

D38I01
State Board of Elections

Operating Budget Data

(\$ in Thousands)

| | <u>FY 07</u> <u>Actual</u> | <u>FY 08</u> <u>Working</u> | <u>FY 09</u> <u>Allowance</u> | <u>FY 08-09</u> <u>Change</u> | <u>% Change</u> <u>Prior Year</u> |
|--------------------|-------------------------------|--------------------------------|----------------------------------|----------------------------------|--------------------------------------|
| General Fund | \$8,593 | \$14,375 | \$15,517 | \$1,142 | 7.9% |
| Special Fund | 13,751 | 8,934 | 12,580 | 3,646 | 40.8% |
| Federal Fund | <u>1,014</u> | <u>2,179</u> | <u>2,642</u> | <u>464</u> | <u>21.3%</u> |
| Total Funds | \$23,358 | \$25,488 | \$30,740 | \$5,252 | 20.6% |

- The fiscal 2009 budget for the State Board of Elections (SBE) is almost \$5.3 million, or 20.6%, above the fiscal 2008 working appropriation. The relatively small SBE personnel complement means that the budget treatment of employee and retiree health insurance and Other Post Employment Benefits makes little difference. Adjusting for these factors, the budget grows \$5.1 million, or 20.1%.
- The largest item of additional spending is \$3.4 million for the procurement of a new voting system in accordance with Chapter 548 of 2007. An additional \$3.4 million for the system is budgeted in the Major Information Technology Development Project Fund.

Personnel Data

| | <u>FY 07</u> <u>Actual</u> | <u>FY 08</u> <u>Working</u> | <u>FY 09</u> <u>Allowance</u> | <u>FY 08-09</u> <u>Change</u> |
|------------------------|-------------------------------|--------------------------------|----------------------------------|----------------------------------|
| Regular Positions | 32.50 | 32.50 | 32.50 | 0.00 |
| Contractual FTEs | <u>6.00</u> | <u>6.00</u> | <u>6.00</u> | <u>0.00</u> |
| Total Personnel | 38.50 | 38.50 | 38.50 | 0.00 |

Vacancy Data: Regular Positions

| | | |
|-----------------------------------|------|-------|
| Turnover, Excluding New Positions | 1.95 | 6.00% |
| Positions Vacant as of 12/31/07 | 3.00 | 9.23% |

- SBE's current high vacancy rate reflects the July 2007 Board of Public works cost containment action that made savings of \$100,000 through increased turnover.

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

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Analysis in Brief

Major Trends

Campaign Finance Reporting: While the State spends millions to ensure 100% accuracy in vote tabulation at elections, many political committees involved in those elections file campaign finance reports late and full of errors.

Issues

A Replacement Voting System Per Chapter 548 of 2007: The fiscal 2009 budget offers a \$2 million solution for upgrading software for the current voting system or a \$42 million plan to replace the current system with a new system as provided for in Chapter 548 of 2007. The specifics of the new system are detailed.

Recommended Actions

| | <u>Funds</u> |
|---|---------------------|
| 1. Add language restricting general funds for the voting system services contract to that purpose. | |
| 2. Add language restricting special funds for the voting system services contract to that purpose. | |
| 3. Add language restricting the use of funds pending the receipt of a Request for Proposals and award document for the new voting system. | |
| 4. Delete funds for voting system software upgrade. | \$ 256,500 |
| 5. Reduce funding for new voting system based on the use of a five-year capital lease agreement. | 1,370,000 |
| Total Reductions | \$ 1,626,500 |

D38I01
State Board of Elections

Operating Budget Analysis

The State Board of Elections (SBE) is a five-member board charged with managing and supervising elections in the State of Maryland and ensuring compliance with State and federal election laws, including the federal Help America Vote Act (HAVA). Under HAVA, State spending of federal HAVA funds is guided by its State Plan as submitted to the federal government.

Individuals from both major parties are appointed by the Governor, with the advice of the Senate, to staggered four-year terms. The board appoints a State administrator, who is charged with oversight of the board's functions and supervising operations of the local boards of election (LBEs).

LBEs maintain voter registration records for the statewide voter registration database, establish election precincts and 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.

