

D38I01
State Board of Elections

Operating Budget Data

(\$ in Thousands)

	<u>FY 11</u> <u>Actual</u>	<u>FY 12</u> <u>Working</u>	<u>FY 13</u> <u>Allowance</u>	<u>FY 12-13</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$11,444	\$12,616	\$9,471	-\$3,145	-24.9%
Contingent & Back of Bill Reductions	0	0	-413	-413	
Adjusted General Fund	\$11,444	\$12,616	\$9,058	-\$3,558	-28.2%
Special Fund	7,682	6,642	7,632	990	14.9%
Contingent & Back of Bill Reductions	0	0	413	413	
Adjusted Special Fund	\$7,682	\$6,642	\$8,045	\$1,403	21.1%
Federal Fund	8,841	3,615	100	-3,515	-97.2%
Adjusted Federal Fund	\$8,841	\$3,615	\$100	-\$3,515	-97.2%
Adjusted Grand Total	\$27,968	\$22,874	\$17,203	-\$5,670	-24.8%

- The fiscal 2013 allowance of the State Board of Elections (SBE) decreases by \$5.7 million (24.8%) compared to the fiscal 2012 working appropriation. Decreases of \$3.6 million in general funds (28.2%) and \$3.5 million in federal funds (97.2%) are partially offset by an increase of \$1.4 million in special funds after accounting for contingent actions.
- Section 13 of the Budget Reconciliation and Financing Act of 2012 would authorize a transfer of \$413,000 from the Fair Campaign Financing Fund to SBE for operations and maintenance expenses of the online campaign finance reporting system. Language on the general fund appropriation of the General Administration program of SBE would reduce \$413,000 contingent on the enactment of legislation authorizing the use of these funds. With the exception of these funds, all other special funds are local funds.
- The federal fund decrease is primarily the result of a reduction in Help America Vote Act funds. Federal funds also decrease due to a grant from the Federal Voting Assistance Program of the Department of Defense which was available in fiscal 2012.

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

For further information contact: Tonya D. Zimmerman

Phone: (410) 946-5530

D38101 – State Board of Elections

- Other significant changes in the fiscal 2013 allowance result from the end of the capital lease payments for ePollbooks in fiscal 2012, the addition of 7 new regular positions to replace regional managers in the voting system services contract, and the settlement of the claim against Premier Elections Solutions, Inc.

Personnel Data

	<u>FY 11</u> <u>Actual</u>	<u>FY 12</u> <u>Working</u>	<u>FY 13</u> <u>Allowance</u>	<u>FY 12-13</u> <u>Change</u>
Regular Positions	30.50	30.50	37.50	7.00
Contractual FTEs	<u>2.10</u>	<u>2.10</u>	<u>2.10</u>	<u>0.00</u>
Total Personnel	32.60	32.60	39.60	7.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.62	2.02%
Positions and Percentage Vacant as of 12/31/11	2.00	6.56%

- The fiscal 2013 allowance contains 7.0 new regular positions. These positions replace 6.0 regional managers for the voting system and voter registration system previously provided through the voting system services contract and provide for a supervisor position. In addition, these positions will provide additional oversight of local boards of election.
- The turnover expectancy for existing positions decreases from 3.13 to 2.02% in the fiscal 2013 allowance.
- As of December 31, 2011, SBE had a vacancy rate of 6.56%, or 2.0 positions. To meet its fiscal 2013 turnover expectancy, SBE needs to maintain 0.62 vacant positions.

Analysis in Brief

Major Trends

Online Campaign Finance Reporting Expected to Improve Public Disclosure Process: The new online campaign finance reporting website was launched on November 30, 2011. As a result of the new website, SBE anticipates 90% of campaign finance entities will file the campaign finance report online for the 2012 presidential election cycle. SBE also anticipates that if it were to be graded on its campaign finance disclosure website during the 2012 presidential election cycle, it would receive an “A” for both accessibility and usability.

Issues

Implementation of 2011 Session Legislation: Various legislation that was passed during the 2011 session required SBE to implement online voter registration, authorized the exchange of data with other states to maintain accurate voter registration lists, and required a report to be submitted in conjunction with the Motor Vehicle Administration (MVA) on the implementation of a fully automated voter registration system. SBE has moved forward to implement this legislation. A report was submitted by SBE and MVA on a fully automated voter registration system which is expected to be implemented in February 2012. The online voter registration system is expected to be implemented in July 2012. Membership agreements for participation in the interstate voter registration data exchange are expected to be signed in February 2012.

