

Minutes of the New York State Board of Elections

July 12, 2016

The meeting of the Board of Canvassers of the New York State Board of Elections was convened at the offices of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5th Floor Conference Room and was called to order at 12:05 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Peter Kosinski, Andrew Spano and Gregory Peterson.

The Board of Canvassers considered a motion to certify the amended Special Election results in the 59th Assembly District for the April 19, 2016 Election. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**

The meeting of the Commissioners of the New York State Board of Elections held at the offices of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5th Floor Conference Room was called to order at 12:15 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Peter Kosinski, Andrew Spano and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Brian Quail, Bill McCann, Brendan Lovullo and Risa Sugarman. The guest list is attached.

Minutes of May 4, 2016 – Minutes and Executive Minutes were accepted **(Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**

There was a moment of silence to honor the passing of Tom Wallace and James Walsh

Unit Updates:

Executive – Robert Brehm and Todd Valentine reported on several issues including:

- Met with NYC Board of Elections to review list maintenance issues.
- The Attorney General's office is representing us in the Libertarian Court Case in Brooklyn. Court was July 11, 2016.
- Bob Brehm was in Brooklyn, Bronx and Harlem for the June 28th Federal Primary.
- Three Bills we presented to the Legislature have been passed.
- Getting assistance through the PBITS program for assistance with our NYSVoter Refresh Program.

Legal – Kim Galvin reported on activities related to the Counsel/Compliance Unit including:

- There are nine cases outstanding seven of which the Attorney General is representing us on.
- Attorneys with the Department of Justice have scheduled a meeting with us.
- Kim, Brian and Bill took E Discovery training.
- The Eason case (website accessibility) is keeping staff very busy.

Election Operations – Brendan Lovullo reported that the Election Operations unit is working on several ongoing issues including:

- Staff is processing the petitions that are being filed.
- Worked with the IT Unit on Election Night reporting for the June Primary.
- Continue working on the ES&S phrase 2 upgrade.

PIO/NVRA – Bob Brehm reported that the PIO/NVRA unit is working on several issues.

- Reminder to the counties that the post-election MOVE Act survey is due.
- July 29th is the deadline for the counties to have all their paperwork in for the HHS Grant that will end on September 30th.

Enforcement – Risa Sugarman reported on the Enforcement Unit:

- Staff continues to work.

Old Business:

- Discussion on Political Clubs will be carried over until next board meeting.

New Business:

- VOTE on Formal Opinion regarding the impact of the Hispanic Leadership Fund case. **The motion was approved unanimously Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- VOTE on Resolution to adopt regulation to amend § 6210.2 Routine maintenance and testing of voting systems. **(The motion was approved unanimously Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- VOTE on Resolution re: Microsoft Support Services. **The motion was approved. Commissioners Kellner, Kosinski and Peterson voting in the affirmative; Commissioner Spano recused himself. 3 Yes and 1 Recused.)**
- VOTE on Resolution re: NYSVoter Support. **(The motion was approved unanimously Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- VOTE on Resolution re: Dominion Voting Systems Upgrade. **(The motion was approved unanimously Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- DISCUSSION on the Inspector General's Report.
- The next board meetings is scheduled for August 5, 2016.

The meeting was adjourned 2:15 p.m.

New York State Board of Elections
APPROVED RESOLUTION – July 12, 2016

**Resolution Amending Part 6210.2 Relating to Routine testing of
Voting Systems Directing Publication of Notice of Adoption And
Authorizing Addition of Such Part to Title 9 of the NYCRR,
Pursuant to Section 202 of the State Administrative Procedure Act**

WHEREAS, by the unanimous vote of the Commissioners present at a meeting held in Albany, New York, on February 23, 2016, the New York State Board of Elections pursuant to the authority of Election Law §§ 3-102(1), 7-202 (3), 7-206 (3) resolved that an amendment of Part 6210.2 of the Official Compilation of Codes, Rules and Regulations of the State of New York be the subject of Proposed Rule Making; and

WHEREAS, said proposed amendment of Part 6210.2 with accompanying submissions as required by law were duly filed with the Department of State on April 12, 2016 and thereafter duly published in the New York State Register on April 27, 2016 (ID Number SBE-17-1600009), and

WHEREAS, no public comment has been received with respect to such proposed Part and the only change to such section since publication is the replacement of the term “pre-election testing” with the term “pre-qualification testing” the latter being defined and used elsewhere in the part, such change being non substantive and not requiring republication;

NOW THEREFORE BE IT RESOLVED that the amendments to Part 6210.2, attached hereto, are hereby adopted and the Office of Counsel is authorized to file a Notice of Adoption indicating that such Part shall be effective upon publication in the New York State Register, and that further authority is granted to the Office of Counsel to file such other documents as may be required for the publication of such Notice of Adoption in the New York State Register and to effectuate the amendment of Part 6210.2 to Title 9 of the NYCRR.

