

**Minutes of the New York State Board of Elections  
August 2, 2023**

The meeting of the Commissioners of the New York State Board was held at the office of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 3<sup>rd</sup> floor conference room and was called to order at approximately 12:26 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Anthony Casale, Peter Kosinski and Andrew Spano. Staff members present were Kristen Zebrowski Stavisky, Raymond J. Riley III, Thomas Connolly, Brendan Lovullo, Amy Hild, Brian Quail, Kevin Murphy, Aaron Suggs, Jennifer Wilson, Michael Haber, and Enforcement Counsel Michael Johnson.

**Minutes from May 2, 2023** – Minutes were approved as written. **The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No).**

**Unit Updates:**

**Executive** – Kristen Zebrowski Stavisky reported on several items including:

- Online Voter Registration was successfully deployed, along with New York City BOE’s online registration on May 31, 2023.
- Expanded the procurement scope to ensure the software can be used agency wide.
- Construction has started on the 5<sup>th</sup> floor and if additional space in the building opens up, Board of Elections will stay; if not, the agency will pursue space where it can be altogether.

**Election Operations** – Amy Hild reported that the Election Operations unit is working on several ongoing issues including:

- Performed data match from Primary election and received absentee and affidavit counts from county boards.
- Staff has conducted accepted testing for several counties for new voting systems, with future board visits scheduled.
- Voting systems and vendors update.

**Legal** – Kevin Murphy reported on activities related to the Counsel/Compliance unit including:

- Litigation update.
- Compliance statistics.

**ENFORCEMENT** – Michael Johnson reported on the Enforcement Division including:

- Streamlining the process of pursuing how nonfilers are handled.
- Enforcement report detailing the following closed investigations:
  - E2022-007, E2022-013, E2022-016, E2022-022, E2022-067
  - E2022-073, E2022-075, E2022-096, E2022-104, E2022-109
  - E2022-113, E2023-012, E2023-015, E2023-016, E2023-017
  - E2022-019, E2023-020, E2023-024, E2023-026, E2023-027
  - E2022-035

- Sent notifications to candidates of committees who have not filed.

**PIO/NVRA** – Jennifer Wilson reported that the PIO/NVRA unit is working on several issues:

- In the beginning stages of upgrading the Freedom of Information (FOIL) platform to request FOILs.
- Social media update.
- Grants update.

**ITU** – Michael Haber reported on projects IT is working on:

- The Board’s website refresh is anticipated to be complete by the end of the year or early 2024.
- The Secure Election Center is processing county submissions for the annual Cybersecurity Regulations Requirements check.
- Attending a multistate meeting at the Information Sharing and Analysis Center.

**Old Business:**

- None.

**New Business:**

· VOTE on Resolution 23-19 to appoint Kathleen R. McGrath to the position Director of Public Information. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

· VOTE on Resolution 23-20 to adopt amendments to Part 6218 of 9 NYCRR Subtitle V related to procedures for failure to file Enforcement proceedings. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

· VOTE on Resolution 23-21 to adopt amendments to Parts 6204 and 6215.80 of 9 NYCRR Subtitle V related to objections to certain ballot access documents and revisions to the sample cover sheet. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

· VOTE on Resolution 23-22 to adopt amendments to Parts 6215.10 of 9 NYCRR Subtitle V related to objections to party positions determined by gender. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

· VOTE on Resolution 23-23 as amended to approve and certify the abstract and form submission of State Constitutional Amendments related to small city school district debt limits and sewage facility debt limits. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

- VOTE on Resolution 23-24 to certify Clear Ballot Clearcount Central Count Optical Scan voting system upgrade. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution 23-25 as amended to certify the use of the Clearcount System as an automated audit tool. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution 23-26 as amended to certify Dominion Democracy Suite 5.16 voting system. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**
- VOTE on alternative to Resolution 23-27 proposed by Commissioner Kellner which is attached. The resolution was defeated. **(Commissioner Kellner voting in the affirmative; Commissioners Kosinski, Spano and Casale voting in the negative; 1 Yes and 3 No)**
- VOTE on Resolution 23-27 as amended to certify ES&S EVS 6.3.0.1 Voting System. **The motion was approved (Commissioners Kosinski, Spano and Casale voting in the affirmative; Commissioner Kellner voting negative; 3 Yes and 1 No).**
- VOTE on Resolution 23-28 as amended to certify the Clearballot Clearvote 2.4 voting system. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**
- MOTION to adjourn. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).**

The meeting was adjourned at approximately 5:20 p.m.