Recommended Actions

	<u>Funds</u>
1. Concur with language on the General Administration Program general fund appropriation reducing the appropriation contingent on enactment of legislation authorizing the use of revenue from the Fair Campaign Financing Fund.	
2. Delete general funds for a call center contract for which federal funds are available.	\$ 140,000
Total Reductions	\$ 140,000

Updates

Settlement in Claim Against Premier Elections Solutions, Inc.: In 2008, SBE filed a claim against Premier Elections Solutions, Inc. to recover the costs of corrective actions made by the board based on the 23 actions required in the *State of Maryland Diebold AccuVote-TS Voting System Security Action Plan*. In April 2011, the Board of Public Works approved a settlement in this claim. The settlement had a total value to the State, including amounts retained from outstanding invoices and additional benefits, of \$3.4 million. SBE was required to pay the company approximately \$2.9 million.

D38I01 – State Board of Elections

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 all those seeking elected office.

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

LBEs process 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. The four key goals of SBE are to:

- compile voter registration data into a uniform voter registration system that meets the requirements of the HAVA and is utilized to provide interactive voter services;
- ensure that voters with disabilities will have access to polling places and voting methods that allow voters with disabilities to vote independently;
- ensure that LBEs are conducting elections pursuant to the requirements of State and federal election law; State information technology (IT) security requirements; and the regulations, policies, and guidelines of SBE; and
- ensure that campaign finance entities comply with the disclosure of the required campaign finance information in an accurate and timely fashion.

Performance Analysis: Managing for Results

According to the Managing for Results (MFR) submission for the 2012 session, an estimated 2,500 campaign finance entities will be in place during the 2012 presidential election cycle. SBE anticipates receiving 4,500 campaign finance reports during that time.

D38101 – State Board of Elections

Language in the Budget Reconciliation and Financing Act (BRFA) of 2010 authorized \$500,000 from the Fair Campaign Financing Fund to be used for the implementation of an online campaign finance reporting system. SBE transferred funds through a budget amendment for this purpose. A contract was awarded to PCC Technology Group to implement this project. The contract extends from June 16, 2011, through December 31, 2014, and has a total cost of \$897,275 including both implementation and maintenance costs. SBE procured a commercial off-the-shelf product which was customized to suit Maryland. The website, Maryland Campaign Reporting Information System (MDCRIS), launched November 30, 2011, and was available for the filing of annual reports in January 2012.

The MDCRIS is expected to provide benefits to both the State, due to easier updating by SBE as campaign finance laws change, and users as a result of improved access. The MDCRIS allows entities to file reports from any computer with an Internet connection rather than having software that must be installed on one computer per entity only, as the previous system required. The website enables the public to view and search filings by campaign finance entities and allows campaign finance entities to register and file reports.

One objective included in SBE's MFR submission is to improve the access to and disclosure of information to the public in a manner that is meaningful and user-friendly as it relates to campaign finance entities by January 2012. The two measures in this objective relate to a grading system by the Campaign Disclosure Project, an independent organization that evaluates state-level campaign finance disclosure. The evaluation criteria include the following: (1) how the content is available to the public; (2) ways in which disclosed data can be analyzed; (3) whether data from the website can be downloaded for offline use; (4) the availability of analysis of activity; and (5) the posting of amended filings and retention of original filings.

Although a grade of A was received in accessibility in the 2008 presidential election cycle, the only recent cycle in which such information is available, SBE reported that it received a grade of D for contextual and technical usability. For the 2012 election cycle, SBE expects that the new website would receive a grade of A for both accessibility and usability by the Campaign Disclosure Project. However, the organization no longer grades these websites. **SBE should develop alternative methods for measuring the ease of use and accessibility of the campaign finance disclosure process for the 2013 MFR submission rather than using a measure that is no longer available.**

SBE anticipates that 90% of campaign finance entities will file reports during the 2012 presidential cycle online as a result of MDCRIS. SBE announced it would recommend waiving late fees incurred by campaign finance entities that resulted from technical difficulties during the implementation of the new system. The previous system, ELECTrack, will no longer be available for filings after the January 2012 filings. **SBE should comment on the implementation of the new system and if any additional difficulties have been experienced by either the public or campaign finance entities.**

Proposed Budget

As shown in **Exhibit 1**, the fiscal 2013 allowance of SBE decreases by \$5.7 million (24.8%) compared to the fiscal 2012 working appropriation. Decreases of \$3.6 million (28.2%) of general funds and \$3.5 million (97.2%) of federal funds are partially offset by an increase of \$1.4 million in special funds in the fiscal 2013 allowance, after accounting for contingent actions.

Excluding the new positions, personnel expenditures increase by \$148,698 in the fiscal 2013 allowance. Section 47 of the fiscal 2012 budget bill required the abolition of 450 positions by January 1, 2012. Due to the timing of the position abolitions in the budget cycle, \$19,805 was removed from SBE even though no positions were abolished, resulting in an increase of that amount in the fiscal 2013 allowance in regular earnings. The remainder of the increase in regular earnings (\$27,157) occurs as a result of the reclassification of positions.

