

**D38I01**  
**State Board of Elections**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 14</u> <u>Actual</u>	<u>FY 15</u> <u>Working</u>	<u>FY 16</u> <u>Allowance</u>	<u>FY 15-16</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$9,065	\$6,436	\$6,012	-\$424	-6.6%
Deficiencies and Reductions	0	-259	-231	27	
<b>Adjusted General Fund</b>	<b>\$9,065</b>	<b>\$6,178</b>	<b>\$5,781</b>	<b>-\$397</b>	<b>-6.4%</b>
Special Fund	8,081	7,638	13,045	5,406	70.8%
Deficiencies and Reductions	0	1,264	-7	-1,272	
<b>Adjusted Special Fund</b>	<b>\$8,081</b>	<b>\$8,903</b>	<b>\$13,037</b>	<b>\$4,134</b>	<b>46.4%</b>
Federal Fund	1,056	100	536	436	435.8%
<b>Adjusted Federal Fund</b>	<b>\$1,056</b>	<b>\$100</b>	<b>\$536</b>	<b>\$436</b>	<b>435.8%</b>
Reimbursable Fund	549	1,963	0	-1,963	-100.0%
<b>Adjusted Reimbursable Fund</b>	<b>\$549</b>	<b>\$1,963</b>	<b>\$0</b>	<b>-\$1,963</b>	<b>-100.0%</b>
<b>Adjusted Grand Total</b>	<b>\$18,752</b>	<b>\$17,144</b>	<b>\$19,354</b>	<b>\$2,210</b>	<b>12.9%</b>

Note: The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

- The fiscal 2016 allowance includes a proposed deficiency appropriation for the State Board of Elections (SBE) totaling \$1.2 million in special funds for the local share of additional costs associated with the New Voting System Replacement Major Information Technology Development Project. A change in the procurement plan for the voting system equipment led to unanticipated costs in fiscal 2015. The State's share of the additional costs appear as a deficiency appropriation in the Major Information Technology Development Project Fund (MITDPF) in the Department of Information Technology.

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

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- A second proposed deficiency appropriation for SBE provides \$109,000 of special funds as part of a fund swap included in the cost containment actions approved by the Board of Public Works (BPW) on January 7, 2015. The special funds are available from campaign finance fees.
- The fiscal 2016 allowance of SBE increases by \$2.2 million, or 12.9%, compared to the fiscal 2015 working appropriation after accounting for proposed deficiency appropriations, the cost containment actions approved by BPW on January 7, 2015, and across-the-board reductions in fiscal 2016. Despite this increase, the budget does not contain adequate funding for the 2016 presidential primary election.
- Increases in special funds (\$4.1 million) and federal funds (\$435,819) are partially offset by a reduction in general funds (\$396,580) and reimbursable funds from the MITDPF (\$2.0 million).
- The increase in federal funds is overstated due to the timing of the processing of a budget amendment. After accounting for the fiscal 2015 budget amendment, which has already been processed, the actual increase in federal funds is \$112,574.
- The major changes in the fiscal 2016 allowance of SBE include costs associated with the change in voting systems, the voter registration system, and election-related costs.

***Personnel Data***

	<b><u>FY 14</u></b> <b><u>Actual</u></b>	<b><u>FY 15</u></b> <b><u>Working</u></b>	<b><u>FY 16</u></b> <b><u>Allowance</u></b>	<b><u>FY 15-16</u></b> <b><u>Change</u></b>
Regular Positions	41.60	41.60	41.80	0.20
Contractual FTEs	<u>1.60</u>	<u>0.00</u>	<u>1.00</u>	<u>1.00</u>
<b>Total Personnel</b>	<b>43.20</b>	<b>41.60</b>	<b>42.80</b>	<b>1.20</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	0.50	1.19%
Positions and Percentage Vacant as of 1/1/15	00.0	0.00%

- The fiscal 2016 allowance includes an increase of a 0.2 regular position, which was created by BPW on October 1, 2014. This action increased a 0.6 regular position to a 0.8 regular position to more accurately reflect the work hours associated with the position.
- The fiscal 2016 allowance adds 1 contractual full-time equivalent (FTE) position related to a federal grant (Effective Absentee Systems for Elections 2.0 grant from the Federal Voting Assistance Program).

- Turnover expectancy decreases from 3.93% to 1.19% in the fiscal 2016 allowance.
- As of January 1, 2015, SBE has no vacancies. To meet its turnover expectancy, SBE must maintain 0.5 vacant positions in fiscal 2016. At the current level of vacancies, SBE may have difficulty meeting its turnover expectancy.

## ***Analysis in Brief***

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### **Major Trends**

***Voter Turnout Continues Downward Trend:*** In 2014, voter turnout was lower than in all recent gubernatorial elections. The general election turnout was lower than 50%. The 2014 elections marked a change in early voting hours and dates. The highest turnout days of early voting were on the last two days. Few early voters voted on the weekend.

***Voting Equipment Deployment:*** The State Administrator of Elections considers the estimated early voter turnout and absentee voting, historical turnout for each precinct, the length of the ballot, and any other factor when determining how to deploy equipment for Election Day and early voting. In the general election, one county was an outlier in the ratio of voters to voting units (Talbot County).

***Relatively Few Problems Reported in the 2014 Elections:*** Few issues were reported during the 2014 elections. One significant issue reported was related to vote switching in machines. Machines with reports of problems were either tested or removed from service pending further tests. Some machines remained in service when the issue could not be replicated.

***New Performance Measures:*** SBE's fiscal 2016 Managing for Results submission contained several new performance measures and a change in the reporting time period for other measures. New measures include those related to efforts to improve the voter registration process.

### **Issues**

***Status of Procurement of an Optical Scan Voting System:*** Chapters 547 and 548 of 2007 changed the requirements for a voting system to be certified in Maryland to require a system with a voter verifiable paper record. After funding to support this change was initially included in the fiscal 2009 and 2010 budgets, funding was later withdrawn and cancelled, and no procurement was finalized as subsequent budgets included no funds for the project. Funds were again provided beginning with a fiscal 2013 deficiency appropriation to acquire an optical scan voting system. SBE completed a procurement for the voting system equipment in calendar 2014, and the contract award was approved by BPW on December 17, 2014, for the hardware and maintenance for voting equipment. Related equipment is still in the procurement process.

***Voter Wait Times:*** Language in the fiscal 2015 budget bill withheld funds until SBE submitted a report on actions and plans to limit voting wait times to 30 minutes. The report indicated that few voters, either on Election Day or during the early voting period, experienced long wait times during the 2014 general election, in part due to shorter ballot lengths and lower turnout. The longest wait times were reported on the last day of early voting and were largely concentrated in a few early voting centers. The 2016 presidential elections will pose challenges due to a likely higher turnout, a new voting system, the introduction of same-day registration, and the addition of the Baltimore City elections to the election cycle. Having met the requirements of the language, the Department of Legislative Services (DLS) recommends the release of funds.

***Status of Corrective Actions for Audit Findings:*** In March 2014, the Office of Legislative Audits (OLA) released a fiscal compliance audit for SBE covering the period July 1, 2009, to August 22, 2012. The audit contained nine findings, of which four were repeated from the previous audit. Language in the fiscal 2015 budget bill withheld funds until SBE completed all actions planned to resolve the repeat audit findings. On January 29, 2015, OLA submitted a letter indicating that SBE had taken the necessary actions to satisfactorily address the four repeat findings. As a result, DLS recommends the release of the withheld funds.

## **Recommended Actions**

1. Concur with Governor's allowance.

## **Updates**

***Online Ballot Marking Device and the National Federation for the Blind:*** During calendar 2014, a lawsuit was filed by the National Federation of the Blind, Inc. and several individuals for a violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. The lawsuit focused on the plaintiffs being unable to vote privately and independently in the State's absentee ballot voting program. The plaintiffs asked that the online ballot marking tool developed by SBE be made available to them. The U.S. District Court for the District of Maryland found in favor of the plaintiffs and ordered that the online ballot marking tool be made available to the plaintiffs for the 2014 general election.

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**State Board of Elections**

***Operating Budget Analysis***

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**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, for 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 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 all eligible Maryland citizens have the opportunity to register to vote;
- to ensure that the State's voter registration list is accurate and current;
- to ensure that LBEs are conducting elections pursuant to the requirements of federal and State election laws and regulations, State information technology security requirements, and SBE policies;
- to provide a voting process that is convenient and accessible; and
- to ensure that campaign finance entities comply with the disclosure of the required campaign finance information in an accurate and timely fashion.