**APPROVED RESOLUTION 23-19  
RESOLUTION APPOINTING KATHLEEN R. MCGRATH TO THE POSITION OF  
DIRECTOR OF PUBLIC INFORMATION**

**WHEREAS**, there currently exists a vacancy within the New York State Board of Elections in the position of Director of Public Information; and

**WHEREAS**, Kathleen R. McGrath has indicated a willingness to serve as Director of Public Information, and

**NOW, THEREFORE, BE IT RESOLVED**, that Kathleen R. McGrath be and hereby is appointed Director of Public Information effective August 2, 2023 with a start date to be determined.

**Approved August 2, 2023  
VOTE 4 YES 0 NO**



**APPROVED RESOLUTION 23-20**

**Resolution to Adopt Amendments to Part 6218 of 9 NYCRR Subtitle V Related to  
Procedures For Failure To File Enforcement Proceedings Pursuant to State  
Administrative Procedures Act (SAPA) § 202**

**WHEREAS**, by the unanimous vote of the Commissioners present at a meeting held on December 15, 2022, the New York State Board of Elections, pursuant to the authority of Election Law §§ 3-102 (1), 3-104(8), and 3-102 (17) resolved to authorize Counsel’s Office to file Proposed Rule Making with the New York Department of State related to procedures for failure to file enforcement proceedings; and

**WHEREAS**, notice of proposed rulemaking amending Section 6218.13 with accompanying submissions as required by law, were duly filed with the Department of State and thereafter duly published in the New York State Register on March 29, 2023 (I.D. No. SBE-13-23-00004-P); and

**WHEREAS**, subsequent to the publication of proposed rulemaking, one public comment has been received and considered by the New York State Board of Elections; and

**WHEREAS**, no amendments to the proposed rulemaking are proposed;

**NOW THEREFORE BE IT RESOLVED** that the amendment to Section 6218.13, attached hereto, is hereby adopted and the Office of Counsel is authorized to file a Notice of Adoption indicating that such Section 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 amendments to Section 6218.13 of Title 9 of the NYCRR.

**Approved August 2, 2023  
VOTE 4 YES – 0 NO**



**APPROVED RESOLUTION 23-21**

**Resolution to Adopt Amendments to Parts 6204 and 6215 of 9 NYCRR Subtitle V  
Related to Objections to Certain Ballot Access Documents and Revisions to the  
Sample Cover Sheet, Pursuant to State Administrative Procedures Act  
(SAPA) § 202**

**WHEREAS**, by the unanimous vote of the Commissioners present at a meeting held on March 14, 2023, the New York State Board of Elections, pursuant to the authority of Election Law §§ 3-102 (1), 3-102 (17), 6-134(2), and 6-154 resolved to authorize Counsel’s Office to file Proposed Rule Making with the New York Department of State related to Objections to Certain Ballot Access Documents and Revisions to the Sample Cover Sheet; and

**WHEREAS**, notice of proposed rulemaking amending Sections 6204.1 and 6215.8, with accompanying submissions as required by law, were duly filed with the Department of State and thereafter duly published in the New York State Register on April 19, 2023 (I.D. Nos. SBE-16-23-00005-EP and SBE-16-23-00007-EP); and

**WHEREAS**, subsequent to the publication of proposed rulemaking, no public comments have been received and the statutory time period for comments has passed; and

**WHEREAS**, no amendments to the proposed rulemaking are proposed;

**NOW THEREFORE BE IT RESOLVED** that the amendment to Sections 6204.1 and 6215.8, attached hereto, is hereby adopted and the Office of Counsel is authorized to file a Notice of Adoption indicating that such Sections 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 amendments to Section 6204.1 and 6215.8 of Title 9 of the NYCRR.