Performance Analysis: Managing for Results

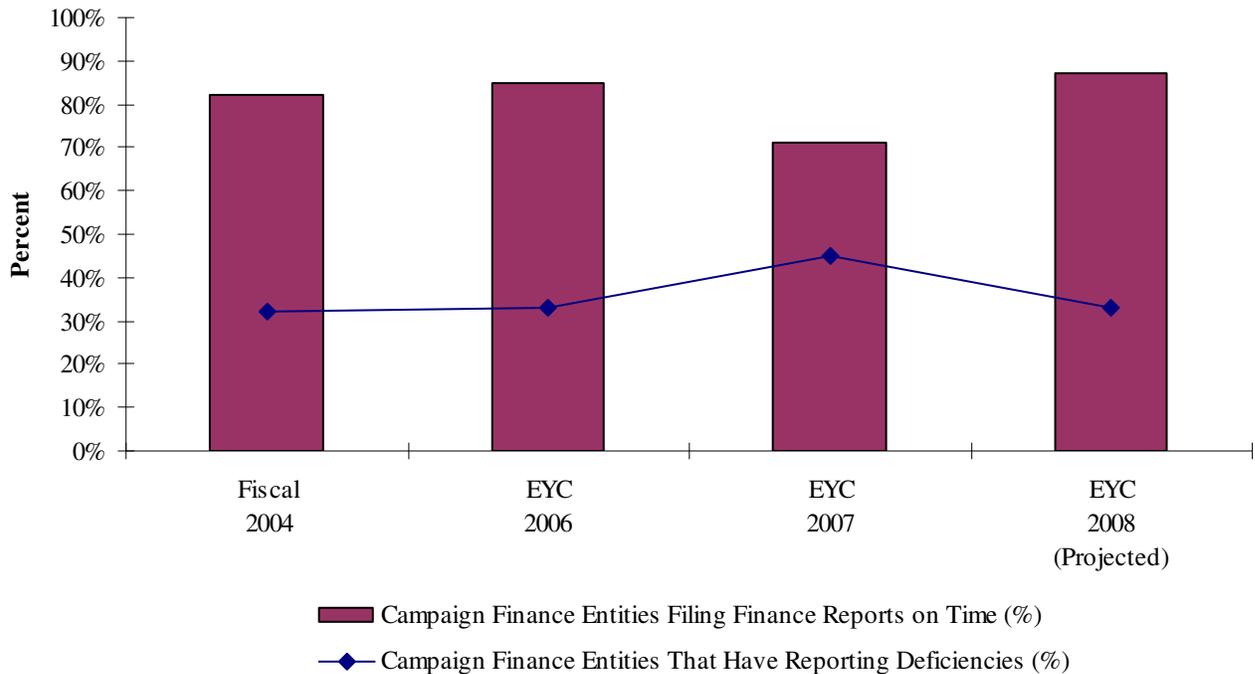
The performance measures contained in the SBE Managing for Results (MFR) submission are tied to election year cycles rather than fiscal years (an election year cycle runs from December of the previous year through November of each general election (be it Gubernatorial (2006), Baltimore City (limited election 2007), or Presidential (2008)). Further hampering analysis is that SBE advises that the best comparisons are to the corresponding general election year (for example, gubernatorial to gubernatorial). Given the fact that for most measures the board has only just begun collecting baseline data, trend data in terms of comparing like general elections is unavailable.

Campaign Finance Reporting

These caveats aside, one area of SBE's MFR that does offer some trend data to be of interest is campaign finance reporting, specifically, timely filing of campaign finance reports and the percentage of campaign finance entities that have reporting deficiencies. As shown in **Exhibit 1**, regardless of the election cycle year, there is a significant degree of late filing, and a large percentage of campaign finance reports contain deficiencies.

Although campaign finance entities are required to file annual reports, additional reports are required depending on the election cycle. According to SBE, the significant drop in timely reporting and increase in reported discrepancies in election year 2007 is attributed to the fact that historically in Baltimore City election years, there are higher levels of non-compliance. Interestingly, although SBE did offer training for new political committees in election year 2007 prior to the filing of the pre-primary report, attendance at the training was low, and there was no demand for an additional class.

Exhibit 1
State Board of Elections
Campaign Finance Reporting Measures
Fiscal 2004 to Election Cycle Year 2008



EYC: election year cycle

Source: State Board of Elections

The reporting discrepancies run from simple errors and omissions to more serious problems, for example, a lack of appropriate officers, incorrect reporting period indicated, participation in an election that was not designated, missing signatures, signatures provided are by officers who are not current, and relevant schedules not included.

SBE notes five reasons for mistakes:

- In most years, committees file only one report, and this inhibits the development of expertise in reporting.
- Turnover in committee treasurers is common, again inhibiting the development of reporting expertise.

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- Penalties for non-compliance are insufficient to ensure compliance (late filing fees of \$10 per day and other sanctions are provided for in statute, but SBE has previously indicated that prosecution is rare).
- Committee treasurers, as volunteers, often do not appreciate the potential legal consequences of their role.
- Software issues make editing and correcting mistakes difficult.

SBE did institute a new reporting scheme in 2007 in the hope that this will reduce the confusion as to when to file. The reporting schedule is readily available on the SBE web site (see http://www.elections.state.md.us/campaign_finance/reporting_schedule.html).

Voting System Security

Another item of interest in the MFR was the fact that in election year 2006, LBEs were considered to be 91% compliant with security requirements. According to SBE, this rating is based on a new security standard/checklist developed by SBE on which LBEs are evaluated. All of the LBEs received a satisfactory grade (meeting all or a majority of the security requirements), but some non-compliance was identified.

According to SBE, the most significant missed check points concerned security of the voting system election management servers (GEMS) which define the ballots and process results. For the most part, issues revolved around space requirements, and SBE noted that those LBEs that had issues had implemented additional measures to maintain security.

MFR Summary

Ultimately, the performance of the board is measured by how well the last election went. Since the 2007 session, there have been a limited number of local elections, notably in Baltimore City, plus the presidential primary. However, there were few reported problems, especially in comparison to the problems experienced in various jurisdictions, including Baltimore City, in the 2006 gubernatorial primaries.

Fiscal 2008 Actions

Impact of Cost Containment

In the July 2007 Board of Public Works (BPW) cost containment actions, SBE's budget was reduced by \$107,500. This reduction was derived from two actions:

- eliminating honorariums for board members (\$7,500); and
- increasing turnover (\$100,000).

In order to meet its revised turnover requirements (7.85% compared to 3.00% in the original legislative appropriation), SBE has to hold 2.6 full-time equivalent (FTE) positions vacant in fiscal 2008. In recent years, the board's end-of-year vacancy rates have been between 0.00% and 9.00%, or 0.0 to 3.0 FTE positions.

Governor's Proposed Budget

As shown in **Exhibit 2**, the Governor's fiscal 2009 allowance for SBE shows an almost \$5.3 million, or 20.6%, increase over fiscal 2008. Although this increase is somewhat exaggerated by the fiscal 2008 and 2009 budgeting of employee and retiree health insurance and Other Post Employment Benefits, it is only a slight one. Adjusted for those influences, budget growth is still \$5.1 million, or 20.1%.