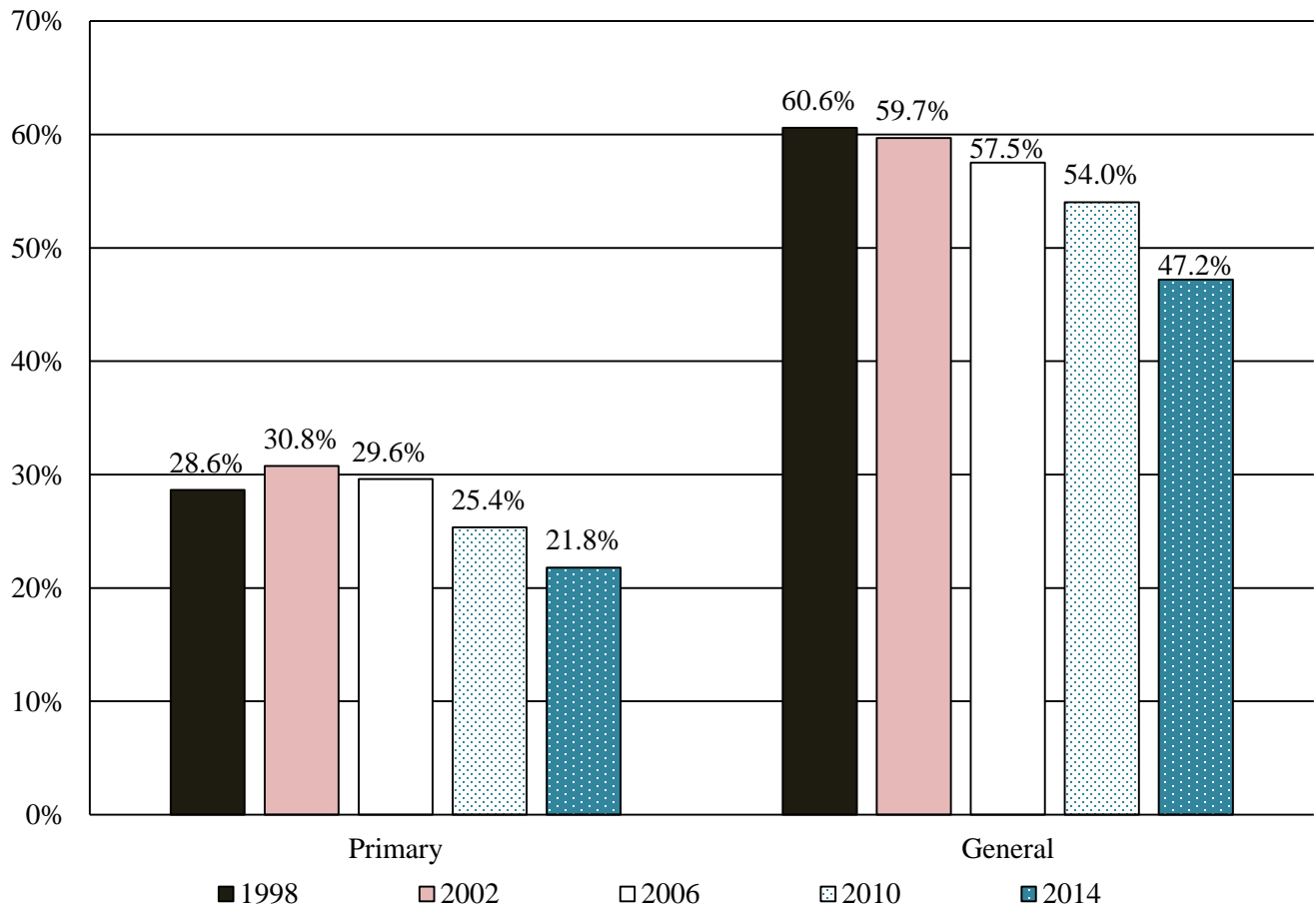
**Performance Analysis: Managing for Results**

The performance of SBE is ultimately measured by how well the last election went. Two elections (the 2014 gubernatorial primary and general elections) have been held since the 2014 session.

## 1. Voter Turnout Continues Downward Trend

**Exhibit 1** provides information on voter turnout in the 2014 gubernatorial elections and the four most recent gubernatorial elections. Primary election turnout continued to decline from the recent peak in the 2002 gubernatorial election (30.8%). Turnout in the 2014 primary election (21.8%) was 3.4 percentage points lower than the turnout in the 2010 primary election (25.4%). General election turnout has fallen in each of the recent gubernatorial elections. The 2014 general election turnout was substantially lower than 2010, a decrease of nearly 7.0 percentage points, and was below 50.0%. **SBE should comment on any steps planned to improve voter turnout in future elections.**

**Exhibit 1**  
**Voter Turnout in Gubernatorial Elections**  
**1998-2014**

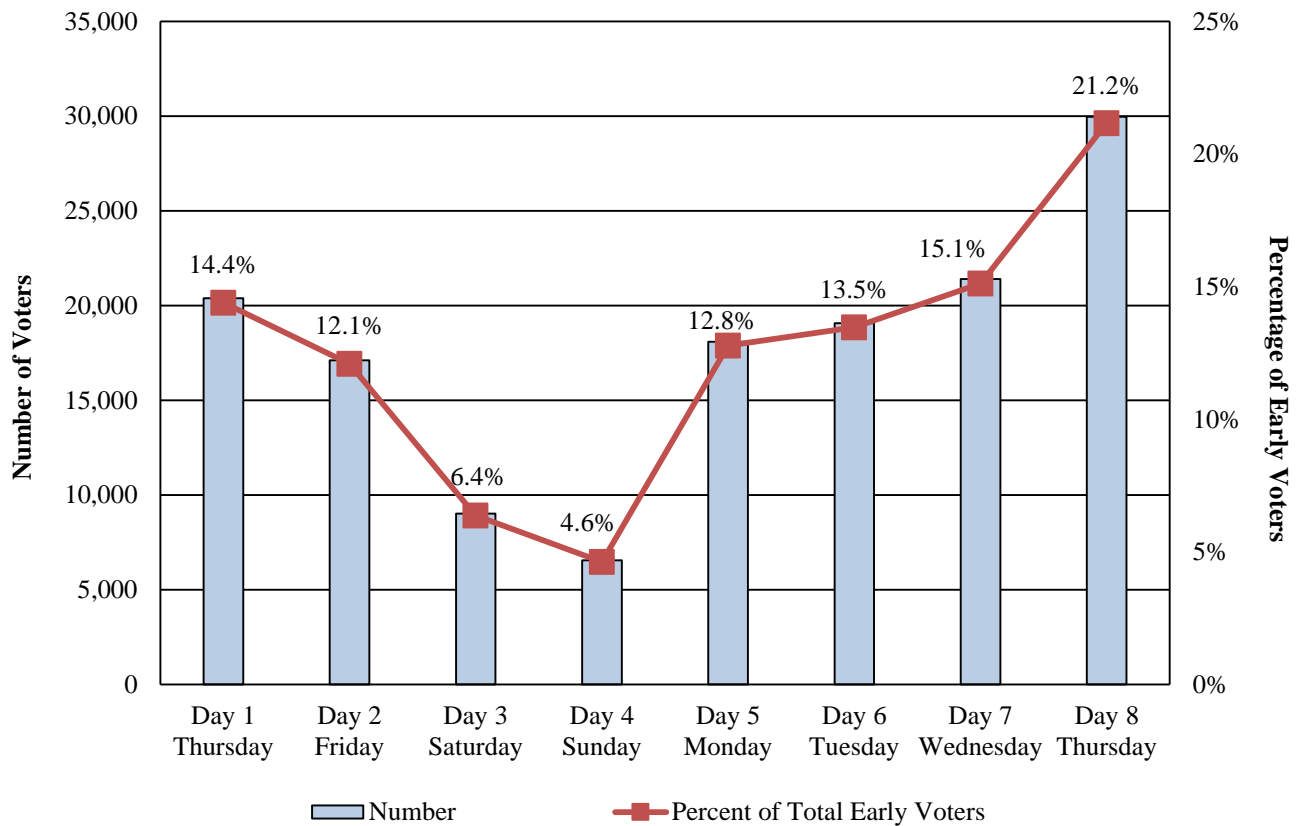


Source: State Board of Elections; Governor’s Budget Books

Chapters 157 and 158 of 2013 (Improving Access to Voting), among other changes, increased the number of days for early voting. During the 2014 gubernatorial elections, early voting was available from the second Thursday before the election to the Thursday before the election (including the weekend), a total of eight days. In the 2010 gubernatorial elections, early voting was available from the second Friday before the election to the Thursday before the election (excluding Sunday), a total of six days.

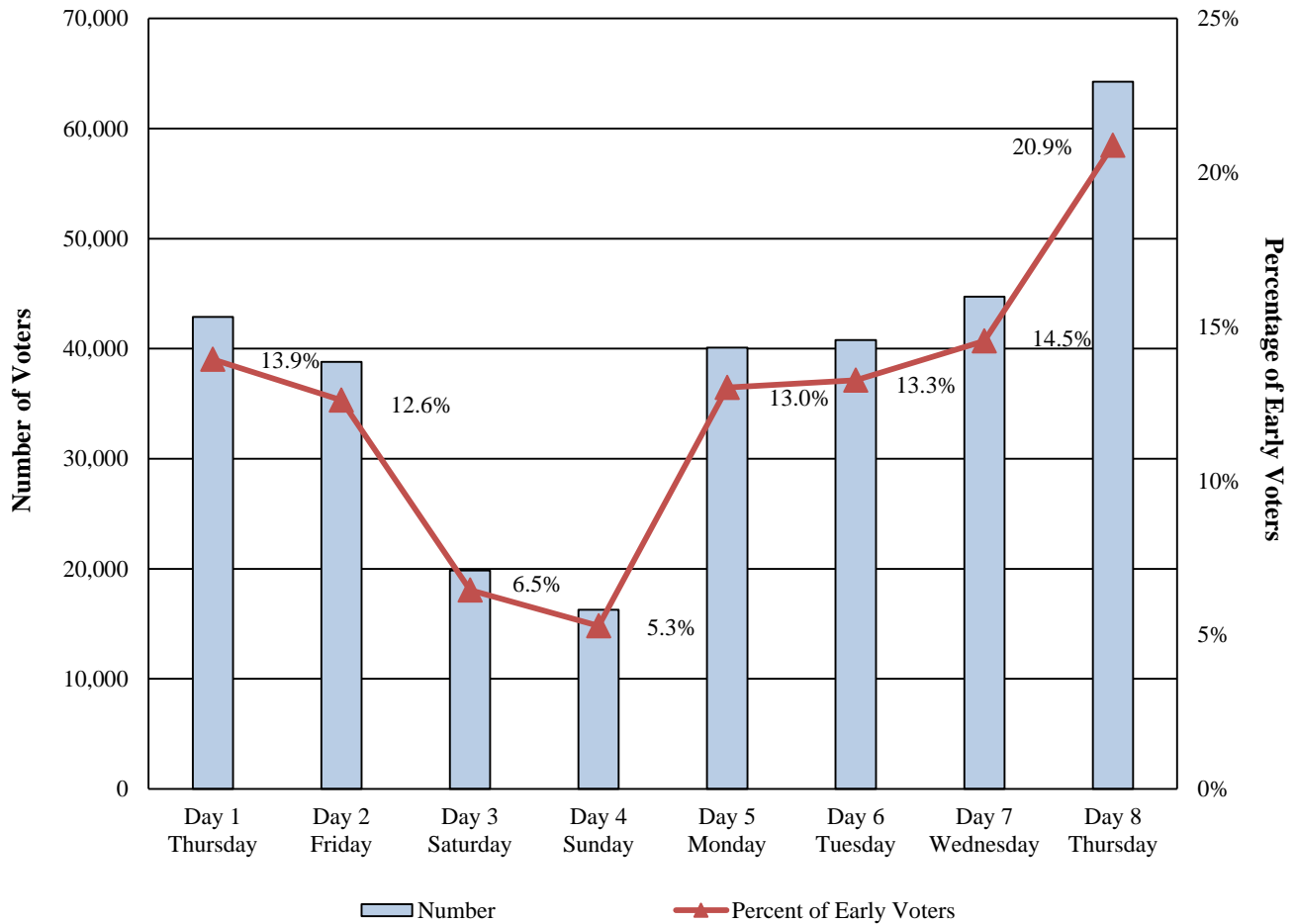
In the 2014 elections, the number of early voters was higher in the general election (307,646) than the primary election (141,590). The pattern of early voting was relatively consistent between the primary and general election, as shown in **Exhibits 2** and **3**. In each election, the largest share of early voters voted on the last day, followed by the second to last day, and the first day. Only a small percentage (less than 15%) of those voting early voted during the weekend.