Other fringe benefit adjustments, including employee and retiree health insurance, employee retirement, and workers' compensation premiums, account for an increase of \$102,823. A decrease in turnover expectancy from 3.13 to 2.02% results in an increase of \$22,538 in the fiscal 2013 allowance.

The removal of the one-time employee bonus reduces the fiscal 2013 allowance by \$24,614.

Exhibit 1
Proposed Budget
State Board of Elections
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Total</u>
2012 Working Appropriation	\$12,616	\$6,642	\$3,615	\$22,874
2013 Allowance	<u>9,471</u>	<u>7,632</u>	<u>100</u>	<u>17,203</u>
Amount Change	-\$3,145	\$990	-\$3,515	-\$5,670
Percent Change	-24.9%	14.9%	-97.2%	-24.8%
 Contingent Reductions	 -\$413	 \$413	 \$0	 \$0
Adjusted Change	-\$3,558	\$1,403	-\$3,515	-\$5,670
Adjusted Percent Change	-28.2%	21.1%	-97.2%	-24.8%

Where It Goes:

Personnel Expenses

7 new positions due to in-sourcing activities from the voting system services contract	\$475
Regular earnings due to Section 47 of 2011 and reclassifications	48
Employee and retiree health insurance	46
Employee retirement.....	45
Turnover expectancy for existing employees decreases from 3.13 to 2.02%.....	23
Workers' compensation premium payment.....	11
Social Security contributions and unemployment compensation	5
Overtime and accrued leave payout.....	-5
Removal of one-time employee bonus	-25

New Online and Automated Systems

Maryland Campaign Reporting Information System maintenance and DoIT oversight	313
Maintenance expenses for new online voter registration system and MVA voter registration interface	110
Contract expenses for previous campaign finance reporting system that are no longer needed due to implementation of the new system	-360
Implementation of voter registration interface at MVA	-363

D38101 – State Board of Elections

Where It Goes:

FVAP grant to implement online voter registration system and enhancements to absentee ballot delivery	-654
In-sourcing	
Using staff and existing contract in lieu of contract for voter registration system field support.....	-100
Touchscreen project management due to the availability of staff to complete task	-150
Voting system services contract primarily due to in-sourcing and election cycle changes	-1,285
Elections Systems Changes	
Voter registration maintenance contract to reflect anticipated need.....	906
Repair agreement for the touchscreen voting units	60
Election management system support and maintenance contract.....	60
University of Maryland web development partially offset by web hosting and absentee ballot delivery as the contract nears completion	-30
Call center to reflect experience	-60
Data entry for voter registration due to reduced need	-80
Voter registration system data center contract to reflect anticipated need	-386
Software licenses due to settlement of claim against Premier Elections Solutions, Inc.....	-580
End of ePollbook capital lease payments and incremental adjustments in remaining capital lease payments	-3,787
Cost Allocation	
DBM paid telecommunications	146
DoIT services allocation.....	36
Statewide personnel system allocation.....	14
Retirement administrative fee.....	4
Administrative Expenses	
In-state travel and cell phone expenditures for new employees	76
Reimbursement for warehousing and insurance for local boards of elections	32
Rent.....	10
Postage and telephone expenditures more than offset by telecommunications to reflect recent experience.....	-114
Office supplies due to efforts to contain costs by purchasing in bulk	-163
Other	51
Total	-\$5,670

DBM: Department of Budget and Management
DoIT: Department of Information Technology
FVAP: Federal Voting Assistance Program
MVA: Motor Vehicle Administration

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

Contingent Reduction for Online Campaign Finance Reporting System

The fiscal 2013 budget bill, as introduced, contains language to reduce the general fund appropriation of the General Administration program in SBE by \$413,000, contingent on the enactment of legislation authorizing the use of revenue from the Fair Campaign Financing Fund. The \$413,000 reduction and replacement with revenue from the Fair Campaign Financing Fund is composed of:

- operations and maintenance for MDCRIS (\$163,000); and
- expenditures for the Department of Information Technology oversight (\$250,000).

The authorization for the use of these funds is contained in the BRFA of 2012.

The BRFA of 2010 authorized the use of Fair Campaign Financing Funds for the development of this system, a total of \$500,000. The fiscal 2012 working appropriation contains \$100,000 of general funds for maintenance of this system.

Through December 2011, the Fair Campaign Financing Fund has a balance of \$5.1 million; however, Chapters 292 and 293 of 2011 authorized the use of \$250,000 of these funds for online voter registration which has not yet been disbursed. In addition, the BRFA of 2009, as amended by the BRFA of 2010, authorizes the use of \$2.0 million from this fund to be used for the implementation of an optical scan voting system, which has also not yet been disbursed.

New Positions Impact Voting System Services Contract

The Board of Public Works (BPW) approved a contract for voting system support services awarded to the Cirdan Group on February 24, 2010. This contract included functions related to project management, voter outreach, training, voting systems, transportation, and 6 full-time regional managers for the life of the contract.