The key changes in the agency's budget revolve around the operation of the existing new voting system, the Statewide Voter Registration System, and a proposed new voting system. The proposed new voting system is discussed in detail in the Issues section.

Existing Voting System Operations

There are a number of significant changes that relate to the existing voting system and ancillary equipment:

- **ePollBooks:** The major increase, just over \$1.5 million, relates to increased capital lease payments for the purchase of this equipment. The warranty contract for the ePollBooks also increases by \$275,000.
- **Premier Election Solutions (Formerly Diebold) Voting Machine Services Contract:** Expenditures associated with this contract fall by \$548,000, leaving just under \$7.7 million for fiscal 2009. The contract with Premier Election Solutions expires December 31, 2008. The budget assumes that the board will be moving forward with the purchase of a new voting system, in accordance with Chapter 548 of 2007, as the budget is intended to cover the contract expenses of Premier Election Solutions for services related to the operation and maintenance of the old voting system through the 2008 general election, as well as to provide funds for any additional contract expenses after that contract expires. Since the budget assumes a new voting system will be procured beginning in the middle of fiscal 2009, based on the proposed project schedule, it is unclear what fiscal 2009 contract expenses related to services for the operation and maintenance of a new system are not already covered in the funding for that system.

Exhibit 2
Governor’s Proposed Budget
State Board of Elections
(\$ in Thousands)

| How Much It Grows: | General Fund | Special Fund | Federal Fund | Total |
|----------------------------|-------------------------|-------------------------|-------------------------|---------------|
| 2008 Working Appropriation | \$14,375 | \$8,934 | \$2,179 | \$25,488 |
| 2009 Governor’s Allowance | <u>15,517</u> | <u>12,580</u> | <u>2,642</u> | <u>30,740</u> |
| Amount Change | \$1,142 | \$3,646 | \$464 | \$5,252 |
| Percent Change | 7.9% | 40.8% | 21.3% | 20.6% |

Where It Goes:

| | | |
|---|----------------|-------|
| Personnel Expenses | \$342 | |
| Health insurance – reduce long-term Other Post Employment Benefits liability..... | | \$103 |
| Increments and other compensation | | 89 |
| Employee and retiree health insurance | | 72 |
| Turnover adjustments | | 32 |
| Fiscal 2008 Budget Section 4 – one-time hiring freeze savings | | 27 |
| Other fringe benefit adjustments | | 19 |
| General Administration | \$83 | |
| Ballot printing..... | | 65 |
| Information technology equipment replacement | | 37 |
| Advertising (align to actual) | | 30 |
| Software maintenance..... | | -49 |
| Existing Voting System Operations | \$1,588 | |
| ePollBook capital lease financing..... | | 1,531 |
| General election improvements/ballot design production | | 655 |
| ePollBook warranty contract | | 275 |
| Software upgrade (Major Information Technology (IT) Project Fund match)..... | | 257 |
| Voting system supplies..... | | 168 |
| Project management expenses | | -50 |
| Premier Election Solutions services contract..... | | -548 |
| Regional Economic Studies Institute independent verification and validation | | -700 |

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Where It Goes:

| | | |
|--|----------------|----------------|
| Statewide Voter Registration System (MDVOTERS) | -\$111 | |
| Various contracts for auditing, security, and performance testing plus voter verification fees | | 277 |
| Software maintenance..... | | 50 |
| Operations (contract and field support) costs | | -438 |
| New Voting System | \$3,400 | |
| New voting system (Major IT Project Fund match) | | 3,400 |
| Other | | -50 |
| Total | | \$5,252 |

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

How much will be spent on the Premier Elections Systems contract in fiscal 2009? The budget reflects an increase over the last general election cycle and also an increase over what was anticipated in fiscal 2009 in the last summary of election system costs provided to the Department of Legislative Services (DLS) in 2006. However, in the past it has been extremely hard to judge expenditures related to this contract. Premier Elections Systems historically has been notoriously slow in billing the State for costs incurred in elections operations. Further, in prior years, the board and the company have wrangled over bills submitted by the company. **Given this uncertainty, rather than reducing the funding based on prior experience/the anticipated contract level, DLS recommends adding language restricting the funds available for the Premier Election Solutions service contract to that contract.**

- **Other Voting System Oversight Expenditures:** Expenditures associated with the upcoming election (primarily federally funded election improvement projects including voter information, voter outreach, training and certification of election officials, judges’ manuals, and audit of election processes, as well as ballot and printing costs) increase the budget by \$655,000. Voting system supplies also increase by \$168,000. Offsetting these increases is a small drop in expected project management expenses with EDS and a drop of \$700,000 in the contract with the Regional Economic Studies Institute at Towson University for independent verification and validation (IV&V) services related to the maintenance, upgrading, and acceptance testing of the voting system.
- **Voting System Software Upgrades:** The SBE budget includes \$257,000 for software upgrades to the current voting system if that is retained. The Major Information Technology Development Project Fund (MITDPF) contains a similar amount. SBE and MITDPF budgets also collectively contain \$6.8 million as a first installment for the procurement of a new voting system (discussed further below). Obviously, funding for both is redundant. **DLS recommends deleting funding for the software upgrade for the existing voting system.**

Statewide Voter Registration System

Fiscal 2009 funding for the Statewide Voter Registration System (MDVOTERS) falls from fiscal 2008. This decline is because the board is providing in-house field support for the system rather than through the contract with Saber Corporation. According to the board, this generated significant savings over what was projected through the Saber contract.

