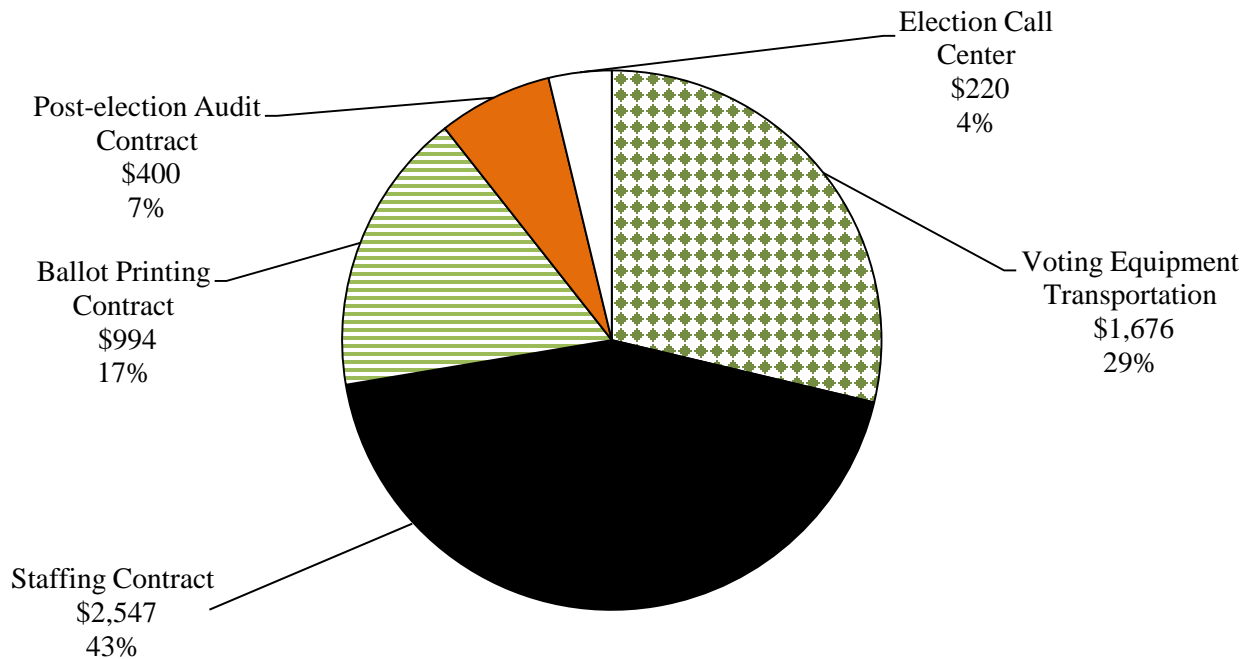
Exhibit 11
Allowance for Election Equipment
Fiscal 2020
(\$ in Thousands)



Source: Department of Legislative Services

Finally, the Election Day Management section detail can be found in **Exhibit 12**. The largest component is the staffing contract for the recruitment, training, and payment of poll workers.

Exhibit 12
Allowance for Election Day Management
Fiscal 2020
(\$ in Thousands)



Source: Department of Legislative Services

Proposed Budget Change

As shown in **Exhibit 13**, the fiscal 2020 allowance for SBE decreases by \$2.4 million, or 8.0%. The general fund allowance increases by \$1.1 million (9.3%), but this increase is offset by a decrease in the cost for the Agency Election Management System (AEMS) major information technology (IT) project and the fact that the budget does not include local funds for the acquisition of new pollbooks. Expenditures related to the voting system are divided evenly between the State and local governments. The local allocation is larger because local jurisdictions are also responsible for the cost of voting equipment acquisition.