**Exhibit 2**  
**Early Voting by Day**  
**Primary Election**



Source: State Board of Elections

**Exhibit 3  
Early Voting by Day  
General Election**



Source: State Board of Elections

Statewide early voter turnout of registered voters was 4.17% for the primary and 8.31% in the general election. However, of those who voted by any form, early voters represented 19.1% of the primary voters and 17.6% of general election voters.

In the primary and general election, the highest early voting turnout of registered voters occurred in Talbot County (10.16% and 18.97%, respectively). In the primary and general election, the largest number of early voters was in Baltimore County (22,285 and 51,814, respectively). Allegany and Washington counties had the lowest early voting turnout in both the primary (under 2.0%) and the general (under 4.0%) election.



## 2. Voting Equipment Deployment

**Exhibits 4 and 5** provide information on the deployment of ePollbooks and touchscreen voting units in the primary and general election relative to the number of active registered voters. Voting equipment allocations are done by precinct while these exhibits show the total per county, which could vary from individual precincts. Regulations require the voting unit allocation to be determined by the State Administrator in consultation with LBEs. The State Administrator is to consider the estimated early voter turnout and absentee voting, historical turnout for each precinct, the length of the ballot, and any other factor. The ratio of registered voters to voting units had one outlier with a much higher ratio than the others in the general election (Talbot County). **SBE should comment on how the allocation of equipment is determined.**

### Exhibit 4 Voting Equipment Deployment Primary Election

	<u>Early Voting Poll Books</u>	<u>Election Day Poll Books</u>	<u>Ratio of Active Voters to ePollbooks Election Day</u>	<u>Early Voting Units</u>	<u>Election Day Voting Units</u>	<u>Ratio of Active Voters to Voting Units Election Day</u>	<u>Eligible Active Voters as of June 7, 2014</u>
Allegany	3	88	481.8	8	208	203.8	42,398
Anne Arundel	30	680	396.6	55	1,660	162.5	269,671
Baltimore City	28	805	404.5	105	1,672	194.8	325,643
Baltimore	44	991	429.9	107	2,246	189.7	426,062
Calvert	3	78	770.9	10	255	235.8	60,133
Caroline	3	37	405.0	6	77	194.6	14,986
Carroll	6	196	583.5	15	517	221.2	114,358
Cecil	4	90	530.0	8	290	164.5	47,699
Charles	6	168	594.4	15	445	224.4	99,857
Dorchester	3	54	328.1	5	111	159.6	17,717
Frederick	10	223	669.9	28	694	215.3	149,393
Garrett	2	43	445.7	4	94	203.9	19,163
Harford	16	249	638.0	55	732	217.0	158,858
Howard	16	398	495.8	52	915	215.7	197,348
Kent	3	21	506.9	5	55	193.5	10,645
Montgomery	67	932	676.2	189	2,773	227.3	630,255

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	<u>Early Voting Poll Books</u>	<u>Election Day Poll Books</u>	<u>Ratio of Active Voters to ePollbooks Election Day</u>	<u>Early Voting Units</u>	<u>Election Day Voting Units</u>	<u>Ratio of Active Voters to Voting Units Election Day</u>	<u>Eligible Active Voters as of June 7, 2014</u>
Prince George's	42	964	529.1	160	2,477	205.9	510,012
Queen Anne's	6	53	619.2	16	138	237.8	32,820
St Mary's	4	129	498.0	10	291	220.8	64,247
Somerset	2	42	273.2	4	71	161.6	11,473
Talbot	4	36	608.5	10	84	260.8	21,905
Washington	4	152	587.1	14	401	222.6	89,243
Wicomico	4	106	442.7	10	254	184.7	46,922
Worcester	4	73	435.5	8	163	195.0	31,792
<b>Maryland</b>	<b>314</b>	<b>6,608</b>	<b>513.4</b>	<b>899</b>	<b>15,623</b>	<b>217.2</b>	<b>3,392,600</b>

Source: State Board of Elections

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**Exhibit 5**  
**Voting Equipment Deployment**  
**General Election**

	<u>Early Voting ePollbooks</u>	<u>Election Day ePollbooks</u>	<u>Ratio of Active Voters to ePollbooks Election Day</u>	<u>Early Voting Units</u>	<u>Election Day Voting Units</u>	<u>Ratio of Active Voters to Voting Units Election Day</u>	<u>Eligible Active Voters as of October 18, 2014</u>
Allegany	3	81	525.4	6	212	200.8	42,560
Anne Arundel	30	598	584.1	55	1,560	223.9	349,313
Baltimore City	36	654	570.6	105	1,672	223.2	373,171
Baltimore Co.	44	775	672.4	107	2,245	232.1	521,130
Calvert	3	69	869.2	10	228	263.1	59,976
Caroline	3	31	592.0	6	74	248.0	18,353
Carroll	5	167	676.3	15	517	218.5	112,946
Cecil	4	92	673.8	8	255	243.1	61,991
Charles	6	146	688.0	15	445	225.7	100,449
Dorchester	2	52	393.6	4	110	186.1	20,466
Frederick	13	219	689.0	30	696	216.8	150,895
Garrett	2	40	482.3	4	94	205.2	19,292
Harford	17	215	766.4	52	709	232.4	164,780
Howard	16	316	618.5	52	915	213.6	195,440
Kent	2	20	636.2	5	58	219.4	12,724
Montgomery	60	850	746.7	153	2,622	242.1	634,663
Prince George's	16	822	662.6	160	2,477	219.9	544,677
Queen Anne's	6	37	896.6	14	122	271.9	33,175
St Mary's	4	114	565.9	10	291	221.7	64,510
Somerset	2	39	333.3	4	69	188.4	12,999
Talbot	4	31	827.8	10	84	305.5	25,663
Washington	4	143	630.0	14	401	224.7	90,097
Wicomico	4	108	525.0	12	255	222.3	56,696
Worcester	4	67	532.8	7	163	219.0	35,699
<b>Maryland</b>	<b>290</b>	<b>5,686</b>	<b>651.0</b>	<b>858</b>	<b>16,274</b>	<b>227.5</b>	<b>3,701,665</b>

Source: State Board of Elections

### **3. Relatively Few Problems Reported in the 2014 Elections**

Relatively few problems were reported during the 2014 elections. One significant issue receiving attention during the 2014 general election, primarily during the early voting period, was a concern regarding vote switching. There were reports that voters, voting for one candidate, were seeing a switch in the vote to a different candidate. On October 27, 2014, SBE responded to this concern. SBE stated that it had received this type of report for less than 20 voting units as of that date. Some of the machines were taken out of service pending further testing, while some remained in use. Those remaining in use were those where the issue could not be replicated. SBE noted that these reports occur in all elections and are often related to user error. SBE reported that 35 machines in total were removed from service and tested. Of these, 15 were found to have had issues.

**SBE should comment on any other issues that arose during the elections and steps that SBE took to correct any issues.**

### **4. New Performance Measures**

The fiscal 2015 budget analysis for SBE noted several concerns related to SBE's Managing for Results (MFR) submission. These concerns included that (1) no new data was available because all data was reported on an election cycle basis even though some activities could be reported on a fiscal year basis; and (2) several measures were reported for which no new data had been available for multiple election cycles. In response, SBE explained that as part of its planning for the fiscal 2016 MFR submission it would review current objectives and performance measures for relevance, identify new objectives and performance measures that reflect new initiatives, and determine the appropriate measurement period for each performance measure.