Issues

1. A Replacement Voting System Per Chapter 548 of 2007

In the aftermath of the election debacle in Florida during the 2000 Presidential Election, sweeping changes were made nationwide to the technology used in voting. However, those changes have been as contentious as the infamous “hanging chads.” Maryland overhauled how its citizens vote in Chapter 564 of 2001 with the requirement that the State utilize a uniform statewide voting system (although federal law requires voting technology to be consistent with federal standards, uniformity across the State is not required by federal law). SBE subsequently procured Direct Recording Electronic (DRE) voting machines from Premier Election Solutions, and over several years all jurisdictions began using this technology.

However, the technology chosen by the State is regarded as “paperless” in that there is no separate voter verifiable paper trail (VVPT). Reported problems with DREs in other jurisdictions, questions about security, and the lack of a paper trail prompted a backlash against the system. As shown in **Exhibit 3**, the nation now has a potpourri of voting systems – DREs in all or at least some jurisdictions within a state without a VVPT (14 states); DREs in all or at least some jurisdictions within a state with a VVPT either officially required or otherwise (19 states); and paper-based systems either used or required (18 states).

Chapter 548 of 2007

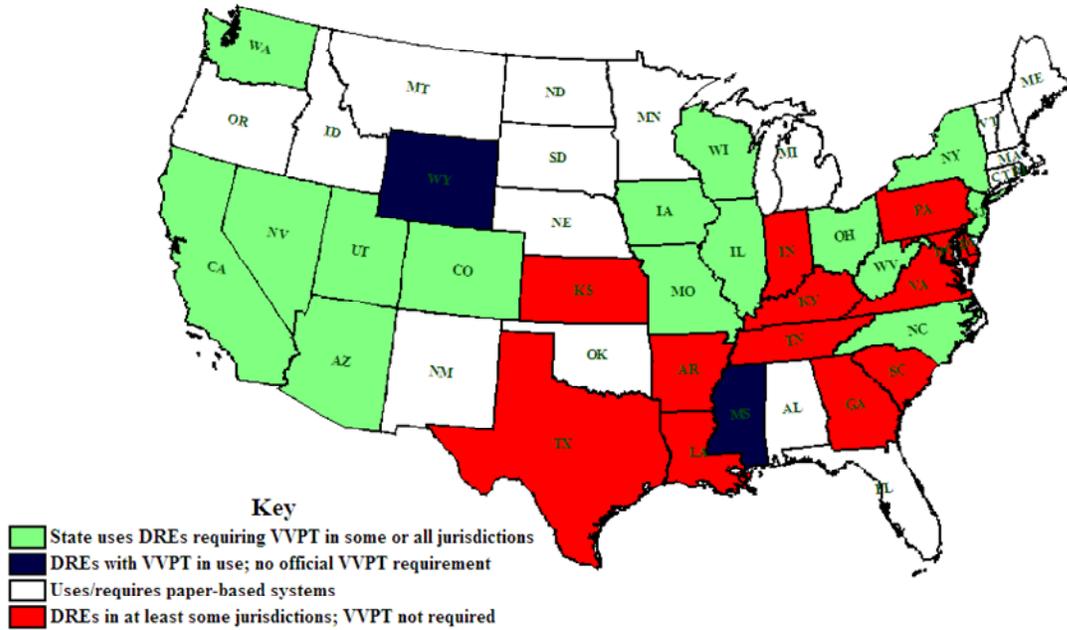
In Exhibit 3, Maryland remains one of the 14 states with DREs and no VVPT. However, the State is close to abandoning this position consistent with Chapter 548 of 2007 and joining the 18 paper-based states. Specifically, Chapter 548 requires a paper-based VVPT system based on:

- paper ballots to be read by precinct-based optical scanners;
- absentee paper ballots; and
- paper ballots created through the use of a ballot marking device (for individuals with disabilities that require an alternative method to marking their paper ballot).

The legislation was contingent on the inclusion of funding in the fiscal 2009 budget to implement such a system. That funding has been provided both in this budget and also in the MITDPF. Specifically, as shown in **Exhibit 4**, the board intends to replace the current system with a system combining:

- 1,958 optical scanners at an estimated \$6,500 per machine; and
- 1,958 AutoMARK Voter Assisted Terminals (VATs) at an estimated \$5,100 per machine. AutoMARK VATs combine touch screens and various accessibility features while retaining optical scan paper ballots.

Exhibit 3 Voting System Types



Source: The Pew Center on the States, *The Help America Vote Act at 5*

Exhibit 4
New Voting System
Estimated Total Five-year Costs

Equipment Costs

| | |
|---------------------------------|---------------------|
| Optical Scan Units | \$12,708,800 |
| AutoMARK machines | 10,076,430 |
| Privacy Screens | 3,720,000 |
| Election management system | 1,200,000 |
| Other | 1,624,350 |
| Subtotal | \$29,329,580 |
| | |
| Service Costs | \$8,957,700 |
| | |
| Implementation Oversight | \$1,035,883 |
| | |
| Other | \$1,267,500 |
| | |
| Total | \$40,590,663 |

Source: State Board of Elections

In addition to the voting machines themselves, additional equipment (privacy screens, election management servers, and printers) will also be required.