**Approved August 2, 2023**

**VOTE 4 YES – 0 NO**



**APPROVED RESOLUTION 23-22**

**Resolution to Adopt Amendments to Part 6215 of 9 NYCRR Subtitle V Related to Party Positions Determined By Gender, Pursuant to State Administrative Procedures Act (SAPA) § 202**

**WHEREAS**, by the unanimous vote of the Commissioners present at a meeting held on March 14, 2023, the New York State Board of Elections, pursuant to the authority of Election Law §§ 3-102 (1), 3-102 (17), 3-102 (18), and 6-134 (2) resolved to authorize Counsel’s Office to file Proposed Rule Making with the New York Department of State related to party positions determined by gender; and

**WHEREAS**, notice of proposed rulemaking amending Section 6215.10 with accompanying submissions as required by law, were duly filed with the Department of State and thereafter duly published in the New York State Register on April 19, 2023 (I.D. No. SBE-16-23-00006-EP); and

**WHEREAS**, subsequent to the publication of proposed rulemaking, no public comments have been received and the statutory time period for comments has passed; and

**WHEREAS**, no amendments to the proposed rulemaking are proposed;

**NOW THEREFORE BE IT RESOLVED** that the amendment to Section 6215.10 attached hereto, is hereby adopted and the Office of Counsel is authorized to file a Notice of Adoption indicating that such Section 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 amendments to Section 6215.10 of Title 9 of the NYCRR.

**Approved August 2, 2023**  
**VOTE 4 Yes – 0 NO**



### **APPROVED RESOLUTION 23-23**

## **Certification and Approval of the Abstract and Form of Submission of State Constitutional Amendments Related to Small City School District Debt Limits and Sewage Facility Debt Limits**

**WHEREAS**, pursuant to Article XIX § 1 of the State Constitution, State Constitutional Amendments must be passed by two separately elected State Legislatures and then “each proposed amendment or amendments [must be submitted] to the people for approval in such manner and at such times as the legislature shall prescribe;” and

**WHEREAS**, A State Constitutional Amendment related to small city school district debt limits was passed by two separately elected State Legislatures; and

**WHEREAS**, A State Constitutional Amendment related to sewage facility debt limits was passed by two separately elected State Legislatures; and

**WHEREAS**, both Amendments provide that such “amendment[s] be submitted to the people for approval at the general election to be held in the year 2023 in accordance with provisions of the election law;” and

**WHEREAS**, section 4-108(1) of the Election Law provides: “the state board of elections at least three months prior to the general election at which such amendment...is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment...and a statement of the form in which it is to be submitted(;)” and

**WHEREAS**, section 4-108(3) of the Election Law provides that “[t]he attorney general shall advise in the preparation of such abstract and such form of submission;” and

**WHEREAS**, on July 11, 2023, the office of the Attorney General sent a draft abstract and form to the Board of Elections; and



**WHEREAS**, Board staff is recommending changes to the abstract and form to clarify the intent of the Amendments;

**NOW THEREFORE BE IT RESOLVED:** that the Co-Executive Directors are authorized to sign the Certification, attached hereto, which certifies the "abstract of proposal" and "form of the submission" of the State Constitutional Amendments related to small city school district debt limits and sewage facility debt limits; and

**BE IT FURTHER RESOLVED**, that State Board of Elections staff is authorized to transmit to each county board of elections a certified copy of the form of the submission; further, staff is authorized to publish the abstract of the proposal consistent with section 4-116(2) of the Election Law.

**Approved August 2, 2023**  
**VOTE 4 YES – 0 NO**

## ABSTRACT OF PROPOSAL NUMBER ONE, AN AMENDMENT

This constitutional amendment removes the special debt limit for small city school districts. Debt limits would be established in state law for all school districts.

A small city school district is one that includes at least part of a small city. A small city is a city with less than one hundred twenty-five thousand people.

The State Constitution limits how much debt a small city school district can incur. Their debt cannot be more than five percent of the value of taxable real estate in the district. There are exceptions for certain expenses. Other school districts are not subject to a constitutional debt restriction, but have a different debt limit provided by state law. State law says their debts cannot be greater than ten percent of the value of taxable real property. If this Constitutional Amendment passes, small city school districts would be eligible to have the same debt limit as other school districts enacted via legislative action.