Language in the BRFA of 2010 authorized the use of up to \$150,000 from the Fair Campaign Financing Fund to be used by the Department of Legislative Services (DLS) to pay for a contract with an independent consultant to review a particular set of issues relating to voting system procurement and related items including whether the voting system support services contract approved by BPW is maximally cost effective and includes only services that are clearly necessary for the conduct of elections. DLS contracted with RTI International to complete the study, and the final report was issued in December 2010.

In the report, RTI noted that the number of support personnel included in the contract and the inclusion of the support personnel throughout the length of the contract is unusual compared to other voting contracts. The report described the limited growth in personnel in SBE even as the agency took on additional responsibilities and its budget grew. RTI noted that SBE should evaluate its use of service contracts to fund positions and stated, “[w]ithout a clear line between regular, permanent staff and contracted positions, it is difficult to make budgeting decisions in a transparent and accountable

manner.” (p. 3-49) In addition, SBE has been cited in fiscal compliance audits dating back to 1995, a total of six audits, for failing to conduct formal comprehensive reviews of each LBE compliance with election laws and regulations. One reason cited in the response to the most recent fiscal compliance audit, released in June 2010, is the lack of staff.

The fiscal 2013 allowance contains 7 new positions (6 regional managers and 1 supervisor) and \$475,212 for salaries and fringe benefits. These additional positions address the above concerns by transitioning the positions from the voting system services contract to State employees and providing additional oversight of LBEs. The fiscal 2013 allowance also provides an increase of \$70,000 for travel and \$5,184 in cell phone expenditures to support these new positions.

The transition of these positions also reduces the required funding for the voting system services contract in fiscal 2013. The fiscal 2013 allowance for this contract decreases by approximately \$1.3 million compared to the fiscal 2012 working appropriation. Election cycle issues also impact the cost of the contract in each year, and SBE reports that savings from transitioning these regional managers to State positions is \$1.2 million. The net savings from the personnel shift in fiscal 2013, therefore, is \$641,354 in total funds (\$320,677 each in general and special funds).

Help America Vote Act Funds

Federal funds available as a result of the federal HAVA were first appropriated in fiscal 2003; appropriations were subsequently made in federal fiscal 2004 and federal fiscal 2008 through 2010, for a total of approximately \$3.25 billion. An additional \$1.3 million was available nationwide in federal fiscal 2011, as a result of funds unspent in prior years. According to information from the U.S. Election Assistance Commission, Maryland’s total allocation of the federal HAVA funds is \$54.9 million.

Maryland has used HAVA funds in SBE since fiscal 2004. The majority of federal funds in fiscal 2010 to 2012 were used to reduce the State and LBE expenditures for capital lease payments. The use of federal funds for the capital lease payments in these three years reduced State expenditures by approximately \$8.2 million and LBE expenditures by \$6.4 million. Due to the reduced availability of federal HAVA funds, all capital lease expenditures in the fiscal 2013 allowance are supported by the State general funds and county special funds, the traditional sources of funding. However, due to the end of payments for the ePollbook capital lease in fiscal 2012 (\$3.8 million) that had been entirely supported with general funds in that year, general fund support for capital leases decreases by \$2.7 million, despite the increased need for general funds for the payments for the remaining phase of the voting system purchase. The fiscal 2013 local special funds for the capital lease payments will increase by \$1.1 million due to the fund source change.

Only \$100,000 of federal HAVA funds is included in the fiscal 2013 allowance. These federal funds are used to support the interstate voter registration data sharing project, Electronic Registration Information Center (ERIC), as authorized in Chapters 288 and 289 of 2011. SBE anticipates \$226,130, with the potential for an increase of \$23,413 due to the federal fiscal 2011 distribution, of federal HAVA funds will be available in fiscal 2014 and is still in the process of developing plans for how those funds might be used.

Optical Scan Voting System

Chapters 547 and 548 of 2007 prohibited SBE from certifying a voting system unless it included a voter-verifiable paper record, which is defined as an optical scan and including a paper ballot created through the use of a ballot marking device. SBE was also required to certify a system that meets the Voluntary Voting System Guidelines (VVSG) for access for individuals with disabilities. These requirements were to be in effect for all elections held after January 1, 2010. Chapters 547 and 548 of 2007 were contingent on the inclusion in the fiscal 2009 budget of sufficient funds to implement the act.

Chapter 428 of 2009 subsequently modified the requirements to address concerns related to the organization approving the testing laboratory specified in the legislation and provided the option to continue using the existing system for individuals with disabilities if no system is certified that meets the accessibility standards in the VVSG at the time of the procurement. The chapter also provides a two year timeframe for SBE to begin using a voter verifiable paper record system following a determination that a system meets the accessibility standards in VVSG, and other requirements. Chapter 428 also changed the date by which the new voting system must be in place to the 2010 gubernatorial primary election.