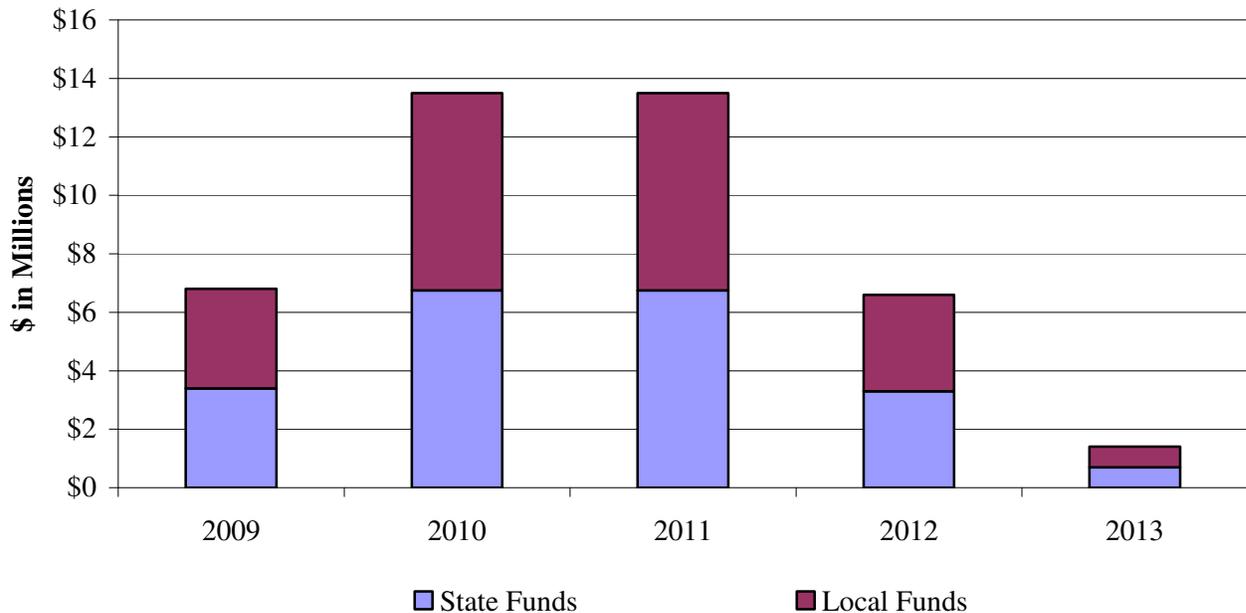
Funding for a New Voting System

As shown in **Exhibit 5**, the SBE and MITDPF fiscal 2009 budgets include \$6.8 million to fund the new voting system (payments from local jurisdictions are budgeted in with SBE, State funds are included in MITDPF). Total projected costs, as shown in Exhibit 5, are just under \$41.8 million. The major difference between the estimated costs in Exhibits 4 and 5 is the decision to finance the purchase of equipment. Three-year capital lease financing is proposed, with one payment in fiscal 2009 and then subsequently spread over fiscal 2010 to 2012.

Specifically, for fiscal 2009 the SBE and MITDPF budgets provide:

- \$6.052 million for capital lease payments;
- \$548,000 for outside consultant services; and
- \$200,000 for IV&V.

Exhibit 5
New Voting System
Projected Five-year Funding Plan
Fiscal 2009-2013



Source: Department of Budget and Management

Issues

There are a number of discussion points surrounding the proposed new voting system:

- **Ownership of the Proposed System:** With Chapter 548, the State appears to have moved beyond a discussion of whether the current voting system should be replaced. However, it is also clear that SBE stands by its current system: the MFR continues to state that the level of public confidence in the current voting system is high (83% of registered voters surveyed); the agency’s Information Technology Project Request (ITPR) states that “Maryland currently has a very secure and accurate voting system”; and the budget also includes funding to upgrade software should the new system not be funded.

One of the important considerations for a major information technology project is that there is strong buy-in from everybody involved in the project. Clearly, SBE staff will need to respond professionally and make every effort to properly implement the new system.

- **Return on Investment:** No return on investment calculation is provided in the ITPR. In the 2007 interim, the Maryland Election Integrity Coalition, for example, noted that in the long-term the costs associated with an optical scan system are much lower than those associated with DREs. This analysis was based primarily around a number of cost factors. Disagreement around two of these factors were the main source of discrepancy between cost estimates:
 - **Trade-in of Existing Machines:** The coalition argued that projected replacement costs, as reflected for example in Exhibit 4, were too high because it did not include an offset for trading-in existing machines. Specifically cited was a trade-in arrangement between Premier Election Solutions and Alameda County, California. However, this trade-in was in conjunction with the county trading-up to Premier Election Solutions' newer DRE machines. The opinion was that Premier Election Solutions would not be held to that trade-in if the State were not similarly trading-up to its newer DRE units.
 - **Lower Service Costs:** The coalition argued that service costs associated with optical scanners would be much lower than with the current DREs. This argument is logical (not least simply because of the fewer number of machines involved). However, it was unclear if the coalition's estimates included all relevant service expenditures.

Ultimately, it might be expected that service costs associated with the new system will be lower than the current system, although it is unclear how long it will take to truly offset the new expenditures. In addition, it should be noted that the implementation of a new voting system does not obviate the State's responsibility to continue capital lease payments for the current system: \$27.5 million (split between the State and local jurisdictions) through fiscal 2014.

- **Competitive Procurement:** In that Chapter 548 limits the options for the new system to a paper-based system, the procurement will be less competitive than it might have been. According to SBE, there are six optical scan systems that meet federal election standards. However, at the current time, only AutoMARK VATs satisfy the requirements of Chapter 548 for voters with disabilities. According to SBE, another machine is currently being developed by Sequoia Voting Systems that would also meet these requirements, but this machine is not yet fully developed or certified and would likely only be compatible with optical scanners manufactured by Sequoia.

As of the time of writing, according to SBE, only two companies, Premier Election Solutions and Election Systems and Software (ESS), distribute AutoMARK machines and have optical scan systems that are compatible with them. Further, as of January 28, ESS acquired most of the assets of AutoMARK Technical Systems (the manufacturer of AutoMARK VATs). Thus, the level of competition is weak.