## FORM OF SUBMISSION OF PROPOSAL NUMBER ONE, AN AMENDMENT

Removal of Small City School Districts

From Special Constitutional Debt Limitation

The proposed amendment to Article 8, section 4 of the Constitution removes the special constitutional debt limitation now placed on small city school districts, so they will be treated the same as all other school districts. Shall the proposed amendment be approved?

## ABSTRACT OF PROPOSAL NUMBER TWO, AN AMENDMENT

The Constitution limits the debt counties, cities, towns and villages can incur. This debt limit does not include debt for sewage treatment and disposal construction projects. The sewer debt exception expires on January 1, 2024. This amendment extends the sewer debt exception for ten more years until January 1, 2034.

The proposed amendment does this by changing section 5 of article 8 of the Constitution.

## FORM OF SUBMISSION OF PROPOSAL NUMBER TWO AN AMENDMENT

### Extending Sewage Project Debt Exclusion From Debt Limit

The proposed amendment to Article 8, section 5 of the Constitution extends for ten years the authority of counties, cities, towns, and villages to remove from their constitutional debt limits debt for the construction of sewage facilities. Shall the proposed amendment be approved?



**APPROVED RESOLUTION 23-24 - August 2, 2023**  
**CERTIFICATION OF CLEAR BALLOT CLEARCOUNT CENTRAL COUNT OPTICAL SCAN VOTING**  
**SYSTEM UPGRADE (VERSION 2.2.5)**

**WHEREAS**, Clear Ballot Group, Inc. (Clear Ballot) has submitted an upgrade to the hardware and software used in conjunction with their ClearCount central count optical scan voting system for certification; and

**WHEREAS**, SysTest Labs Inc. (SLI) has conducted a security review, technical data package (TDP) review and source code review of the modification, 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 6209 of NYCRR, and the applicable sections of New York State Election Law; and

**WHEREAS**, the summary report of SLI are herewith provided to the Board, for their consideration; and

**WHEREAS**, having considered the summary report and the results of functional testing conducted by SLI, the Operations Unit of the New York State Board of Elections do hereby recommend the certification of said system upgrade as herein defined:

ClearCount 2.2.5	PaperStream Capture 2.10.0.9
Ubuntu Server OS 18.04.5 LTS	Chrome 87.0.4280.141
Windows 10 Pro	
MYSQL 5.7.35-0	

**NOW THEREFORE BE IT RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify the upgrade to the ClearCount system as described above.

**Approved August 2, 2023**  
**VOTE 4 YES - 0 NO**



**ADOPTED AS AMENDED APPROVED RESOLUTION 23-25**

**August 2, 2023**

**RESOLUTION AUTHORIZING THE USE OF THE CLEARCOUNT SYSTEM (VERSION 2.2.5) AS AN AUTOMATED AUDIT TOOL PURSUANT TO ELECTION LAW SECTION 9-211**

**WHEREAS**, on June 24, 2015 the New York State Legislature allowed the use of automated audit tools that are authorized by the State Board of Elections for use by election officials in assisting with the audit of election results as required by Election Law section 9-211; and

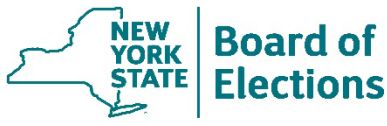
**WHEREAS**, Clear Ballot has requested that the State Board of Elections authorize its ClearCount system version 2.2.5, certified for use as a central count scanner on **August 2, 2023**, to be used as an automated audit tool, pursuant to section 9-211 (1) of the Election Law; and

**WHEREAS**, said system underwent comprehensive testing by SysTest Labs Inc. (SLI) to test its functionality and accuracy, in accordance with the process set forth in the State Board's Automated Audit Tool Authorization Process; and

**WHEREAS**, rules and regulations regarding the use of automated audit tools are set forth in 9 NYCRR 6210.20; and

**NOW THEREFORE BE IT RESOLVED**, that the Commissioners of the New York State Board of Elections do hereby authorize the Clear Ballot ClearCount System Version 2.2.5 as an Automated Audit Tool pursuant to section 9-211 of the Election Law to be used by election officials in New York State in conformance with the regulations set forth in section 6210.20 for ballots that have been cast on other voting systems that are certified to be used in New York State that are independent from the Clear Ballot ClearCount System.