Funds were provided in fiscal 2009 and 2010 to implement the optical scan system allowing the legislation to take effect. However, the amounts were ultimately reduced in cost containment actions, and nearly all of the remainder were cancelled. The fiscal 2011 budget included no funding for the system; as a result, SBE never finalized a procurement that was ongoing at that time to procure the new voting system.

The fiscal 2013 allowance also includes no funding to implement an optical scan voting system. Due to the lack of funding, there will not be time to implement the new system for the 2014 gubernatorial elections, as SBE requires 18 months to implement a new system following procurement. To implement the system prior to the 2016 presidential election, SBE indicates funding would be required in fiscal 2014.

Issues

1. Implementation of 2011 Session Legislation

Legislation passed during the 2011 session required SBE to implement online voter registration, authorized the exchange of data with other states to maintain accurate voter registration lists, and required a report to be submitted in conjunction with the Motor Vehicle Administration (MVA) on the implementation of a fully automated voter registration system. SBE is also enhancing the online absentee ballot delivery system available for the first time during the 2010 elections to improve the military and overseas voting process.

Data Exchange

Chapters 288 and 289 authorized SBE to enter into agreements with other states to exchange data that the State Administrator determines is relevant to maintaining an accurate voter registration list. The Pew Center on the States is developing a process for a data exchange between states for this purpose (known as the ERIC). Although the concept has been developed by the Pew Center on the States, ultimately the ERIC will be operated by the participating states through a board which will be responsible for:

- deciding whether new information should be added to the exchange;
- deciding whether to accept new members; and
- ensuring states are following the agreements.

Participating states must agree to submit the state's voter registration database, MVA records, death records, and felon records to the ERIC. These data will be compared to information from other states to allow for the updating of records, as well as to increase voter registration. As part of the agreement, states will receive information on individuals who are not registered to vote and are required to notify individuals and provide those individuals the opportunity to register to vote. SBE will not automatically remove names based on the information received through this exchange but will first confirm whether the correct information has been received before updating the voter registration record.

The ERIC is expected to begin operating in February 2012. Membership agreements are also expected to be signed in February 2012. In total, nine states, including Maryland, have committed to be participants in the project in 2012, with an additional five states expected to participate. Maryland's participation in the ERIC is expected to cost \$100,000 annually. In the fiscal 2012 and 2013 allowance, \$100,000 of federal HAVA funds are available for this purpose.

Voter Registration Interface with MVA

The ability to register to vote and update voter registration information at MVA has been of concern for several years. In response to this concern, the 2008 *Joint Chairmen's Report* included committee narrative requesting SBE and MVA jointly submit a report on a plan for an integrated process of electronically capturing voter registration information from MVA and transferring that information, in an agreed upon format, to the statewide voter registration list, and an agreement on how to handle any necessary subsequent mailings to MVA voter registration applicants until such an integrated process is in place. The narrative also requested that a letter be sent to individuals identified by SBE who are not registered to vote or whose registration is not up to date at such a time as the individual has a transaction at MVA. Ultimately, no joint report was submitted, although SBE and MVA separately provided reports. SBE indicated that 105,212 letters were printed and mailed by MVA in 2008 as a result of the electronic data lists provided to SBE.

Uncodified language in Chapters 288 and 289 required SBE and MVA to submit a report by October 1, 2011, to the Senate Education, Health, and Environmental Affairs Committee, House Ways and Means Committee, Senate Budget and Taxation Committee, and House Appropriations Committee on (1) a timeline for implementation of a fully automated voter registration system at MVA; (2) an estimate of the fiscal impact of implementing this type of system; and (3) any other issues relating to the implementation of this system. The joint report was submitted in October 2011 and described the planned model for a fully automated voter registration system which is based on a process in Delaware.

At MVA, SBE's voter registration system will be checked to determine if the individual completing the transaction is currently registered to vote. Depending on the outcome of the initial check, additional questions for the individual will follow, such as whether the individual would like to register to vote, provide/update political party affiliation, or update an address. The report indicated that information will be transmitted to SBE nightly. At a briefing in October 2011 before the House Ways and Means Committee, SBE explained that the questions for voter registration will be filled out by the applicant on the signature touch pad and that data received from MVA will be reviewed by LBE staff and compared against death and felon records before it is used to update the voter registration database.