- **Issues with Optical Scan Systems:** Finally, it should be noted that optical scan systems are not flawless. Problems can include unclearly marked ballots, the need to carefully calibrate machines to assure accurate ballot counting loss of ballots, software on the optical scan machines that needs to be secure, and software on the election management system that must be secure. There is also some question over voter accuracy with a recent study from authors including those based at the University of Maryland, College Park concluding that a paper-based system tends to produce more incorrectly cast ballots. Clearly, as SBE notes in its ITPR, the VVPT system proposed is intended to satisfy critics of the current DRE voting system. Certainly, a system that provides a physical audit trail in the form of a paper ballot should ameliorate some concerns. However, in and of itself, the new system will not resolve every concern surrounding voting technology.

Further, to the extent that some of the unease about DRE voting technology actually goes back to the companies distributing and manufacturing those machines, it is unclear if a new voting system supplied by those companies will allay that unease.

- **Performance Elements:** In the fiscal 2008 SBE budget analysis, DLS noted that SBE had incorporated performance elements into its contracts for the existing voting system, but those performance elements were either not explicitly incorporated (referencing guidelines or documents outside of the contract itself, for example “performance standards as established by the Procurement Officer”) or articulated well after the contract was signed (when SBE identified performance indicators around project scope, schedule, resources, quality, and risk). Further, no incentives were built into the contract other than standard penalty clauses (reverse incentives). **Reiterating comments made in last year’s analysis, DLS recommends that any new contract should explicitly build in performance elements.**

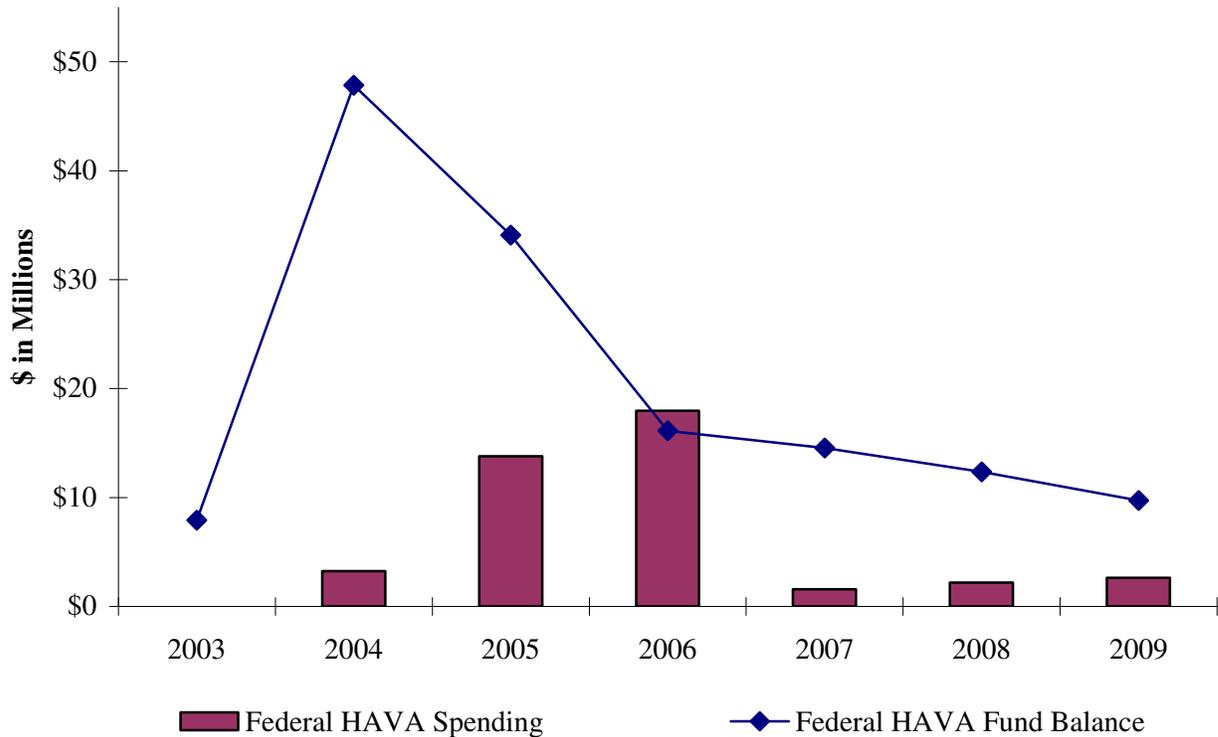
For some, the importance of this new voting system to the integrity of the State’s election system and to inspire public confidence and trust in the system (which is after all SBE’s mission) cannot be understated. **Thus, DLS recommends addition of budget bill language that requires the legislature to expeditiously review and comment on any Request for Proposals for a new voting system prior to its formal publication and on any contract award for a new voting system prior to going to BPW to make that award.** Given that the State has invested almost \$70 million in federal, State, and local funds in machine costs alone, and yet, six years later, it intends to turn its back on that investment and embark on additional significant expenditures for a different voting system, the additional level of scrutiny is clearly warranted.

Summary and Funding Options

If the legislature does indeed intend to implement Chapter 548 and fund the new voting system, two alternative funding options need to be considered:

- As shown in **Exhibit 6**, the State received just over \$49.7 million in federal HAVA funds, and they have been deposited in the Maryland Election Modernization Fund pursuant to

Exhibit 6
Utilization of Federal HAVA Funds and Fund Balance
Fiscal 2003-2009



HAVA: Help America Vote Act

Source: Department of Legislative Services; State Board of Elections; Department of Budget and Management

Chapter 197 of 2003. These funds included just under \$7.3 million of Title I funds (for improvements in election administration and the replacement of punch-card or lever voting machines) and just under \$42.5 million in Title II funds to implement the key requirements of HAVA such as voting systems, provisional voting and voter information, and voter registration. Title I funds were made available to states on a formula basis. Title II funds were also awarded on a formula basis but contained various matching and maintenance of effort requirements. A portion of the Title II funds were attributed to local jurisdictions as provided for under Chapter 564 of 2001.