Exhibit 13
Proposed Budget
State Board of Elections
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2018 Actual	\$8,614	\$11,250	\$0	\$3,072	\$22,936
Fiscal 2019 Working Appropriation	11,865	15,442	2,198	625	30,129
Fiscal 2020 Allowance	<u>12,969</u>	<u>14,051</u>	<u>707</u>	<u>0</u>	<u>27,727</u>
Fiscal 2019-2020 Amount Change	\$1,104	-\$1,391	-\$1,490	-\$625	-\$2,402
Fiscal 2019-2020 Percent Change	9.3%	-9.0%	-67.8%	-100.0%	-8.0%

Where It Goes:**Personnel Expenses**

3% general salary increase effective July 1, 2019	\$102
Annualization of 2% general salary increase effective January 1, 2019	34
Employee pension contribution	34
Employee and retiree health insurance	32
Annualization of 0.5% general salary increase effective April 1, 2019	12
Impact of \$500 bonus for qualifying employees on April 1, 2019	-23
Other fringe benefit adjustments	-23
Rebasing of positions.....	-54

Board Operations

Contractual employee compensation.....	170
DoIT service charges	153
Computer hardware	86
Office assistance	25
Rent.....	18

Election Administration

Campaign finance system.....	994
MDVOTERS data hosting.....	886
Perpetual license for software for current pollbooks	885
New staffing contract.....	795
New contract for freight company to move election equipment to and from precincts	268
Post-election audit contract	224

Where It Goes:

Voting equipment lease	-382
Programmed expenditures of Help America Vote Act election security funding	-823
Maintenance for legacy Agency Election Management System	-1,104
Ballot printing.....	-1,012
Agency Election Management System major IT project.....	-1,013
Local purchases of new pollbooks not included in fiscal 2020 budget allowance	-2,682
All other.....	-4
Total	-\$2,402

DoIT: Department of Information Technology
IT: information technology

Note: Numbers may not sum to total due to rounding.

Personnel

Personnel expenditures for SBE increase by a total of \$114,733. Statewide salary actions, including \$500 bonus for qualifying employees that was funded in fiscal 2019, have a net impact of \$126,262. This increase is partially offset by a decrease of \$54,207 due to the rebasing of positions due to turnover.

SBE Operations

There are two notable items related to SBE's day-to-day administration. First, the addition of 1.5 contractual full-time equivalents (FTE) adds a total of \$170,024. This addition includes 2 0.5 FTEs for warehouse inventory specialists and 1 0.5 FTE to increase a database specialist to full time. In addition, changes to how Department of Information Technology (DoIT) services are accounted for in the budget led to a \$153,001 increase in charges to SBE.

Election Administration

The most significant changes in SBE's budget are directly tied to election systems. The total allowance for these items decreases by \$3.0 million, but that includes four items that increase by more than \$750,000 and five that decrease by more than \$750,000. The discussion of these changes can broadly be divided into three points: contracts for election-related services are increasing; costs associated with the new and old AEMS are falling; and the budget does not include local funding for pollbook replacements.

Election Services Contracts Grow by Millions

Since the beginning of fiscal 2018, SBE has entered into new contracts for many of the services necessary for running an election. The fiscal 2020 allowance includes significant increases for the staffing and training contract for poll workers (\$795,350), the delivery contract for the movement of voting machines to and from polling places (\$268,334), and the contracts for hosting services and development for the Maryland Campaign Reporting Information System (MDCRIS) and MDVOTERS (\$993,699 and \$885,997, respectively). **SBE should discuss with the committees why the costs to procure these services are increasing, including any enhancements that might contribute to the growth.**

It is particularly concerning that the costs of MDCRIS is budgeted to increase from \$306,301 to \$1.3 million. The current contract expires on March 31, 2019, and SBE reports that the new cost estimate is based on the agency's experience procuring new contracts for MDVOTERS over the last six months. It may be the case that the State currently has a favorable contract, and it is certainly preferable that SBE be conservative in its estimate to ensure that sufficient funding is available, but the allowance quadruples the funding for this purpose, which is a large enough change to warrant caution from the committees. **DLS recommends that, given the large increase in the estimate for the support of MDCRIS, this allocation be restricted for this purpose only.**

In addition to the items identified above, the allowance includes a total of \$1.2 million in special funds for licenses for the EZ Roster software for the State's legacy pollbooks. This is an increase of \$884,978 over fiscal 2019 for this purpose. SBE reports that this increase is because the vendor, Election Systems & Software (ES&S), had informed SBE that it does not wish to continue to actively support the EZ Roster software system for the State and instead offered to provide perpetual licenses for the use and maintenance of the software. SBE has reported that, after the submission of the agency's fiscal 2020 budget request, ES&S expressed a willingness to reconsider this position and was open to continuing to provide support under an annual licensing agreement. If SBE and ES&S ultimately agree to a new annual licensing arrangement, then the fiscal 2020 costs to local governments for this purpose should be substantially less than the amount allocated to purchase the perpetual licenses.