Approved July 12, 2016
Vote 4-0



16-11

New York State Board of Elections APPROVED RESOLUTION – July 12, 2016

RESOLUTION AUTHORIZING THE EXPENDITURE OF A SUM NOT TO EXCEED OF \$36,285 FROM THE STATE OPERATIONS HAVA FUND FOR PAYMENT OF THE COSTS ASSOCIATED WITH THE MICROSOFT PREMIER SUPPORT AGREEMENT

WHEREAS the New York State Board of Elections (State Board) has been actively engaged in implementing the Help America Vote Act (HAVA); and

WHEREAS the State Board is in the process of purchasing continued Microsoft Premier Support for the NYSVoter system; and

WHEREAS the NYSVoter system is built using Microsoft technologies and Microsoft provides the State Board with on-going technical support; and

WHEREAS this resolution is necessary due to the anticipated costs associated with such a procurement; and

NOW THEREFORE BE IT RESOLVED that the Board does hereby approve the above-referenced request of the Information Technology Unit for the expenditure of such funds not to exceed of \$36,285 from the State Operations HAVA Fund for payment of costs to acquire Microsoft Premier Support.

**Approved July 12, 2016
VOTE 3-1(recused)**



16-12

New York State Board of Elections APPROVED RESOLUTION – July 12, 2016

RESOLUTION AUTHORIZING THE EXPENDITURE OF A SUM NOT TO EXCEED OF \$550,000 FROM THE STATE OPERATIONS HAVA FUND FOR PAYMENT OF THE COSTS ASSOCIATED WITH THE NYSVOTER REFRESH PROJECT.

WHEREAS the New York State Board of Elections (State Board) has been actively engaged in implementing the Help America Vote Act (HAVA); and

WHEREAS the State Board has initiated a multi-year “NYSVoter Refresh Project” to upgrade the NYSVoter components that are no longer vendor supported or are near end-of-life; and

WHEREAS the State Board will be retaining the responsibility for the new information technology assets which will support the NYSVoter system as a result of the NYSVoter Refresh Project. These assets include servers, storage devices, and networking hardware; and

WHEREAS the staff hours required to implement the new systems is not covered by any existing agreement or contract; and

WHEREAS the staff resources required to implement the new systems exceeds those available from the State Boards internal Information Technology Unit

NOW THEREFORE BE IT RESOLVED that the Board does hereby approve the above-referenced request of the Information Technology Unit for the expenditure of such funds not to exceed of \$550,000 from the State Operations HAVA Fund for payment of costs to implement the new information technology assets to support the NYSVoter System.

**Approved July 12, 2016
Vote 4-0**



16-13

New York State Board of Elections APPROVED RESOLUTION – July 12 2016

CERTIFICATION OF DOMINION BALLOT CONSOLIDATION UTILITY FOR USE WITH

DOMINION ELECTION MANAGEMENT SYSTEM VERSION 4.9.17.0

WHEREAS, Dominion Voting Systems Inc. (Dominion) has submitted a Ballot Consolidation Utility (BCU) to work with their EMS for certification; and

WHEREAS, SLI Inc. has conducted a source code review, and NYSTEC provided a secondary review of source code including review of NYSBOE test results to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's regulations, Part 6211 of NYCRR, and the applicable sections of New York State Election Law; and

WHEREAS, the summary reports of SLI Inc. and NYSTEC are herewith provided to the Board, for their consideration; and

WHEREAS, the Election Operations Unit has conducted functional testing of said system, and has provided a summary report, for the consideration of the Board; and

WHEREAS, having considered the totality of certification summary reports and the results of functional testing conducted by the Election Operations Unit, we do hereby recommend the certification of said system upgrade as herein defined;

BCU v 4.9.18.0

NOW, THEREFORE BE IT RESOLVED, that the Commissioners of the New York State Board of Elections, at their meeting convened on July 12, 2016, do hereby certify the Upgrade of the Ballot Consolidation Utility for use with the Dominion Election Management System.

**Approved July 12, 2016
Vote 4-0**