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The State has been spending down these funds, most especially in fiscal 2005 and 2006. According to SBE, at the end of fiscal 2007, the Maryland Election Modernization Fund included just over \$14.5 million, (\$3.1 million in Title I funds and \$11.4 million in Title II funds). The fiscal 2008 and 2009 budgets continue to draw down these funds, leaving just under \$10.0 million available for future years.

HAVA funds are programmed according to a State Plan that SBE is required to submit to the federal Election Assistance Commission. That plan details how the State intends to implement and become compliant with HAVA. At this point, the State is spending its remaining HAVA funds on a variety of activities: election administration, the existing voting system, and MDVOTERS.

The State could amend its State Plan to more quickly spend down its federal dollars on a variety of expenses including the new voting system. This would generate short-term savings in general funds. However, Chapter 564 of 2001 requires SBE to split federal funds allocated to voting machines with local jurisdictions. If that language is interpreted to apply to the new voting system, changing the State Plan to reprogram remaining HAVA funds to that new system would increase overall State costs.

- Another option available (which could be done in conjunction with, or separate from, drawing down federal HAVA funds more quickly) is to soften the budgetary impact of the new voting system and utilize a longer time period for the capital lease agreement than proposed in the budget. For example, utilizing a 5-year agreement would reduce fiscal 2009 payments by \$2.7 million, although at a cost of adding an estimated \$1.4 million in additional interest payments over the life of the capital lease agreement. Utilizing a 5-year agreement is consistent with other prior SBE leases for a variety of equipment and still less than the 10-year agreement used for the bulk of the DREs in the current system.

DLS recommends reducing both the SBE and MITDPF budget to reflect this longer lease term.

Recommended Actions

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

, provided that \$3,848,860 of this appropriation may only be expended to support the voting system services contract. Any unexpended funds may not be reprogrammed or transferred but shall only revert to the general fund.

Explanation: The language restricts general funds appropriated to support the voting system services contract with Premier Election Solutions to that purpose.

2. Add the following language to the special fund appropriation:

, provided that \$3,848,860 of this appropriation may only be expended to support the voting system services contract. Any unexpended funds may not be reprogrammed or transferred but shall be cancelled at the end of the fiscal year.

Explanation: The language restricts special funds appropriated to support the voting system services contract with Premier Election Solutions to that purpose.

3. Add the following language to the special fund appropriation:

, provided that \$1,000,000 of this appropriation may not be expended until the State Board of Elections (SBE) has submitted to the budget committees:

- (1) the final Request for Proposals (RFP) that the board intends to issue for the new voting system; and
- (2) any contract award for a new voting system that is made as a result of the RFP.

In each instance, the budget committees shall have 15 days for review and comment.

Explanation: The language provides for additional legislative oversight of the procurement of a new voting system.

| Information Request | Author | Due Date |
|--------------------------------------|---------------|----------------------------------|
| RFP for New Voting System | SBE | 15 days prior to issuance of RFP |
| Contract Award for New Voting System | SBE | 15 days prior to contract award |

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| | <u>Amount Reduction</u> | |
|--|------------------------------------|----|
| 4. Delete funds for voting system software upgrade. Upgrades to the existing voting system are not necessary if the funding is provided for a new voting system. | \$ 256,500 | SF |
| 5. Reduce funding for new voting system based on the use of a five-year capital lease agreement. | 1,370,000 | SF |
| Total Special Fund Reductions | \$ 1,626,500 | |

Current and Prior Year Budgets

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 2007 | | | | | |
| Legislative Appropriation | \$7,721 | \$7,251 | \$3,522 | \$0 | \$18,495 |
| Deficiency Appropriation | 1,015 | 0 | 0 | 0 | 1,015 |
| Budget Amendments | -23 | 10,979 | 0 | 0 | 10,956 |
| Reversions and Cancellations | -120 | -4,479 | -2,508 | 0 | -7,108 |
| Actual Expenditures | \$8,593 | \$13,751 | \$1,014 | \$0 | \$23,358 |
| Fiscal 2008 | | | | | |
| Legislative Appropriation | \$14,448 | \$8,934 | \$2,179 | \$0 | \$25,561 |
| Cost Containment | -108 | 0 | 0 | 0 | -108 |
| Budget Amendments | 34 | 0 | 0 | 0 | 34 |
| Working Appropriation | \$14,375 | \$8,934 | \$2,179 | \$0 | \$25,488 |

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

Fiscal 2007

The fiscal 2007 legislative appropriation for SBE was increased by almost \$4.9 million. This increase was derived as follows:

- Deficiency appropriations added just over \$1 million in general funds to the legislative appropriation. This funding relates to the corrective actions required by SBE after the system failures in the September 2006 primary election:
 - additional training requirements in the counties (\$499,000);
 - costs for the printing of additional absentee ballots (\$315,000); and
 - the cost of a training contract through the University of Baltimore for training of Baltimore City election judges (\$200,980).
- Budget amendments further increased the legislative appropriation by just under \$11 million. General funds were decreased by \$23,000. This represented a combination of a small increase based on SBE's share of the fiscal 2007 cost-of-living adjustment (COLA) originally budgeted in the Department of Budget and Management offset by reductions taken by BPW in February 2007 as well as the SBE's portion of the statewide salary study.