Modernization of Agency Election Management System Approaches Completion

SBE is nearing the end of a multi-year process to replace the legacy AEMS with a new system that maintains the functionality of the prior system, adds new capabilities, and improves usability. SBE had planned for the new AEMS system to be operational in time for the 2018 election, but development delays necessitated the use of the old system. This required that SBE keep the legacy system fully operational longer than had been anticipated. Maintaining the legacy system through the 2018 election cost \$1.1 million in fiscal 2019, but there is no funding for this purpose in fiscal 2020.

SBE reports that the new AEMS project is moving into the final stages of development and testing, and there will be a mock election to test the new system in May 2019. Despite the delays, if the remainder of the work on the project goes well, the system should be ready for the 2020 election. Development costs in the IT master plan for the new AEMS project decrease from \$1.3 million to \$525,000. That cost is borne evenly by the State and the local election boards. The State general fund

portion of the cost is included in the budget for DoIT and will be transferred by budget amendment after the start of the fiscal year.

The Decrease in SBE’s Allowance Is Illusory Because the Budget Does Not Include Funding for New Pollbooks

The State is in the process of replacing its system of electronic pollbooks. These purchases, with a total estimated cost of \$8.1 million, are being funded by the local jurisdictions and during the fiscal 2019 budget cycle the local election boards determined that they preferred to use the State Treasurer’s Office’s (STO) capital lease program to fund these acquisitions from fiscal 2019 to 2021. To that end, the fiscal 2019 working appropriation includes \$2.6 million for this purpose. The fiscal 2020 allowance does not include these funds, and SBE reports that, while it still intends to fund the acquisition using the STO capital lease program, it has not yet done so. Because this procurement will not require general funds, if it does proceed in fiscal 2020, the funds can be appropriated by budget amendment after the start of the fiscal year. Had these funds been included in fiscal 2020, the agency’s all fund allowance would have increased by \$279,627 (0.9%). **SBE should comment on the status of this project and when the agency anticipates that the new pollbooks will be deployed.**

Issues

1. Ballot Marking Device Problems Approaching Resolution

Since the State reintroduced paper ballots in 2015 and 2016, SBE has offered ballot-marking devices (BMD) for voters with disabilities. As the name suggests, these machines assist voters by marking a paper ballot based on entries recorded with a touchscreen. The return to hand-marked paper ballots necessitates that each early voting site and Election Day polling place have a BMD available for voters. For the 2016 presidential election, SBE implemented a policy that was intended to ensure access and protect the secrecy of ballots for all voters at early voting sites. That policy would have required that all early voters use a BMD to mark their ballots.

It was quickly discovered that the layout of the touchscreen display had a serious flaw. The screen could only display seven candidates for a contest at once and required that the voter navigate across multiple screens with more than seven candidates. This problem was compounded by confusion with the navigation button that made it difficult for voters to determine whether they were navigating between contests or among candidates for a single contest. The potential for confusion led SBE to alter its policy to minimize the number of voters using BMDs at early voting sites. This new policy ameliorated the shortcomings of the BMD software but brought the secrecy of the ballot for those still using the BMDs into doubt.

SBE intended to resolve the problem with its software vendor prior to the 2018 election, but the vendor was unable to do so before the election, to the great concern of the General Assembly. As a result, the budget committees requested that SBE submit two reports on the issue. First, SBE submitted a report on July 30, 2018, further explaining the board decision to limit the use of BMDs and an update on January 18, 2019, on progress with the vendor toward a resolution of the underlying issues. SBE reported in January 2019 that the vendor has developed software updates that should resolve both navigation issues and that those updates should be implemented for the 2020 election cycle, which would allow the board to implement its original policy and require all early voters to use BMDs.