The fiscal 2016 MFR submission contains a number of new measures and a mixture of measures reported on a fiscal year basis and on an election cycle basis, while eliminating some measures including the outdated measures. Some of the measures are similar to measures in the past. New measures and the time period of measurement are shown in **Exhibit 6**. SBE also altered the reporting period for two sets of existing measures related to LBE employee certification and LBE compliance with data quality standards from the election cycle to a fiscal year basis. **SBE should comment on how the agency chose new measures.**

**Exhibit 6**  
**New Performance Measures**

<u>New Measure</u>	<u>Time Period of Measurement</u>
<b><i>Voter Registration Related</i></b>	
Percentage of individuals who initiated a new voter registration application as a result of the ERIC mailing	Election cycle
Percentage of voter registration applications submitted from State agencies required to offer voter registration	Fiscal year
Percentage of voter registration applications submitted electronically from nongovernmental agencies	Election cycle
<b><i>Local Boards of Elections</i></b>	
Percent of LBEs with no more than three post-election audit findings	Election cycle
Percent of LBEs with no more than three findings on all security requirements	Election cycle
<b><i>Voting Outreach</i></b>	
Annual Twitter.com percent change	Fiscal year

ERIC: Electronic Registration Information System

LBE: Local Board of Elections

Source: State Board of Elections; Governor’s Budget Books

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**Fiscal 2015 Actions**

**Proposed Deficiency**

A proposed deficiency appropriation would provide funding (\$1.16 million) for the local share of costs related to the new voting system project not anticipated in budget development. The State’s share of these additional costs are proposed as a deficiency appropriation in the Major Information Technology Development Project Fund (MITDPF) in the Department of Information Technology (DoIT). The additional costs include lease payments for the new voting system, additional personnel, and a new inventory system. The reason for the deficiency appropriation is discussed in further detail in Issue 1.

## Cost Containment

**Exhibit 7** provides information on actions taken during fiscal 2015 to reduce spending and proposed deficiency appropriations. Of note, a \$109,000 proposed deficiency appropriation is the second half of a fund swap for which general funds were reduced in the January Board of Public Works (BPW) actions. The special funds are available from campaign finance fees.

### Exhibit 7 Fiscal 2015 Reconciliation

<u>Action</u>	<u>Description</u>	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
<b>Legislative Appropriation with Budget Amendments</b>		<b>\$6,536</b>	<b>\$7,738</b>	<b>\$100</b>	<b>\$1,963</b>	<b>\$16,338</b>
July BPW	Reduce \$100,000 of both general and special funds for absentee ballot printing.	-100	-100	0	0	-200
<b>Working Appropriation</b>		<b>\$6,436</b>	<b>\$7,638</b>	<b>\$100</b>	<b>\$1,963</b>	<b>\$16,138</b>
January BPW	Reduce \$109,000 due to available campaign finance fees and \$21,000 for overbudgeted rent.	-130	0	0	0	-130
January BPW Across the Board	2% across-the-board reduction.	-129	0	0	0	-129
Deficiency Appropriations	Add special funds to offset January BPW action (\$109,000) and add funds for the local share of increased costs for the New Voting System project (\$1.16 million).	0	1,264	0	0	1,264
<b>Total Actions Since January 2015</b>		<b>-\$259</b>	<b>\$1,264</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,006</b>
<b>Adjusted Working Appropriation</b>		<b>\$6,178</b>	<b>\$8,903</b>	<b>\$100</b>	<b>\$1,963</b>	<b>\$17,144</b>

BPW: Board of Public Works

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

Source: Department of Legislative Services

## Proposed Budget

As shown in **Exhibit 8**, the fiscal 2016 allowance of SBE increases by \$2.2 million, or 12.9%, compared to the fiscal 2015 working appropriation after accounting for proposed deficiency appropriations, cost containment actions approved by BPW on January 7, 2015, and across-the-board reductions in fiscal 2016.

A reimbursable fund decrease of \$2.0 million from the MITDPF represents the State’s share of costs associated with the New Voting System Replacement project in fiscal 2015. The State’s share of these costs are shown in the MITDPF in the fiscal 2016 allowance. When accounting for the funds included in the MITDPF for the new voting system in the fiscal 2016 allowance and the fiscal 2015 deficiency appropriation, the actual increase for SBE is \$7.9 million, or 43.4%.

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**Exhibit 8**  
**Proposed Budget**  
**State Board of Elections**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
Fiscal 2014 Actual	\$9,065	\$8,081	\$1,056	\$549	\$18,752
Fiscal 2015 Working Appropriation	6,178	8,903	100	1,963	17,144
Fiscal 2016 Allowance	<u>5,781</u>	<u>13,037</u>	<u>536</u>	<u>0</u>	<u>19,354</u>
Fiscal 2015-2016 Amt. Change	-\$397	\$4,134	\$436	-\$1,963	\$2,210
Fiscal 2015-2016 Percent Change	-6.4%	46.4%	435.8%	-100.0%	12.9%

**Where It Goes:**

**Personnel Expenses**

Employee and retiree health insurance .....	\$100
Turnover expectancy decreases from 3.93% to 1.19% .....	92
Regular earnings including planned increments and the annualization of the fiscal 2015 cost-of-living adjustment (before cost containment).....	45
Employee retirement .....	42
1 new contractual full-time equivalent to assist in the federal Effective Absentee Systems for Elections grant .....	38
Other fringe benefit adjustments .....	12
Section 21: Across-the-board reduction to eliminate increments .....	-43
Section 20: Across-the-board 2.0% pay reduction.....	-63

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**Where It Goes:**

**Voting System and Election Related Information Technology**

New voting system Major Information Technology Development Project after accounting for fiscal 2015 deficiency appropriation.....	1,713
Online campaign finance application contract costs .....	163
Election management system and ballot and results reporting system operations and maintenance.....	75
ePollbook-related software and server licenses .....	7
Touchscreen voting system software license after transition.....	-53
Repair and maintenance for the touchscreen voting system .....	-55
Election management software license .....	-150
End of legacy candidacy and ballot application contract.....	-193
Project management for touchscreen voting system no longer needed after transition .....	-1,130

**Voter Registration System**

Transition from Oracle to SQL and purchase of SQL server licenses .....	450
Fiscal 2015 Oracle upgrade .....	-190
Voter registration contract costs .....	-840

**Election Related**

Temporary staffing for elections.....	716
Transportation of voting equipment to voting centers .....	311
Election day supplies including those related to the implementation of same day voter registration.....	78
Contractual services related to the implementation of same day voter registration.....	75
ePollbook and printer replacement, ePollbook Integrated Center server hardware, and network hardware .....	34
Election night results hosting and operations and maintenance.....	16
Project management.....	-78

**Federal Funds**

Accessibility projects with funds from the U.S. Department of Health and Human Services (DHHS) .....	174
Federal Voting Assistance Program grant expenses related to absentee ballot mailing and voter registration system .....	119
Training documents related to voter accessibility at polling places .....	64
Supplies purchased in fiscal 2015 with funds from DHHS related to accessibility.....	-75



**Where It Goes:**

**Administrative Expenses**

Help desk services.....	825
Desktop support for local boards of elections.....	40
Across-the-board 2.0% reduction .....	-4
Cost allocations .....	-209
Other changes.....	105
<b>Total</b>	<b>\$2,210</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

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**Cost Containment**

The fiscal 2016 budget includes three across-the-board reductions. SBE’s share of these reductions are:

- \$133,000 of general funds for a 2% across-the-board reduction;
- \$63,000 of total funds (\$58,000 in general funds and \$5,000 in special funds) due to a 2% pay reduction; and
- \$42,798 of total funds (\$40,453 in general funds and \$2,345 in special funds) due to the elimination of increments.

The personnel actions are fully explained in the analysis of the Department of Budget and Management (DBM) – Personnel.

**Touchscreen Voting System**

The 2014 election cycle was the last statewide election cycle utilizing the touchscreen voting system. SBE will retain the system until the new voting system is in place, in the event of a special election. As a result of the change in the voting system, the fiscal 2016 allowance eliminates funding included in the fiscal 2015 budget for the touchscreen system for project management (\$1.13 million), repair and maintenance (\$55,000), and software licenses (\$53,060).

## **Election-related Costs**

Several changes occur in the fiscal 2016 allowance of SBE related to activities needed to conduct elections. These changes include activities, which increase, in part, because certain fiscal 2015 costs were artificially lowered. The 2014 elections were split between two fiscal years (fiscal 2014 and 2015), SBE used funds from fiscal 2014 to cover costs related to the election in both years, and as a result, fiscal 2015 spending is lower than might otherwise be expected. One example of this is temporary staffing for elections, which decreased by approximately \$150,000 in fiscal 2015 for this reason. This change partially accounts for the increase in the fiscal 2016 allowance (an increase of \$715,752), but a new contract cost is also expected to result in a higher total cost in that year.

The fiscal 2016 allowance also includes funding for implementation of same-day voter registration, which will begin in the 2016 election. SBE indicates, for example, that card and barcode scanners will need to be purchased for the scanning of driver's licenses for the same-day voter registration, which are included in the cost of Election Day supplies (an increase of \$78,232).

The fiscal 2016 allowance has notably omitted certain costs necessary for the functioning of the new voting system in the 2016 presidential primary, including the paper ballots for which there is no funding except minimal amounts needed for pre-election activities. SBE indicates that the costs for items necessary for the functioning of the election, but not included in the allowance, total \$7.4 million. These costs include Express Pass Printers, which are necessary for the use of ballot marking devices (these devices will also be used for early voting), (\$4.0 million), paper ballots (\$1.6 million), Universal Serial Bus (USB) drives (\$1.1 million), Election Management System support including to interface with the new system and ballot programming (\$817,616), and privacy sleeves (\$42,600).