Special fund budget amendments totaled just under \$11.0 million. The bulk of the increase in special funds, just over \$8.6 million, relates to an action taken in the fiscal 2007 Supplemental Budget Number 2. Specifically, the Governor included in Supplemental Budget Number 2 a fiscal 2006 supplemental deficiency general fund appropriation in the Dedicated Purpose Account to replace the State's existing touch-screen voting system with an optical scan voting system, as well as to fund any other voting system costs in fiscal 2006 and 2007. In the same supplemental budget, the Governor also reduced SBE's fiscal 2007 operating budget by just over \$8.6 million. This amount represented anticipated fiscal 2007 expenditures on a contract with Diebold, Inc. (now Premier Election Solutions) to provide support services for the touch-screen voting system. The General Assembly subsequently added budget bill language making just under \$20.0 million of the supplemental deficiency appropriation contingent on legislation to replace the touch-screen voting system (legislation that failed), leaving sufficient funds to backfill the \$8.6 million reduction to SBE's budget made by the Governor.

The remaining special fund increase (almost \$2.4 million) is also derived from the Dedicated Purpose Account and supported the purchase of ePollBooks at early voting sites (ultimately found unconstitutional) and to integrate ePollBooks into the State's voting system.

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- General fund reversions of \$120,000 and special and federal fund cancellations of almost \$7 million offset the overall increase to the legislative appropriation. Special fund cancellations relate to a variety of contracts for which billings were pushed into fiscal 2008. Federal fund cancellations relate to maintenance expenditures for the statewide voter registration system. Fiscal 2007 expenditures on that system were not as high as expected.

Fiscal 2008

To date, the fiscal 2008 legislative appropriation has been decreased by \$73,000, all general funds. This change represents SBE's share of the fiscal 2008 COLA (\$34,000) which was more than offset by the cost containment actions taken by BPW in July 2007 (\$107,500).

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

| <u>Object/Fund</u> | <u>FY07 Actual</u> | <u>FY08 Working Appropriation</u> | <u>FY09 Allowance</u> | <u>FY08-FY09 Amount Change</u> | <u>Percent Change</u> |
|---|------------------------|---|---------------------------|------------------------------------|---------------------------|
| Positions | | | | | |
| 01 Regular | 32.50 | 32.50 | 32.50 | 0 | 0% |
| 02 Contractual | 6.00 | 6.00 | 6.00 | 0 | 0% |
| Total Positions | 38.50 | 38.50 | 38.50 | 0 | 0% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 2,057,427 | \$ 2,114,331 | \$ 2,456,175 | \$ 341,844 | 16.2% |
| 02 Technical and Spec. Fees | 107,513 | 302,098 | 312,031 | 9,933 | 3.3% |
| 03 Communication | 486,091 | 458,617 | 484,805 | 26,188 | 5.7% |
| 04 Travel | 27,605 | 22,500 | 25,500 | 3,000 | 13.3% |
| 07 Motor Vehicles | 1,926 | 2,690 | 2,476 | -214 | -8.0% |
| 08 Contractual Services | 8,242,938 | 4,033,257 | 3,967,694 | -65,563 | -1.6% |
| 09 Supplies and Materials | 301,940 | 24,575 | 195,855 | 171,280 | 697.0% |
| 10 Equipment – Replacement | 0 | 0 | 37,050 | 37,050 | N/A |
| 11 Equipment – Additional | 3,350,739 | 8,591,266 | 13,111,786 | 4,520,520 | 52.6% |
| 12 Grants, Subsidies, and Contributions | 8,385,087 | 9,615,758 | 9,814,367 | 198,609 | 2.1% |
| 13 Fixed Charges | 396,374 | 322,473 | 331,855 | 9,382 | 2.9% |
| Total Objects | \$ 23,357,640 | \$ 25,487,565 | \$ 30,739,594 | \$ 5,252,029 | 20.6% |
| Funds | | | | | |
| 01 General Fund | \$ 8,593,159 | \$ 14,374,737 | \$ 15,517,167 | \$ 1,142,430 | 7.9% |
| 03 Special Fund | 13,750,856 | 8,934,219 | 12,580,188 | 3,645,969 | 40.8% |
| 05 Federal Fund | 1,013,625 | 2,178,609 | 2,642,239 | 463,630 | 21.3% |
| Total Funds | \$ 23,357,640 | \$ 25,487,565 | \$ 30,739,594 | \$ 5,252,029 | 20.6% |

Note: The fiscal 2008 appropriation does not include deficiencies.

**Fiscal Summary
State Board of Elections**

| <u>Program/Unit</u> | <u>FY07 Actual</u> | <u>FY08 Wrk Approp</u> | <u>FY09 Allowance</u> | <u>Change</u> | <u>FY08-FY09 % Change</u> |
|--|------------------------|----------------------------|---------------------------|---------------------|-------------------------------|
| 01 General Administration | \$ 4,848,196 | \$ 3,809,920 | \$ 4,231,691 | \$ 421,771 | 11.1% |
| 02 Federal Help America Vote Act Funding | 14,455,466 | 19,095,657 | 22,851,403 | 3,755,746 | 19.7% |
| 03 Major Information Technology Projects | 4,053,978 | 2,581,988 | 3,656,500 | 1,074,512 | 41.6% |
| Total Expenditures | \$ 23,357,640 | \$ 25,487,565 | \$ 30,739,594 | \$ 5,252,029 | 20.6% |
| General Fund | \$ 8,593,159 | \$ 14,374,737 | \$ 15,517,167 | \$ 1,142,430 | 7.9% |
| Special Fund | 13,750,856 | 8,934,219 | 12,580,188 | 3,645,969 | 40.8% |
| Federal Fund | 1,013,625 | 2,178,609 | 2,642,239 | 463,630 | 21.3% |
| Total Appropriations | \$ 23,357,640 | \$ 25,487,565 | \$ 30,739,594 | \$ 5,252,029 | 20.6% |

Note: The fiscal 2008 appropriation does not include deficiencies.