2. State Receives Federal Funds to Improve Election Security

In March 2018, the Omnibus Budget provided a total of \$380 million for HAVA grants to states to improve election security. Maryland's total grant, which will be spent over several years, is \$7.1 million. While these funds are granted to each state according to a formula established in HAVA, the state was required to submit documentation to the U.S. Election Assistance Commission (EAC) on how the funds will be used and to provide a 5% match in state funds.

The committees requested that SBE provide a report identifying how the funds would be used by the State. In August 2018, SBE provided to the committees the materials the agency submitted to EAC in order to receive the State's grant allocation. In that document, SBE identified four broad ways that the State will use these funds:

D38I01 – State Board of Elections

- financing upgrades to more secure equipment (\$1.1 million);
- identification and mitigation of cyber vulnerabilities (\$3.5 million);
- cybersecurity training for State election officials (\$1.5 million); and
- improvements to SBE’s incident management plan (\$500,000).

The Governor’s budget plan includes a deficiency appropriation of \$1.5 million for the portion of this grant that was expended in support of the 2018 election and an additional \$707,300 for fiscal 2020. For both years, this spending plan includes security reviews, equipment upgrades, and staff training.

The agency should discuss with the committees the steps that it is taking to protect State elections from interference and how these federal funds will support that effort.

Operating Budget Recommended Actions

1. Add the following language to the general fund appropriation:

, provided that \$1,300,000 of this appropriation made for the support of the Maryland Campaign Reporting Information System may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund.

Explanation: This action restricts \$1.3 million in general funds to be used only for the Maryland Campaign Reporting Information System (MDCRIS). The State Board of Elections will be procuring new hosting and development contracts for MDCRIS in calendar 2019, and the fiscal 2020 allowance includes an additional \$1.0 million for this purpose, four times the fiscal 2019 working appropriation for the current contract. The funds are restricted due to the large increase in the estimated cost.

2. Adopt the following narrative:

Preparation for Ballot Reprinting: It is the intent of the budget committees that the State Board of Elections' ballot procurement process ensures that appropriate paper stock will be available should ballots in all or part of the State need to be reprinted prior to an election.

Updates

1. Fair Campaign Finance Fund

One gubernatorial candidate in the 2018 primary election applied for and was qualified to receive public funding from the Fair Campaign Finance Fund. SBE reports that a total of \$311,412 was distributed during the 2018 cycle and that the fund balance as of November 26, 2018, was \$3.1 million.

Appendix 1
Current and Prior Year Budgets
State Board of Elections
(\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2018					
Legislative Appropriation	\$7,488	\$12,041	\$85	\$0	\$19,613
Deficiency/Withdrawn Appropriation	440	484	0	0	924
Cost Containment	0	0	0	0	0
Budget Amendments	699	0	0	3,537	4,236
Reversions and Cancellations	-13	-1,274	-85	-466	-1,838
Actual Expenditures	\$8,614	\$11,250	\$0	\$3,072	\$22,936
Fiscal 2019					
Legislative Appropriation	\$12,142	\$15,770	\$0	\$0	\$27,913
Budget Amendments	31	3	668	625	1,327
Working Appropriation	\$12,174	\$15,773	\$668	\$625	\$29,240

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. Numbers may not sum to total due to rounding.

Fiscal 2018

The State Board of Elections (SBE) closed fiscal 2018 \$3.3 million in all funds above the legislative appropriation. A number of adjustments impacted final agency expenditures, but this increase is largely attributable to the realignment of expenditures for SBE major information technology (IT) projects authorized in the 2017 budget.