The voting system equipment lease costs include costs associated with Express Pass Printers and USB drives. The USB drives are specially configured for the voting system equipment. The number of USB drives provided in the lease do not include enough for backup, testing, and training. SBE indicates that the number of Express Pass Printers included in the original lease (150) were far less than are actually needed for the use of the system (approximately 6,000). The number of Express Pass Printers included in the lease would not be sufficient to provide one of these printers to even 10% of the precincts, if there are the same number of precincts as the 2014 elections (1,986). SBE indicates that there needs to be an Express Pass Printer for each ePollbook.

**SBE should explain why its fiscal 2016 budget does not include sufficient funding for the 2016 presidential primary. SBE should also explain why the original lease for the voting system equipment did not include a sufficient amount of equipment to properly conduct an election. SBE should also explain how/when it intends to procure the additional equipment.**

## **Federal Grants**

A federal fund increase of \$435,819 overstates the increase in available federal funds between fiscal 2015 and 2016. Due to the timing of processing a budget amendment, federal funds totaling \$323,245 are not shown in the working appropriation. After accounting for those federal funds, the actual federal fund increase is \$112,574.

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The Voting Access for Individuals with Disabilities grant from the U.S. Department of Health and Human Services (DHHS) increases by \$163,500 in the fiscal 2016 allowance, or \$130,838 after accounting for the budget amendment. SBE uses these funds for voter accessibility projects, including at voting sites. The fiscal 2016 allowance includes \$174,138 for these activities. An increase of \$64,362 results from costs associated with the development of training documents related to voter accessibility at polling places. These increases are partially offset by a decrease of \$75,000 for supplies.

The Effective Absentee Ballot Systems for Elections (EASE) 2.0 grant from the U.S. Department of Defense Federal Voting Assistance Program (FVAP) increases by \$156,681 in the fiscal 2016 allowance, or an increase of \$111,295 after accounting for the budget amendment. Under the EASE 2.0 grant, SBE intends to become the single point of contact for Uniformed and Overseas Citizens Absentee Voting Act voters. The fiscal 2016 allowance includes 1 new contractual full-time equivalent to support the grant activities (\$38,164). Other increases in the fiscal 2016 allowance, totaling \$118,517, occur in the area of temporary staff for elections, consultant services for improvements to MD Voters (the voter registration system) (\$97,909), temporary staff (\$10,080), and absentee ballot mailing and other shipping costs (\$10,528).

The remaining federal fund increase in the fiscal 2016 allowance is for the federal HAVA program, an increase of \$115,638. In the fiscal 2016 allowance, these funds are used as part of the total funding for the costs for the temporary staffing for elections. While the HAVA funding appears to increase in the fiscal 2016 allowance, after accounting for the budget amendment, the HAVA funds decrease by \$10,063. SBE advises that the fiscal 2016 allowance includes the final funding available from HAVA.

## ***Issues***

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### **1. Status of Procurement of an Optical Scan Voting System**

Chapters 547 and 548 of 2007 prohibited SBE from certifying a voting system unless it includes a voter-verifiable paper record, which is defined as a paper ballot read by an optical scan system, a paper ballot to be mailed to the LBE, or 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 were contingent on the inclusion of sufficient funding no later than the fiscal 2009 budget 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 voting 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 legislature also provided 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 the VVSG and other requirements. The legislature 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 the procurement of the new system that was ongoing at the time of the fiscal 2011 budget release. Funding was again provided for the system in the fiscal 2014 budget, including a deficiency appropriation for fiscal 2013, allowing the project to move forward once again.

### **Implementation Status**

SBE decided to begin the certification process of the voting systems prior to the release of the request for proposals (RFP). In addition to federal certification, voting systems must be certified by Maryland before use; Section 9-102 of the Election Law Article details the certification requirements. Four companies (Dominion, Election Systems and Software, LLC (ES&S), Hart Intercivic, and Everyone Counts) submitted systems for certification.

SBE released the RFP for the delivery, installation, implementation, support and maintenance of the hardware, software, and equipment associated with precinct-based scanning devices, ballot marking devices, secure ballot box receptacles, high-speed scanning devices, and a voting system election management system in July 2014. SBE intended to separately procure others items related to

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the new voting system such as booths, carts, ballot printing, and ballot on demand printers. SBE provided an estimated number of each type of equipment needed in the RFP, including:

- precinct-based scanning devices – 3,108 units;
- high-speed scanning devices – 10 units; and;
- ballot marking devices – 2,731.

SBE received four bids, the same number of companies that submitted systems for certification, but two were deemed not reasonably susceptible for award. A protest was filed from one of the bidders deemed not reasonably susceptible for award. The protest was denied by SBE, and no further appeal was filed.

The contract award (to ES&S) was approved by BPW on December 17, 2014. ES&S' bid was ranked first, technically and financially, compared to the other bids. The base contract period is January 1, 2015, to March 31, 2017, and includes two two-year option periods (which would cover the period April 1, 2017, to March 31, 2021) for a total cost of \$28.1 million. The contract includes:

- services for equipment repair and maintenance;
- software licenses;
- precinct-based optical scanners;
- high-speed scanners;
- ballot marking devices;
- secure ballot boxes;
- voting system election management system;
- printers related to the use of the ballot marking device; and
- certain workstations, printers, and servers.

SBE will be leasing the equipment rather than purchasing the equipment and paying for it with a capital lease. This is a change from the previous voting equipment. Based on an analysis by SBE and DBM, there are some savings over the course of the lease compared to purchasing the equipment. Also, under a lease, the State is not tied to the voting equipment for a long period of time when emerging election

system technology is expected in the next few years. However, SBE advises that the lease agreement includes an option for SBE to purchase the equipment.

SBE worked with the Department of General Services to identify a warehouse to be used in the implementation of the system. The warehouse lease was approved by BPW on December 3, 2014. The warehouse is being leased for three years and is located in Anne Arundel County.

A new inventory system, which will be used to record the voting system equipment and supplies, is included as part of the Major Information Technology Development Project for the new voting system. The initial procurement of the inventory system was cancelled in December 2014 due to cost concerns, according to DoIT's fiscal 2015 *Mid-Year Report on Major Information Technology Development Projects*. However, SBE is pursuing an alternative procurement method. Other equipment needed for the conduct of elections with this system, such as booths and carts, are still in the procurement process and expected to be finalized early in calendar 2015. **SBE should provide an update on the inventory system procurement and procurement of other related equipment (such as booths, carts, and servers).**

**SBE should also comment on the implementation timeline for the new voting system, including when the State will begin receiving the equipment and the timeline for revising regulations and procedures.**

## **Funding**

A fiscal 2013 deficiency appropriation of \$50,000 and fiscal 2014 funding of \$1.15 million were used for planning for the new system. In fiscal 2015, a total of \$4.1 million was available for this project including funds from the MITDPF and county special funds. These funds were expected to be used for a variety of personnel and service costs (such as transportation, warehouse, voting supplies, and DoIT oversight).

The fiscal 2015 budget, as passed, did not include funding for the voting system equipment. At the time of the budget development, the voting system was expected to be purchased and paid for through a capital lease, and the capital lease payments were expected to begin in fiscal 2016. However, the procurement resulted in an operating lease, rather than a purchase of the equipment, requiring payments beginning in fiscal 2015. The fiscal 2015 required lease payments for the voting equipment under the contract approved on December 14, 2014, total \$2.3 million (\$1.15 million of both State and local funds). A proposed deficiency appropriation of \$1.16 million in both SBE and the MITDPF provides funding to support the fiscal 2015 lease costs for the new system, as well as costs related to a new inventory system and personnel not anticipated during budget development.

The fiscal 2016 allowance includes a total of \$13.8 million for the new voting system project, of which the State's share is included in the MITDPF, and the local share is included in SBE. The increase in SBE in fiscal 2016, \$1.7 million, understates the actual increase because the State's share of costs for the project in fiscal 2015 has already been transferred to SBE from the MITDPF (\$2.0 million). The total increase for the project in the fiscal 2016 allowance is \$7.4 million compared

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to the fiscal 2015 working appropriation after accounting for the fiscal 2015 deficiency appropriations, or \$3.7 million of both State and local funds.

The fiscal 2016 funding will be used to support:

- personnel to support the project, including project management, a project administrator, quality assurance, business process analysts, a voter outreach coordinator, testing specialists, a training coordinator and trainers, and a warehouse manager (\$5.2 million)
- the fiscal 2016 lease payment (\$4.6 million);
- voter outreach (\$1.8 million);
- DoIT oversight (\$0.5 million)
- warehousing costs (\$0.5 million);
- various voting supplies and services (\$0.4 million);
- transportation costs (\$0.4 million); and
- transfer cases (\$0.3 million).

In addition, funding is provided for the beginning of capital lease payments for necessary servers, carts, and voting booths. In the past, the Department of Legislative Services (DLS) has assumed that these items were ineligible for capital leases; however, the State Treasurer's Office indicates that these items can be purchased through a capital lease. The current plan assumes a five-year lease for these items, with interest-only payments estimated at less than \$40,000 in fiscal 2016.

Through fiscal 2021, the new voting system is expected to cost \$56.9 million. **Appendix 2** provides the estimated cost for the system over the life of the voting system equipment lease by fiscal year. However, these estimates do not include the cost of equipment for the system and are needed for the functioning of the elections, which would add approximately \$5.0 million to the total cost.