The timeline provided in the report indicated that this new process will be available at MVA on February 21, 2012. The cost of the new system was expected to be \$500,000 at the MVA to modify the driver's license system to incorporate the voter registration application. SBE's cost was expected to be approximately \$363,000 to implement the system and will have ongoing expenses of slightly more than \$109,000 per year. A fiscal 2012 budget amendment provided the necessary funds in SBE to implement this system with federal HAVA funds. The fiscal 2013 allowance includes \$110,000 to support the maintenance of this project and online voter registration. **SBE should discuss the implementation of this process and how it is expected to improve the voter registration process.**

As reported to the Senate Education, Health, and Environmental Affairs Committee on January 31, 2012, SBE is also considering developing a process to implement an electronic interface

with other State agencies, including the Department of Health and Mental Hygiene and the Department of Human Resources, which are required to offer voter registration under federal laws. **SBE should comment on the status of this project.**

Online Voter Registration

Chapters 292 and 293 authorized SBE to operate an online voter registration system to allow individuals to register to vote or update the voter registration database. To use the online voter registration system individuals are required to provide either a Maryland driver's license number or identification card number or a Social Security number in certain circumstances. In addition, an individual must agree to use either the Social Security number or the signature on file with MVA as the signature for the voter registration. In the case of an individual only updating the voter registration record, the signature already on file with the statewide voter registration list, may be used.

SBE indicates that the new online voter registration system shares components with the planned new system for voter registration at MVA. At a briefing in October 2011 before the House Ways and Means Committee, SBE noted that data received from online voter registration will be reviewed by LBE staff and compared against death and felon records before it is used to update the voter registration database. The system is expected to be available for use by July 1, 2012.

Receipt of Federal Grant

In November 2011, SBE received an Electronic Absentee Systems for Elections (EASE) grant from the Federal Voter Assistance Program (FVAP) in the Department of Defense totaling \$653,719. These funds will be used, in part, to implement online voter registration for military and overseas voters. In particular, \$139,100 of these grant funds were expected to be used for modifications to the voter registration system and a technical consultant. Other needs for this system will be provided through this grant, totaling \$208,104, including IT security consultants, server and web hosting, research and reporting, and a database. These costs are shared with enhancements to the online absentee ballot delivery system also funded through this grant.

The online absentee ballot delivery system was first implemented during the 2010 elections. SBE noted some concerns about the process following the first experience, such as, the need to duplicate, by hand, the mailed return ballot onto ballot paper that could be read by the optical scan machines. The remainder of the EASE grant funding will support enhancements to the online absentee delivery system to be used for ballot-on-demand printers and related equipment and supplies, a barcode scanner, modifications to the voter registration system, and a technical consultant.

The enhancements are intended to allow for a ballot marking wizard which individuals could use prior to the printing of the ballot. SBE indicates that this would resolve issues of voter intent. In addition, the ballot would print out with a barcode of the voter's selections made through the ballot marking wizard, which could then be used to duplicate the ballot through a ballot-on-demand printer. The ballots will then be compared to ensure the accuracy of the ballot. These enhancements are expected to be available for the 2012 presidential general election.

D38101 – State Board of Elections

It should be noted that Chapters 292 and 293 authorized a cumulative \$250,000 from the Fair Campaign Financing Fund be transferred to SBE to implement the online voter registration system in fiscal 2012 and 2013. These funds were to be used to pay costs that would have otherwise been paid by local governments. Funds not used for this purpose must revert to the Fair Campaign Financing Fund. To date, none of the funds available from the Fair Campaign Financing Fund for the system have been disbursed to SBE. **SBE should comment on when or if these funds will still be required to implement this process given the recently awarded EASE grant.**

Recommended Actions

1. Concur with the following language on the general fund appropriation:

, provided that \$413,000 of this appropriation shall be reduced contingent upon enactment of legislation authorizing the use of revenue from the Fair Campaign Financing Fund.

Explanation: The fiscal 2013 budget, as introduced, includes a \$413,000 contingent reduction to the general fund appropriation of the General Administration program in the State Board of Elections, contingent upon the enactment of legislation authorizing the use of revenue from the Fair Campaign Financing Fund. This action concurs with that reduction.

	<u>Amount Reduction</u>
2. Delete general funds supporting a call center contract. The State Board of Elections (SBE) anticipates a \$226,130 federal Help America Vote Act (HAVA) fund balance will be available at the close of fiscal 2013 based on the current spending plan. SBE has not yet identified how the remainder of the fund balance will be used. Federal HAVA funds have been used in the past to support the call center contract. SBE may bring federal HAVA funds into the fiscal 2013 budget by budget amendment to support this contract.	\$ 140,000 GF
Total General Fund Reductions	\$ 140,000

Updates

1. Settlement in Claim Against Premier Elections Solutions, Inc.

In November 2008, SBE filed a claim against Premier Elections Solutions, Inc. (Premier), which was subsequently purchased by Elections Systems & Software (ES&S), for approximately \$8.5 million, as shown in **Exhibit 2**. This claim was intended to recover the costs of corrective actions made by SBE based on the 23 actions required in the *State of Maryland Diebold AccuVote-TS Voting System Security Action Plan*. The costs were incurred between fiscal 2004 and 2009 and included consulting and technical services, personnel, logistics, materials, and supplies.