General Fund

Actual general fund expenditures were \$1.1 million above the legislative appropriation. Adjustments included:

- budget amendments increased the appropriation by a net of \$698,878; \$703,727 was transferred from the Department of Information Technology (DoIT) and had been appropriated for SBE's major IT projects. The fiscal 2017 Budget Bill authorized their usage to support the operations of existing SBE IT systems. This was offset by a budget amendment that eliminated \$4,849 as part of a statewide realignment of telecommunications expenditures;
- deficiency appropriations increased the appropriation by a total of \$489,006 to purchase voting equipment for the 2018 election (\$239,301) and for software licenses (\$249,705), and the appropriation was reduced by \$48,630 to reflect lower health insurance costs under a provision in the fiscal 2018 Budget Bill; and
- unspent funds totaling \$12,736 were reverted.

Special Funds

Actual special fund expenditures were \$790,672 below the legislative appropriation. This decrease is attributable to the cancellation of \$1.3 million for IT projects due to project timing and actual costs. There was also a further reduction of \$5,247 for health insurance included in the fiscal 2018 Budget Bill. These decreases were offset by two deficiency appropriations totaling \$489,007 to purchase voting equipment for the 2018 election (\$239,301) and for software licenses (\$249,706).

Federal Funds

SBE had no federal fund expenditures in fiscal 2018. Funds of \$85,000 available under the Help America Vote Act (HAVA) were appropriated, but the entire amount was canceled.

Reimbursable Funds

The legislative appropriation included no reimbursable funds, but the 2017 budget authorized the transfer by budget amendment of funds appropriated in DoIT for SBE's major IT projects. A total

D38I01 – State Board of Elections

of \$3.5 million was transferred by budget amendment, of which \$3.1 million was expended and \$465,809 was canceled.

Fiscal 2019

To date, three actions have adjusted the fiscal 2019 legislative appropriation:

- a budget amendment added \$31,377 in general funds and \$3,096 in special funds for the 2% general salary increase effective January 1, 2019;
- a budget amendment added \$667,716 in federal funds to provide general election support. These funds became available due to a federal audit of state HAVA grants. That audit determined that these funds had been granted to the State, but never spent; and
- a budget amendment added \$625,000 in reimbursable funds from the Major Information Technology Development Project Fund to support the Agency Election Management System project.

Appendix 2
Major Information Technology Projects
State Board of Elections
Agency Election Management System Modernization Project

Project Status	Implementation.			New/Ongoing Project:		Ongoing.		
Project Description:	The State Board of Elections (SBE) has set out to redevelop the ballot functionality of the current legacy Agency Election Management System (AEMS) on a new platform. The AEMS modernization project will provide all existing capabilities of the legacy system, add new capabilities, and ensure more user friendliness and flexibility. Some new potential features of the new AEMS will include enhanced reporting, the ability to consolidate precincts, ballot definition prior to candidate filing, and multilanguage translation. Additionally, the upgraded AEMS system will provide a more economical and sustainable platform and reduce risk due to better management control. It will also offer control over the changes to the application functionality and the system data.							
Project Business Goals:	The AEMS modernization project will preserve the ability of SBE to meet several elements of its stated mission. It will ensure uniformity of election practices, promote fair and equitable elections, and report election-related data accurately in a form that is accessible to the public.							
Estimated Total Project Cost:	\$4,532,650			Estimated Planning Project Cost:		\$1,157,812		
Project Start Date:	May 2017			Projected Completion Date:		July 2019		
Schedule Status:	Planning was completed in the first quarter of fiscal 2018. Implementation has been delayed approximately seven months with anticipated completed in July 2019. This delay will not impact agency operations because the system is not needed until after the estimated completion date.							
Cost Status:	The cost estimate has decreased by \$1.0 million to reflect completion in fiscal 2020 rather than 2022.							
Scope Status:	Due to project delays in fiscal 2017 and the necessity of having the AEMS operational for the 2018 election, the legacy system had to be maintained longer than planned. Included in the fiscal 2019 working appropriation is \$1.1 million for this purpose.							
Project Management Oversight Status:	The fiscal 2020 allowance includes \$50,000 for Department of Information Technology oversight.							
Identifiable Risks:	The project request identifies funding, resource availability, supportability, and flexibility as high risks; objectives, interdependencies, and organizational culture as medium risks; and sponsorship, technical, and user interface as low risks.							
Additional Comments:	n/a.							
Fiscal Year Funding (\$ in Thousands)	Prior Years	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	Balance to Complete	Total
Personnel Services	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Professional and Outside Services	3,967.7	525.0	40.0	0.0	0.0	0.0	0.0	4,532.7
Other Expenditures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Funding	\$3,697.7	\$525.0	\$40.00	\$0.0	\$0.0	\$0.0	\$0.0	\$4,532.7