## **Project Risks**

The Information Technology Project Request (ITPR) for the project, as previous versions had, listed a number of high and medium risks for the project, six of which were rated high. The high risks are:

- **Sponsorship** – losing financial and political support, which is expected to be mitigated by communications and stakeholder management to forecast and proactively address potential issues;
- **Interdependencies** – separate contracts (such as ballot printing) that are dependent on the voting system procurement;
- **Organizational Culture** – the need to adjust business processes, policies, and procedures at SBE and the LBEs, which will be mitigated by a business process analysis and review, organization change management, documentation, communication, and collaboration with stakeholders;
- **Supportability** – not receiving or maintaining cooperation and assistance with the project, which will be mitigated by stakeholder identification and management and communications management; and
- **Implementation** – implementation occurring during the presidential elections, which will be mitigated by opportunities for testing and training of the system prior to deployment including a full statewide mock election to allow for a dress rehearsal of the system and a comprehensive voter education and outreach program.

A sixth high risk identified in the ITPR was related to funding and was specifically focused on the concern of having to cancel a second procurement for the new system. The contract for the new voting system equipment has been approved, and funding is available in a fiscal 2015 deficiency appropriation and the fiscal 2016 allowance for the equipment, therefore, this should no longer be a high risk. However, SBE's procurement failed to include the amount of equipment needed to conduct an election with this system. The fiscal 2016 allowance also does not include funding for paper ballots to vote using the system. As such, the risk remains high.

## **2. Voter Wait Times**

Language in the fiscal 2015 budget bill withheld \$25,000 of SBE's general fund appropriation until SBE submitted a report on actions taken to keep wait times under 30 minutes in the 2014 elections, plans to keep wait times under 30 minutes in future elections that will be conducted using the new optical scan voting system, and detailed plans to implement a system (beginning with the 2016 elections) for measuring waiting times at individual polling places and early voting centers and



utilizing the new data to develop plans to keep wait times under 30 minutes at individual polling places and early voting centers. The language provided the House Ways and Means Committee and the Senate Education, Health, and Environmental Affairs Committee, along with the budget committees, 45 days to review and comment on the report. SBE requested an extension from the original due date of January 15, 2015, and the report was submitted on January 23, 2015.

The report built on a previous study of voter wait times in the 2012 elections conducted by the University of Baltimore’s Schaefer Center for Public Policy (Schaefer Center), required in Chapters 157 and 158 of 2013. For this report, the Schaefer Center conducted research activities, including having observers in locations most likely to experience wait time difficulties, using data from ePollbooks and touchscreen units to determine volume and pace of voting, estimating voter wait times in the 2014 elections, and examining causes of the wait times.

### **2014 Voter Wait Times and Observations**

The Schaefer Center found, based upon reported incidents and the center’s modeling, few voters had wait times longer than 30 minutes on Election Day or during the early voting period. According to the Schaefer Center, during the 2014 general election, the average voter wait time on Election Day was 2 minutes and 54 seconds, and the average voter wait time during early voting was 5 minutes and 9 seconds. Only 60 polling places (out of 1,986) were estimated to have any number of voters with wait times of longer than 30 minutes during Election Day.

During the early voting period, only on the last day of early voting were wait times problematic. These higher wait times were consistent with the higher turnout on the last day of early voting, shown in Exhibits 2 and 3. Only on the last day of early voting were voter wait lines longer than 40 people at the close of the day, and these line lengths were reported in only seven early voting centers (three in Baltimore County, two in Prince George’s County, and one each in Anne Arundel and Charles counties). In total, 603 voters were checked in after the poll closing time during the 2014 general election early voter periods compared to approximately 28,000 voters in the 2012 general election early voting period. On Election Day, only 6 polling places (out of 1,986) had voter activity after the official polling place closing time in the 2014 general election.

Contributing factors to the lower voting wait times in the 2014 elections were the low voter turnout, as shown earlier in Exhibit 1, and ballot lengths that were generally shorter. The Schaefer Center reported that based on its modeling, every additional 100 words on a ballot adds 16 to 26 seconds to the time that it takes a voter at the voting unit. The time that voters used a voting unit was lower in every jurisdiction, except Charles County in the 2014 general election. In addition, the statewide length of time to use a voting unit was approximately 25% lower than the 2012 general election.

In an attempt to reduce voter wait times, Baltimore County increased the deployment of ePollbooks during the 2014 elections because a portion of the long wait times in that county during the 2012 elections was due to an insufficient number of ePollbooks (which was not typical of other jurisdictions in the same election). SBE reported that otherwise because of the lower turnout and shorter ballots, the allocation of equipment was sufficient to keep voter wait times under 30 minutes.

## **Changes for the 2016 Elections**

Some potential changes that could impact voter wait times in the 2016 presidential elections were highlighted throughout the SBE report and the Schaefer Center report, including:

- a higher anticipated turnout (presidential election cycles typically have higher turnout);
- the use of a new voting system (could reduce the time at check-in due to no longer needing to program the voter access card, but it is unclear how the distribution of ballots will impact check-in and the use of paper ballots will impact voting times);
- the addition of same-day voter registration and voter registration updates in the 2016 election early voting periods;
- the addition of the Baltimore City municipal elections to the 2016 presidential election cycle (only impacts Baltimore City); and
- any ballot questions added by the General Assembly or local governments impacting ballot length.

## **Recommendations and Plans to Keep Voter Wait Times Under 30 Minutes**

The Schaefer Center made recommendations in a number of areas to improve voter wait times.

### **System Testing and Simulations**

- Evaluate and test voter use of the new voting equipment to determine how long it will take to complete paper ballots.
- Conduct simulations of the implementation of the new voting system and rules and procedures to determine how best to handle the voter turnout.

### **Line Management**

- Continue recording the number of individuals in line at the beginning and end of each day of early voting and on Election Day at each voting location.
- Consider the use of greeters at locations with anticipated heavy turnout.

### **Equipment Allocation and Resources**

- Consider the deployment of additional resources to handle the higher turnout on the last day of early voting.
- Maintain an adequate supply of provisional ballots at voting locations with a history of high use.

### **Training**

- Include sections on managing heavy voter volume and lines in the election judge training manual.
- Add specialized training for election judges responsible for implementing same-day voter registration in the 2016 presidential primary election.

### **Voter Outreach and Other**

- Begin voter education and outreach no later than fall 2015 and intensify outreach leading up to the 2016 elections.
- Consider using technology to inform voters about the length of lines at voting locations.
- Ensure that there is proper signage about the steps in the voting process at the polling places, and adequate supplies of sample ballots and voting instructions should be available at voting locations.
- Evaluate voting locations based on changing space needs due to the implementation of the new voting system.

As a result of the changes in the voting system and the other changes for the 2016 elections, which will require a review of voting regulations and procedures, SBE believes that it may be premature to establish detailed plans for how to measure voter wait times and to keep voter wait times under 30 minutes. However, SBE described several actions that the agency will take to keep voter wait times under 30 minutes. SBE will (1) evaluate polling places to design a new voting room layout as a result of the change in voting systems before the 2016 elections; and (2) work with LBEs to identify strategies to increase resources at certain voting locations, for which a need was identified during the 2014 elections. SBE noted that it concurred with a number of the Schaefer Center's recommendations and planned on implementing them as part of the implementation of the new voting system (such as studying how long it takes voters to vote with the new system, using greeters, adding line management to the election judge manual, and conducting a mock election to determine the best procedures). However, SBE explained that some recommendations would require additional funding.

The report provided by SBE meets the requirements of the budget bill language for the release of funds. **As a result, DLS recommends the release of the \$25,000 of general funds.**

### 3. Status of Corrective Actions for Audit Findings

In March 2014, the Office of Legislative Audits (OLA) released a fiscal compliance audit for SBE covering the period July 1, 2009, to August 22, 2012. The audit contained nine findings, four of which are repeated from the previous audit. As has become standard practice, the fiscal 2015 budget bill withheld funds from SBE until actions to resolve repeat audit findings were completed. On January 29, 2015, OLA submitted a letter in response to the language indicating that, based on OLA’s review, SBE had satisfactorily addressed the repeat findings. **Exhibit 9** provides information on the audit findings, including the repeat findings. Some of the corrective actions described by SBE in its October 21, 2014 letter to OLA are described in this issue.

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#### Exhibit 9 Audit Findings

Audit Period for Last Audit:	July 1, 2009 – August 22, 2012
Issue Date:	March 2014
Number of Findings:	9
Number of Repeat Findings:	4
% of Repeat Findings:	44.4%
Rating: (if applicable)	n/a

**Finding 1: The State Board of Elections’ (SBE) structure of the voting system support services contract may have limited competition, and SBE lacked documentation that the sole proposal for the contract was sufficiently evaluated.**

**Finding 2: SBE did not modify the voting system support services contract to reflect a significant modification and did not submit significant contract modifications to the Board of Public Works for approval.**

**Finding 3: SBE had not established proper controls over purchases and did not always comply with State procurement regulations.**

**Finding 4: SBE’s cash receipt procedures did not establish control and accountability.**

**Finding 5: Sufficient collection efforts were not made on delinquent accounts receivable.**

**Finding 6: Noncash credit adjustments were not adequately reviewed and approved.**

**Finding 7:** SBE had not recovered indirect costs for federal grants because it had not prepared an indirect cost recovery plan.

**Finding 8:** Known security concerns over the online voter registration system were not being properly addressed until recently.

**Finding 9:** SBE did not have an effective process to ensure that individuals serving a sentence for a felony conviction were removed from the voter registration database, as required by law.

\*Bold denotes item repeated in full or part from preceding audit report.

Source: Office of Legislative Audits

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## **Voting System Support Services Contract**

Finding 1 stated that SBE's structure of the voting system support services contract may have limited competition, and SBE lacked documentation that the sole proposal for the contract was sufficiently evaluated. Specifically, OLA noted that the sole bidder stated that it intended to subcontract approximately 90% of the services and that SBE paid a significant premium to the contractor to manage the work of at least one subcontractor (*e.g.*, SBE paid \$3.7 million for transportation of voting equipment, while the contractor only paid the subcontractor \$2.3 million). OLA also noted that SBE could not provide the price evaluations by any of the evaluators and could only provide two unsigned technical evaluations (a similar comment was reported in a previous audit for a different procurement). OLA recommended that SBE ensure that future procurements are separated to promote maximum competition and document the evaluation of proposals.