**Approved August 2, 2023**  
**VOTE 4 YES - 0 NO**



**APPROVED RESOLUTION ADOPTED AS AMENDED 23-26**

**August 2, 2023**

**CERTIFICATION OF THE DOMINION**

**DEMOCRACY SUITE 5.16 (D-SUITE 5.16) VOTING SYSTEM**

**WHEREAS**, Title II of Article 7 of the Election Law inter alia provides for the examination of and process for approving voting systems and their components for use at elections in the State of New York; and

**WHEREAS**, Dominion Voting Systems (Dominion) has submitted a voting system, Democracy Suite 5.16 (D-Suite 5.16), which contains both new and modified hardware along with new software components; and

**WHEREAS**, the New York State Board of Elections (NYSBOE) on January 18, 2022 passed resolution 22-02 authorizing the testing for such system; and

**WHEREAS**, the NYSBOE Elections Operations Unit on January 31, 2022, having become aware of the existence of a report authored by University of Michigan computer science professor J. Alex Halderman submitted to the United States District Court for the Northern District of Georgia in *Curling v Raffensperger* (Case No. 17-2989) allegedly describing security vulnerabilities in the Dominion ICX Ballot Marking Device, sent a letter to Dominion requesting a copy of said report (attached hereto); and

**WHEREAS**, the aforementioned report was released publicly on June 14, 2023 (attached hereto); and

**WHEREAS**, the United States Cybersecurity & Infrastructure Security Agency (CISA) published an advisory (ICSA-22-154-01) identifying vulnerabilities affecting versions of the Dominion ImageCast X on June 3, 2022 (attached hereto); and

**WHEREAS**, Dominion commissioned the MITRE Corporation's National Election Security Lab (NESL) to perform an analysis of the vulnerabilities described in the Halderman report and confirmed in the CISA advisory, the results of which were published in July 2022 (attached hereto); and

**WHEREAS**, information on a privacy flaw known as DVsorder that affects Dominion ImageCast Precinct (ICP) and ImageCast Evolution (ICE) ballot scanners was published on October 14, 2022; and

**WHEREAS**, Dominion’s guidance to its customers on how to mitigate the DVSError flaw by removing the RecordId information, as described in its *EMS Results Tally & Reporting User Guide* (attached hereto) comports with existing NYSBOE guidance with regard to removal of any data elements in export files which could potentially be used to ascertain the order in which ballots were cast in an attempt to compromise voter privacy; and

**WHEREAS**, SLI Compliance (SLI) has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

**WHEREAS**, SLI incorporated the information contained within the CISA advisory into its functional security testing; and

**WHEREAS**, the reports and testing documentation of SLI was provided to the Board, for consideration and has been duly considered; and

**WHEREAS**, the New York State Technology Enterprise Corporation (NYSTEC) has performed an independent review of the work conducted by SLI Compliance (SLI); and

**WHEREAS** the reports and testing documentation of NYSTEC was provided to the Board, for consideration and has been duly considered; and

**WHEREAS**, all identified issues, as discovered and reported during testing, have been resolved to the satisfaction of SLI, NYSTEC and the Election Operations staff through the provision of additional documentation, revisions to existing documentation and/or the application of NYSBOE voting system procedures as compensating controls, with limited exceptions that can be mitigated with other controls and procedures; and

**WHEREAS**, the Voting System Security Policy (attached hereto) and all additional procedures referred to therein, as promulgated by the New York State Board of Elections, are required to be implemented by County Boards of Elections as applicable to ensure the security and integrity of the voting process; and

**WHEREAS**, written public comments were duly received and considered by the Board; and

**WHEREAS**, having duly considered the aforesaid materials and reports, functional and security testing, staff analysis and recommendations, applicant submissions, and public comments, the Election Operations Unit of the New York State Board of Elections recommends the certification of certain components of said system, to wit:

- Dominion Democracy Suite 5.16 Voting System hardware components:
  - ImageCast Precinct (ICP) 5.16.6.1 optical scan tabulator
  - ImageCast Precinct 2 (ICP2) 5.16.4.1 optical scan tabulator
  - ImageCast Evolution (ICE) 5.16.6.1 ballot marking device and optical scan tabulator
  - ImageCast X (ICX) 5.16.5.1 non-tabulating ballot marking device
  - ImageCast Central (ICC) 5.16.6.1 central count tabulator
- Dominion Democracy Suite 5.16 Voting System software components:
  - Election Management Systems (EMS) 5.16.7.1 EMS application software
  - Adjudication (ADJ) 5.16.7.1 Electronic adjudication application software; and

**WHEREAS**, having considered the summary reports and the results of functional testing, the Election Operations Unit of the New York State Board of Elections recommends the following components of said system not be certified, to wit:

- ImageCast Voter Activation (ICVA) 5.16.7.1 Application for ICX BMD Smart Card programming; and

**WHEREAS**, the New York State Board of Elections on October 2, 2019 certified Dominion ICE firmware version 4.14.27 and in conjunction therewith the Operations Unit directed additional mandatory audit procedures pertaining to Dominion ICE Counter Review and such mandatory audit procedures, included as step 23(e) of the Audit Procedure for 6210.18, version 12 (attached hereto), which remains in full effect; and

**WHEREAS**, notwithstanding the numbers of machines required according to the above-described calculations, the obligations of County Boards under the State Board's Regulations, 9 N.Y.C.R.R. Part 6210.19 (d)(1) to deploy sufficient voting equipment, election workers and other resources so that voter waiting time at a poll site does not exceed 30 minutes remains;

**NOW THEREFORE BE IT RESOLVED** that the New York State Board of Elections “Directive on Usage and Deployment of Dominion ImageCast Evolution (ICE) Hardware Upgrade” made on October 25, 2018, remains in full effect, and is further clarified, to wit:

- (a) For Election Day, a Dominion ImageCast Evolution (ICE) machine shall not be assigned to serve



more than 2,700 registered voters (excluding voters in inactive status); provided however, if more than one such ICE or other scanning device serves the same voters at a poll site, each additional device may be assigned to serve no more than 3,900 registered voters (excluding voters in inactive status), and

(b) Notwithstanding (a) herein, if a single ICE machine is assigned to a poll site on Election Day and the number of voters served is 2,700 or less, there must be at least two scanning devices if more than two voters have used the Ballot Marking Device at such poll site within the past four years; and

(c) During the Early Voting period, each Dominion ImageCast Evolution (ICE) machine shall not be assigned to serve more than 24,000 registered voters (excluding voters in inactive status); provided however, no early voting site shall have less than two optical scanners, and

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify the following components of the Dominion Democracy Suite 5.16 voting system:

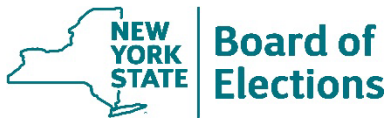
- ImageCast Precinct (ICP) 5.16.6.1 optical scan tabulator
- ImageCast Precinct 2 (ICP2) 5.16.4.1 optical scan tabulator
- ImageCast Evolution (ICE) 5.16.6.1 ballot marking device and optical scan tabulator
- ImageCast X (ICX) 5.16.5.1 non-tabulating ballot marking device
- ImageCast Central (ICC) 5.16.6.1 central count tabulator
- Election Management Systems (EMS) 5.16.7.1 EMS application software
- Adjudication (ADJ) 5.16.7.1 Electronic adjudication application software; and

on condition that with Dominion's next submission for certification related to this system Dominion shall submit for further review and approval an upgrade to incorporate the additional security and privacy features contained in the Dominion Democracy Suite 5.17 Voting System and which update addresses the open JIRA discrepancies described in Attachment C to the SLI report (D516-23 and D516-25).