**Appendix 3
Object/Fund Difference Report
State Board of Elections**

<u>Object/Fund</u>	<u>FY 18 Actual</u>	<u>FY 19 Working Appropriation</u>	<u>FY 20 Allowance</u>	<u>FY 19 - FY 20 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	41.80	41.80	41.80	0.00	0%
02 Contractual	0.38	1.88	3.38	1.50	79.8%
Total Positions	42.18	43.68	45.18	1.50	3.4%
Objects					
01 Salaries and Wages	\$ 3,824,046	\$ 4,146,061	\$ 4,169,004	\$ 22,943	0.6%
02 Technical and Spec. Fees	80,472	134,274	309,298	175,024	130.3%
03 Communication	397,276	467,315	190,956	-276,359	-59.1%
04 Travel	129,026	135,925	104,300	-31,625	-23.3%
07 Motor Vehicles	1,144	1,430	1,195	-235	-16.4%
08 Contractual Services	12,444,865	14,486,193	15,776,415	1,290,222	8.9%
09 Supplies and Materials	213,885	185,195	186,246	1,051	0.6%
10 Equipment – Replacement	3,178,392	9,012,340	6,124,472	-2,887,868	-32.0%
11 Equipment – Additional	1,344,591	0	47,500	47,500	N/A
12 Grants, Subsidies, and Contributions	649,999	0	0	0	0.0%
13 Fixed Charges	672,233	670,982	698,563	27,581	4.1%
Total Objects	\$ 22,935,929	\$ 29,239,715	\$ 27,607,949	-\$ 1,631,766	-5.6%
Funds					
01 General Fund	\$ 8,614,035	\$ 12,173,614	\$ 12,858,925	\$ 685,311	5.6%
03 Special Fund	11,250,302	15,773,385	14,041,724	-1,731,661	-11.0%
05 Federal Fund	0	667,716	707,300	39,584	5.9%
09 Reimbursable Fund	3,071,592	625,000	0	-625,000	-100.0%
Total Funds	\$ 22,935,929	\$ 29,239,715	\$ 27,607,949	-\$ 1,631,766	-5.6%

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.

**Appendix 4
Fiscal Summary
State Board of Elections**

<u>Program/Unit</u>	<u>FY 18 Actual</u>	<u>FY 19 Wrk Approp</u>	<u>FY 20 Allowance</u>	<u>Change</u>	<u>FY 19 - FY 20 % Change</u>
01 General Administration	\$ 4,521,346	\$ 4,539,681	\$ 5,786,616	\$ 1,246,935	27.5%
02 Help America Vote Act	12,865,629	23,425,034	21,558,833	-1,866,201	-8.0%
03 Major IT Development Projects	5,548,954	1,275,000	262,500	-1,012,500	-79.4%
Total Expenditures	\$ 22,935,929	\$ 29,239,715	\$ 27,607,949	-\$ 1,631,766	-5.6%
General Fund	\$ 8,614,035	\$ 12,173,614	\$ 12,858,925	\$ 685,311	5.6%
Special Fund	11,250,302	15,773,385	14,041,724	-1,731,661	-11.0%
Federal Fund	0	667,716	707,300	39,584	5.9%
Total Appropriations	\$ 19,864,337	\$ 28,614,715	\$ 27,607,949	-\$ 1,006,766	-3.5%
Reimbursable Fund	\$ 3,071,592	\$ 625,000	\$ 0	-\$ 625,000	-100.0%
Total Funds	\$ 22,935,929	\$ 29,239,715	\$ 27,607,949	-\$ 1,631,766	-5.6%

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.