OLA noted that SBE has begun separately procuring the services previously provided under the contract that led to this finding.

SBE stated that it has added a review and approval process for sole source procurements to its procurement checklist. The approval process requires the agency's procurement officer to review a written explanation justifying the request. The State Administrator, and if necessary the control agency, must also approve the sole source procurement. SBE indicated that the procurement officer also reviews each procurement request to make sure that services, which could be procured separately, are not bundled together.

## **Administrative Findings**

### **Cash Receipts**

Finding 4 stated that SBE's cash receipts procedures did not establish adequate control and accountability. OLA noted that cash receipts were recorded in a log and were then forwarded with the

log to a cashier for processing, which could allow misappropriation to occur without detection. In addition, the log was not used in deposit verification. OLA also explained that separate cash drawers and user identifications were not used by the four cashiers, and voided transactions were not subject to supervisory review and approval. SBE also found that in a test of 16 days of cash receipts, that 9 days of receipts were deposited from 3 to 7 business days after receipt. OLA recommended that documentation for receipts be provided directly to the individual who verifies the deposit, separate cash drawers, and user identifications be provided to cashiers; supervisory review and approval should be established for voided transactions, cash receipts should be deposited within 1 day of receipt, and SBE should pursue the use of electronic funds transfer for reimbursements from local jurisdictions.

SBE stated that it has updated cash management procedures to reflect changes described in the initial audit response including (1) revising procedures so that cashiers no longer have access to both the cash receipts and the log of receipts; (2) adding a supervisory review of voided transactions; (3) adding more back-ups for deposits to ensure that checks could be deposited timely; (4) using a remote deposit service; (5) assigning cashiers an individual password and cash drawer; and (6) transitioning jurisdictions to electronic payments (19 as of the audit response).

### **Accounts Receivable**

Finding 5 stated that sufficient collection efforts were not made on delinquent accounts receivable. Specifically, OLA noted, that SBE did not adequately investigate and resolve delinquent accounts receivable (which totaled \$2.0 million and were delinquent more than 60 days, as of a prior audit). OLA explained that no action was taken for \$1.3 million of the accounts receivable and SBE removed \$700,000 for which it said payments had been received or were unsupported. OLA found, in a test of a portion of the removed funds, that SBE did not have documentation for all of these actions. OLA also stated that SBE did not send delinquent notices and forward delinquent accounts to the State's Central Collection Unit (CCU) (repeat). OLA recommended that SBE investigate and resolve the accounts that were delinquent since the prior audit, ensure that delinquent accounts are sent appropriate notices and referred to the CCU timely, and include a statement in these notices that unpaid accounts will be referred to CCU.

SBE stated that it completed the review of delinquent accounts from the prior audit and requested that CCU allow the agency to write off the old balances. CCU approved this request in May 2014. In addition, SBE reviews the receivables aging report and sends delinquent statements when necessary.

### **Federal Funds**

Finding 7 stated that SBE had not recovered indirect costs for federal grants because it had not prepared an indirect cost recovery plan. The specific grants noted by OLA were the HAVA and the FVAP grants. OLA indicated that SBE reported that a miscommunication over the responsibility of submitting the plan led to SBE not having properly submitted the plan. OLA recommended the plan be submitted.

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SBE indicated that it is unable to recover indirect costs for the federal HAVA funds and received documentation from DBM to that effect. SBE submitted an indirect cost recovery plan to the U.S. Department of Defense for the FVAP grant on October 17, 2014.

**Based on the letter from OLA, DLS recommends the release of the \$250,000 general funds.**

**Nonrepeat Findings**

The audit also contained five nonrepeat findings, as shown in Exhibit 9, the most significant of which included not taking contract modifications to BPW for approval as required, not properly addressing – until recently known – security concerns related to the online voter registration system, and not having an effective process to ensure that individuals serving a sentence for felony conviction were removed from the voter registration database. **SBE should update the committees on the status of the corrective actions for these nonrepeat audit findings.**

## ***Recommended Actions***

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1. Concur with Governor's allowance.



## ***Updates***

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### **1. Online Ballot Marking Device and the National Federation for the Blind**

SBE developed an online ballot marking tool as part of an FVAP grant. An online ballot marking tool was available in the 2012 elections, although in limited fashion during the general election. SBE later revised the tool. As part of the requirements of Chapters 157 and 158 of 2013 (Improving Access to Voting), SBE conducted an accessibility and usability evaluation of the tool. The evaluation included a public demonstration. During the course of the evaluation, a number of improvements were made to the system, although at the conclusion of the evaluation some improvements were still required. In addition, the online ballot marking tool was one of the online services evaluated in the security assessment, required under Chapters 157 and 158. In the security assessment, no vulnerabilities that could be exploited, or for which there were not compensating controls, were found.

SBE is required to certify the online ballot marking tool, as a result of Chapters 157 and 158. At several meetings during calendar 2014, SBE discussed the online ballot marking tool certification. The vote on certification was three to one, with one absent, and, as a result, the tool failed to be certified because certification requires four votes.

During calendar 2014, the National Federation of the Blind, Inc. and several individual voters filed a lawsuit against SBE in the U.S. District Court of Maryland alleging that the absentee ballot process in Maryland violates Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. The plaintiffs requested relief to require SBE to make the online ballot marking tool available for the November 2014 general election, requested compensatory damages for one plaintiff, and requested an award of attorneys' fees and costs for all plaintiffs.

The U.S. District Court for the District of Maryland found for the plaintiffs that rights under the ADA and Rehabilitation Act to the absentee ballot process had been denied because of the inability to mark ballots privately and independently. The court also found that the online ballot marking tool is a reasonable and necessary modification and would not fundamentally alter the program or impose an undue financial hardship. The court issued a permanent injunction to prohibit violation of the ADA and Rehabilitation Act rights in the 2014 general election and all future elections and ordered the online ballot marking tool be made available to the plaintiffs for the 2014 general election. The court order specifically noted that the online ballot marking tool was not required to be made available to all voters. The order also does not require the online ballot marking tool be made available in future elections to allow the State the choice in how to make the process accessible in the future.

SBE explained that the online ballot marking tool was ready to be used at the time of the court order, so no additional actions were needed to make it available to comply with the order. SBE included language that limited the use of the tool to voters needing to use the tool to vote independently. SBE staff indicates that it will work with the board to determine the use of the tool in future elections for other voters but states that the court order provides for the tool or an equivalent access to absentee voting to be available to voters with disabilities.

## *Current and Prior Year Budgets*

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### 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>
<b>Fiscal 2014</b>					
Legislative Appropriation	\$8,588	\$10,119	\$200	\$0	\$18,908
Deficiency Appropriation	693	-5	0	0	688
Budget Amendments	59	-1,062	1,007	549	553
Reversions and Cancellations	-275	-971	-151	0	-1,397
<b>Actual Expenditures</b>	<b>\$9,065</b>	<b>\$8,081</b>	<b>\$1,056</b>	<b>\$549</b>	<b>\$18,752</b>
<b>Fiscal 2015</b>					
Legislative Appropriation	\$6,507	\$7,736	\$100	\$0	\$14,343
Cost Containment	-100	-100	0	0	-200
Budget Amendments	29	3	0	1,963	1,995
<b>Working Appropriation</b>	<b>\$6,436</b>	<b>\$7,638</b>	<b>\$100</b>	<b>\$1,963</b>	<b>\$16,138</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies.

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## **Fiscal 2014**

SBE's fiscal 2014 expenditures were \$155,823 lower than the legislative appropriation. The general fund expenditures of SBE were \$477,069 higher than the legislative appropriation. The majority of the increase (\$768,082) is the result of a deficiency appropriation needed to replace withdrawn Fair Campaign Financing Funds (FCFF) originally expected to support the new voting system and several studies required in Chapters 157 and 158 of 2013. A second deficiency appropriation added \$66,276 to support legal fees. The remaining increase occurred by budget amendment for employee compensation changes including the cost-of-living adjustment (COLA) provided to State employees in January 2014 (\$36,457), increments provided in April 2014 (\$13,292), and the annual salary review (\$9,450). These increases were partially offset by deficiency appropriations that reduced the appropriations for health insurance (\$52,885), retirement reinvestment (\$40,320), the call center as part of cost containment measures (\$39,376), and the statewide personnel system (\$8,631). In addition, SBE also erroneously reverted \$275,276, which are needed to pay fiscal 2014 expenditures related to the election management system.

SBE's fiscal 2014 special fund expenditures were \$2.0 million lower than the legislative appropriation. An increase of \$250,000 occurred by budget amendment to provide the FCFF to support several studies as required in Chapters 157 and 158 of 2013. The remaining increases resulted from the special fund share of employee compensation changes including the fiscal 2014 COLA (\$3,046) and employee increments (\$1,878). These increases were more than offset by a withdrawal of \$1.3 million in appropriation of the FCFF representing the majority of these funds budgeted to be used for the new voting system and the studies required in Chapters 157 and 158 of 2013. In addition, deficiency appropriations reduced the special funds provided for retirement reinvestment (\$3,370) and health insurance (\$1,795). SBE also cancelled \$970,701 of the special fund appropriation, primarily due to the lack of available matching general funds for temporary staffing for the primary election and upgrades and maintenance of the voter registration system.