Exhibit 2 Summary of Costs Included in Claim

<u>Spending Type</u>	<u>Description</u>	<u>Cost</u>
Consulting and Technical Services	Activities such as independent validation and verification, acceptance testing, security consulting, and testing	\$6,876,380
Personnel and Logistics	Expenditures such as Chief Information System Security Office for SBE, support personnel, and additional office space	1,191,694
Materials and Supplies	Expenditures such as tamper tape and software	403,102
Total		\$8,471,176

Source: State Board of Elections; Office of the Attorney General

On December 23, 2008, a letter was sent from the Procurement Director of SBE to the president of Premier to notify Premier that all payments on outstanding invoices were being suspended.

Settlement

SBE and Premier/ES&S reached a settlement in this claim in March 2011, although the settlement notes that Premier denies the allegations in the claim. The settlement was subject to the approval of BPW and was scheduled to be final on the date that approval was received from BPW. BPW approved the settlement at the April 20, 2011 meeting.

As of the settlement, the actual amount of outstanding invoices was approximately \$3.6 million. The settlement terms required SBE to pay to Premier/ES&S \$2.9 million of the outstanding invoices and allowed SBE to retain the remaining approximately \$0.7 million. The

D38101 – State Board of Elections

payment was made in April 2011. In addition, Premier agreed to provide to SBE 300 new AccuVote TSX Direct-Recording Electronic units at no charge, except shipping. Premier/ES&S also agreed to:

- waive the annual license fee for the existing GEMS Software (election management system software) and existing ballot station software, as well as software maintenance and support services for ePollbook related software (EZ Roster) and ePollbook Integrated Center (EPIC) from July 1, 2011, through June 30, 2014; and
- waive the annual license fees for ePollbook-related software (EZ Roster and EPIC) between July 1, 2011 and June 30, 2016.

In total, the settlement, including the amount retained from outstanding invoices, is valued at \$3.4 million as shown in **Exhibit 3**. The settlement will reduce fiscal 2012 budgeted spending by SBE by the fiscal 2012 costs of the software licenses. The appropriation reduction appears in the fiscal 2013 budget, resulting in a decrease of \$579,620 (\$205,000 in general funds and \$374,620 in special funds).

Exhibit 3
Value of Premier Settlement to SBE

<u>Item</u>	<u>Duration</u>	<u>Amount/Value (Total)</u>
ePollbook Software License Agreement	July 1, 2011 – June 30, 2016	\$848,238
EPIC Software License Agreement	July 1, 2011 – June 30, 2016	112,500
GEMS Software License Agreement	July 1, 2011 – June 30, 2014	816,000
TS/Ballot Station Software License Agreement	July 1, 2011 – June 30, 2014	293,436
500 hours of ePollbook programming support	July 1, 2011 – June 30, 2014	225,000
300 TSX units	One-time	418,500
Waive/discount of outstanding obligation	One-time	696,871
Total		\$3,410,544

EPIC: ePollbook Integrated Center
TS: touch screen

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

Source: State Board of Elections

D38101 – State Board of Elections

The settlement also resolves an outstanding unprovided-for payable in SBE from fiscal 2009 and 2010 that was the subject of findings in the fiscal 2009 closeout audit and the most recent fiscal compliance audit. SBE had not fully encumbered the \$5.1 million that was originally estimated to be required to pay outstanding invoices when the claim was resolved; at the close of fiscal 2010, \$699,779 in general funds was still unencumbered. In the first year of this payable, SBE had not properly reported the payable.

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 2011					
Legislative Appropriation	\$9,478	\$7,820	\$9,595	\$0	\$26,894
Deficiency Appropriation	2,000	0	0	0	2,000
Budget Amendments	0	500	0	0	500
Reversions and Cancellations	-34	-638	-754	0	-1,426
Actual Expenditures	\$11,444	\$7,682	\$8,841	\$0	\$27,968
Fiscal 2012					
Legislative Appropriation	\$12,591	\$6,642	\$2,299	\$0	\$21,532
Budget Amendments	25	0	1,317	0	1,341
Working Appropriation	\$12,616	\$6,642	\$3,615	\$0	\$22,874

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

Fiscal 2011

Overall, SBE's fiscal 2011 expenditures were approximately \$1.1 million higher than the legislative appropriation.

A \$2.0 million general fund deficiency appropriation necessary to fully fund the ePollbook capital lease payments as a result of action taken in the BRFA of 2010, was partially offset by a reversion of \$34,123 due to lower than anticipated salary expenditures.

The special fund expenditures of SBE were \$137,744 lower than the legislative appropriation. A budget amendment transferred \$500,000 from the Fair Campaign Financing Fund for the development of an online campaign finance reporting system, as authorized by the BRFA of 2010. This increase was more than offset by cancellations of \$637,744 largely as a result of lower than anticipated expenditures for computer maintenance contracts.