The fiscal 2014 federal fund expenditures of SBE were \$856,132 higher than the legislative appropriation. An increase of \$1 million occurred by budget amendment as a result of the availability of the HAVA, DHHS accessibility grant, and the FVAP grant funding for projects related to online voter registration, online absentee ballot delivery system, the interface with the Motor Vehicle Administration, the call center, and voter accessibility projects. These increases are partially offset by an erroneous cancellation of \$150,700 needed to pay for a contract related to absentee ballots.

SBE's reimbursable fund appropriation in fiscal 2014 increased by \$549,066 for State costs related to the new voting system.

**Fiscal 2015**

SBE's fiscal 2015 appropriation has increased by a net of \$1.8 million, primarily in reimbursable funds (\$2.0 million) for the State's share of the new voting system costs. The remaining increase of \$31,776 in total funds (\$28,909 in general funds and \$2,867 in special funds) results from the fiscal 2015 COLA. These increases are partially offset by cost containment actions totaling \$200,000 (\$100,000 in both general and special funds) related to absentee ballots.

## Major Information Technology Projects

### State Board of Elections New Voting System Replacement

<b>Project Status</b>	Implementation.	<b>New/Ongoing Project:</b>	Ongoing.
<b>Project Description:</b>	This project allows the State Board of Elections (SBE) to comply with the requirements of Chapters 547 and 548 of 2007. The project supports the selection, certification, and implementation of a new optical scan voting system. The project also includes a project management team, development and conduct of acceptance testing of the new system, training of key stakeholders on the new system, voter outreach and education on the use of the new system, development of interfaces with other election systems, an accessibility evaluation, a security analysis, collection and disposal of the old voting system, and an inventory component. The implementation timeline will allow the system to be in place for the 2016 presidential election cycle.		
<b>Project Business Goals:</b>	The current touchscreen voting system does not comply with State law that requires the State to have a voting system that includes a voter verifiable paper ballot that can be read by an optical scan voting unit. Additionally, the current touchscreen system was purchased in 2001 and is nearing the end of its lifecycle. There are limited parts for repair, and no new units are being produced for replacements.		
<b>Estimated Total Project Cost:</b>	\$56.9 million through fiscal 2021 (the end of the current lease for voting system equipment).	<b>Estimated Planning Project Cost:</b>	Not applicable as project is now in implementation.
<b>Project Start Date:</b>	Fiscal 2013.	<b>Projected Completion Date:</b>	Implementation on December 31, 2016, followed by operations and maintenance and disposition).
<b>Schedule Status:</b>	The documentation of the first four phases of the System Development Life Cycle were provided to the Department of Information Technology (DoIT) in August 2014. In fall 2014, SBE received approval to move from the planning phase of the project to the implementation phase. In December 2014, the Board of Public Works (BPW) approved a contract for the Voting System Solutions Hardware contract. A warehouse lease was approved by BPW in the second quarter of 2014. SBE is still in the process of procuring an inventory system, an initial procurement was cancelled due to cost concerns, and an alternative procurement is ongoing. The current implementation schedule has implementation beginning in a timeframe (October 1, 2015) that allows the system to be in place for the 2016 elections as planned.		
<b>Cost Status:</b>	Since the 2014 session, some costs have become more certain as the voting system equipment procurement has been completed. In the 2014 session, some out-year costs were based on cost figures from 2014. Costs in fiscal 2015 have increased, compared to what was planned during the 2014 session, primarily due to the beginning of lease payments in that year, which was not anticipated at the time of budget development. Deficiency appropriations proposed for DoIT and SBE, totaling \$2.3 million, will provide the necessary funding for the cost increases. This change related from a decision to lease rather than purchase the new voting system. Other cost figures have also been updated since the 2014 session. The costs through fiscal 2021 are estimated at \$56.9 million. However, certain equipment was not included in the original contract. As a result, costs are expected to rise by approximately \$5.0 million.		

<b>Scope Status:</b>	DoIT notes in the fiscal 2015 <i>Mid-Year Report on Major Information Technology Development Projects</i> a potential for scope change based on an evaluation of the current Election Management System’s ability to be connected to the vendor’s (Elections Systems and Software, LLC) election management system.							
<b>Project Management Oversight Status:</b>	The fiscal 2016 allowance includes \$500,000 for DoIT oversight. DoIT holds portfolio review meetings on the project and receives quarterly updates.							
<b>Identifiable Risks:</b>	The fiscal 2015 <i>Mid-Year Report on Major Information Technology Development Projects</i> stated that in December 2014 a procurement for an inventory system was canceled due to the high cost of vendor proposals and that SBE is currently pursuing an alternative procurement method. A potential cost or schedule risk may result depending on the final procurement timeframe and cost. The Information Technology Project Request identifies six high risk items (sponsorship, funding, interdependencies, organizational culture, supportability, and implementation). The fiscal 2015 <i>Mid-Year Report on Major Information Technology Development Projects</i> notes a funding concern in fiscal 2015; however, the proposed deficiency appropriations would (if approved) alleviate these concerns.							
<b>Additional Comments:</b>	Certain estimated costs (such as the costs for the carts, booths, servers, and the inventory system) are subject to change as the equipment is procured and financing is finalized. Funding listed below is projected through the end of the current lease. The Major Information Technology Appendix only projects costs through fiscal 2019.							
<b>Fiscal Year Funding (\$ in Thousands)</b>	<b>Prior Years</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Total</b>
Personnel Services	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Professional and Outside Services	4,678.3	7,969.9	3,814.7	463.8	309.9	309.8	210.9	17,757.2
Other Expenditures	2,955.6	5,816.7	7,439.8	6,414.9	6,176.1	6,174.2	4,197.1	39,174.3
<b>Total Funding</b>	<b>\$7,633.9</b>	<b>\$13,786.6</b>	<b>\$11,254.5</b>	<b>\$6,878.7</b>	<b>\$6,485.9</b>	<b>\$6,484.0</b>	<b>\$4,408.0</b>	<b>\$56,931.6</b>

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

<u>Object/Fund</u>	<u>FY 14 Actual</u>	<u>FY 15 Working Appropriation</u>	<u>FY 16 Allowance</u>	<u>FY 15 - FY 16 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	41.60	41.60	41.80	0.20	0.5%
02 Contractual	1.60	0.00	1.00	1.00	N/A
<b>Total Positions</b>	<b>43.20</b>	<b>41.60</b>	<b>42.80</b>	<b>1.20</b>	<b>2.9%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 3,378,695	\$ 3,728,048	\$ 4,018,984	\$ 290,936	7.8%
02 Technical and Spec. Fees	322,097	116,639	158,164	41,525	35.6%
03 Communication	624,526	641,086	491,153	-149,933	-23.4%
04 Travel	90,759	98,934	100,964	2,030	2.1%
07 Motor Vehicles	4,069	6,570	3,120	-3,450	-52.5%
08 Contractual Services	9,150,494	10,782,699	14,108,691	3,325,992	30.8%
09 Supplies and Materials	409,507	238,774	238,790	16	0%
10 Equipment – Replacement	26,113	5,000	42,000	37,000	740.0%
11 Equipment – Additional	4,183,781	0	3,000	3,000	N/A
12 Grants, Subsidies, and Contributions	111,406	0	0	0	0.0%
13 Fixed Charges	450,511	520,208	427,952	-92,256	-17.7%
<b>Total Objects</b>	<b>\$ 18,751,958</b>	<b>\$ 16,137,958</b>	<b>\$ 19,592,818</b>	<b>\$ 3,454,860</b>	<b>21.4%</b>
<b>Funds</b>					
01 General Fund	\$ 9,065,385	\$ 6,436,256	\$ 6,012,404	-\$ 423,852	-6.6%
03 Special Fund	8,081,375	7,638,383	13,044,595	5,406,212	70.8%
05 Federal Fund	1,056,132	100,000	535,819	435,819	435.8%
09 Reimbursable Fund	549,066	1,963,319	0	-1,963,319	-100.0%
<b>Total Funds</b>	<b>\$ 18,751,958</b>	<b>\$ 16,137,958</b>	<b>\$ 19,592,818</b>	<b>\$ 3,454,860</b>	<b>21.4%</b>

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.

**Fiscal Summary  
State Board of Elections**

<u>Program/Unit</u>	<u>FY 14 Actual</u>	<u>FY 15 Wrk Approp</u>	<u>FY 16 Allowance</u>	<u>Change</u>	<u>FY 15 - FY 16 % Change</u>
01 General Administration	\$ 3,713,577	\$ 4,328,147	\$ 4,335,211	\$ 7,064	0.2%
02 Help America Vote Act	13,888,381	7,785,007	8,364,308	579,301	7.4%
03 Major Information Technology Development Projects	1,150,000	4,024,804	6,893,299	2,868,495	71.3%
<b>Total Expenditures</b>	<b>\$ 18,751,958</b>	<b>\$ 16,137,958</b>	<b>\$ 19,592,818</b>	<b>\$ 3,454,860</b>	<b>21.4%</b>
General Fund	\$ 9,065,385	\$ 6,436,256	\$ 6,012,404	-\$ 423,852	-6.6%
Special Fund	8,081,375	7,638,383	13,044,595	5,406,212	70.8%
Federal Fund	1,056,132	100,000	535,819	435,819	435.8%
<b>Total Appropriations</b>	<b>\$ 18,202,892</b>	<b>\$ 14,174,639</b>	<b>\$ 19,592,818</b>	<b>\$ 5,418,179</b>	<b>38.2%</b>
Reimbursable Fund	\$ 549,066	\$ 1,963,319	\$ 0	-\$ 1,963,319	-100.0%
<b>Total Funds</b>	<b>\$ 18,751,958</b>	<b>\$ 16,137,958</b>	<b>\$ 19,592,818</b>	<b>\$ 3,454,860</b>	<b>21.4%</b>

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.