SBE cancelled \$754,040 of the fiscal 2011 federal fund appropriation primarily due to:

- lower than anticipated expenditures in the contract with Saber for the voter registration system and the new voter registration contracts for which special rather than federal funds were required (\$380,000);
- lower than anticipated expenditures for the call center (\$164,000); and
- online election judge training and the development of a training plan for local boards of elections which are on hold until the optical scan voting system is implemented (\$150,000).

The remainder of the cancellations resulted from completing the election night reporting improvement project in house, not purchasing new servers, and delays in the voter registration interface with MVA.

Fiscal 2012

The fiscal 2012 general fund appropriation of SBE has increased by \$24,614 due to the distribution of funds centrally budgeted to support the one-time \$750 bonus provided to employees.

SBE's fiscal 2012 federal fund appropriation has increased by approximately \$1.3 million. An increase of \$663,000 is available from HAVA funds due to funds that were not expended in fiscal 2011 to be used for:

- the implementation of the automated voter registration system with MVA (\$363,000);
- the call center (\$200,000); and

D38101 – State Board of Elections

- the annual cost of the Pew Center on the States voter registration data sharing project (\$100,000).

The remainder of the increase (\$653,719) is available as a result of the EASE grant from FVAP. These grants are designed to enable military and overseas voters' use of electronic systems for voter registration and ballot delivery. SBE will use these funds to implement online voter registration and improve the online absentee ballot delivery system.

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

<u>Object/Fund</u>	<u>FY 11 Actual</u>	<u>FY 12 Working Appropriation</u>	<u>FY 13 Allowance</u>	<u>FY 12 - FY 13 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	30.50	30.50	37.50	7.00	23.0%
02 Contractual	2.10	2.10	2.10	0.00	0%
Total Positions	32.60	32.60	39.60	7.00	21.5%
Objects					
01 Salaries and Wages	\$ 2,290,017	\$ 2,410,979	\$ 3,034,889	\$ 623,910	25.9%
02 Technical and Spec. Fees	80,656	200,510	134,173	-66,337	-33.1%
03 Communication	667,241	661,263	687,294	26,031	3.9%
04 Travel	14,533	8,086	78,086	70,000	865.7%
07 Motor Vehicles	1,525	2,371	1,895	-476	-20.1%
08 Contractual Services	14,318,815	11,243,894	9,033,851	-2,210,043	-19.7%
09 Supplies and Materials	203,444	283,578	122,942	-160,636	-56.6%
10 Equipment – Replacement	762,436	65,095	16,740	-48,355	-74.3%
11 Equipment – Additional	9,304,503	7,603,625	3,672,016	-3,931,609	-51.7%
12 Grants, Subsidies, and Contributions	-750	0	0	0	0.0%
13 Fixed Charges	303,497	394,101	421,235	27,134	6.9%
14 Land and Structures	22,078	0	0	0	0.0%
Total Objects	\$ 27,967,995	\$ 22,873,502	\$ 17,203,121	-\$ 5,670,381	-24.8%
Funds					
01 General Fund	\$ 11,444,364	\$ 12,615,845	\$ 9,471,000	-\$ 3,144,845	-24.9%
03 Special Fund	7,682,486	6,642,198	7,632,121	989,923	14.9%
05 Federal Fund	8,841,145	3,615,459	100,000	-3,515,459	-97.2%
Total Funds	\$ 27,967,995	\$ 22,873,502	\$ 17,203,121	-\$ 5,670,381	-24.8%

Note: The fiscal 2012 appropriation does not include deficiencies.

**Fiscal Summary
State Board of Elections**

<u>Program/Unit</u>	<u>FY 11 Actual</u>	<u>FY 12 Wrk Approp</u>	<u>FY 13 Allowance</u>	<u>Change</u>	<u>FY 12 - FY 13 % Change</u>
01 General Administration	\$ 4,450,559	\$ 4,116,495	\$ 4,201,101	\$ 84,606	2.1%
02 Help America Vote Act	23,517,436	18,757,007	13,002,020	-5,754,987	-30.7%
Total Expenditures	\$ 27,967,995	\$ 22,873,502	\$ 17,203,121	-\$ 5,670,381	-24.8%
General Fund	\$ 11,444,364	\$ 12,615,845	\$ 9,471,000	-\$ 3,144,845	-24.9%
Special Fund	7,682,486	6,642,198	7,632,121	989,923	14.9%
Federal Fund	8,841,145	3,615,459	100,000	-3,515,459	-97.2%
Total Appropriations	\$ 27,967,995	\$ 22,873,502	\$ 17,203,121	-\$ 5,670,381	-24.8%

Note: The fiscal 2012 appropriation does not include deficiencies.