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do not certify the following component of the Dominion Democracy Suite 5.16 voting system:

- ImageCast Voter Activation (ICVA) 5.16.7.1 Application for ICX BMD Smart Card programming

**Approved August 2, 2023**  
**VOTE 4 YES – 0 NO**



**APPROVED RESOLUTION 23-27**

**August 2, 2023**

**CERTIFICATION OF THE ES&S EVS 6.3.0.1 VOTING SYSTEM**

**WHEREAS**, Title II of Article 7 of the Election Law inter alia provides for the examination of and process for approving voting systems and their components for use at elections in the State of New York; and

**WHEREAS**, Election Systems and Software, LLC (ES&S) has submitted a voting system which contains new hardware and software components in addition to modifications to hardware and software from the previously certified ES&S voting system; and

**WHEREAS**, the New York State Board of Elections (NYSBOE) on July 12, 2022 passed resolution 22-11 authorizing the testing for such system; and

**WHEREAS**, SLI Compliance (SLI) has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

**WHEREAS**, the reports and testing documentation of SLI was provided to the Board for consideration and has been duly considered; and

**WHEREAS**, the New York State Technology Enterprise Corporation (NYSTEC) has performed an independent review of the work conducted by SLI; and

**WHEREAS** the reports and testing documentation of NYSTEC was provided to the Board, for consideration and has been duly considered; and

**WHEREAS**, all identified issues, as discovered and reported during testing, have been resolved to the satisfaction of SLI, NYSTEC and the Election Operations staff through the provision of additional documentation, revisions to existing documentation and/or the application of NYSBOE voting system procedures as compensating controls; and

**WHEREAS**, the Voting System Security Policy (attached hereto) and all additional procedures referred to therein, as promulgated by the New York State Board of Elections, are required to be implemented by County Boards of Elections as applicable to ensure the security and integrity of the voting process; and

**WHEREAS**, written public comments were duly received and considered by the Board; and

**WHEREAS**, having duly considered the aforesaid materials and reports, functional and security testing, staff analysis and recommendations, applicant submissions, and public comments, the Election Operations Unit of the New York State Board of Elections recommends the certification of certain components of said system, to wit:

- ES&S EVS 6.3.0.1 Voting System hardware components:
  - DS200 v1.2 3.0.0.1 optical scan tabulator
  - DS200 v1.3 3.0.0.1 optical scan tabulator
  - DS200 v1.3.13 3.0.0.1 optical scan tabulator
  - DS300 3.0.0.1 optical scan tabulator
  - ExpressVote XL 4.2.1.1 ballot marking device
  - DS450 4.2.0.1 central count tabulator
  - DS850 4.2.0.1 central count tabulator
  - DS950 4.2.0.1 central count tabulator
- ES&S EVS 6.3.0.1 Voting System software components:
  - Electionware 6.3.0.1 Election Management Systems (EMS); and

**WHEREAS**, NYS Election Law § 7-104 (26) requires that “All paper ballots of the same kind for the same polling place shall be identical”; and

**WHEREAS**, the ballot card format produced by the ExpressVote XL is not identical to the alternative full-face ballot format, requiring that all voters use the ExpressVote XL to mark their ballot in order to comply with NYS Election Law § 7-104 (26); and

**WHEREAS**, NYS Election Law § 7-203 authorizes the State Board of Elections to establish the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one voting machine; and

**WHEREAS**, such minimum number of voting machines shall be based on the voting machine in use, taking into account machine functionality and capability, including the ability to tabulate multiple official ballots and the need for efficient and orderly elections; and

**WHEREAS**, notwithstanding the numbers of machines required according to the above-described calculations, the obligations of County Boards under the State Board's Regulations, 9 N.Y.C.R.R. Part 6210.19 (d)(1) to deploy sufficient voting equipment, election workers and other resources so that voter waiting time at a poll site does not exceed 30 minutes remains; and

**WHEREAS**, there currently is no approved audit system to audit the ExpressVote XL summary cards, pursuant to 9-211 of the New York State Election Law; and

**NOW THEREFORE BE IT RESOLVED**, that having considered the Usability Test documentation provided by ES&S (attached hereto), the following requirement of usage shall be adopted:

- (a) For Election Day, an ExpressVote XL machine shall not be assigned to serve more than 450 registered voters (excluding voters in inactive status); provided however, if more than one such ExpressVote XL serves the same voters at a poll site, each additional device may be assigned to serve no more than 550 registered voters (excluding voters in inactive status), and
- (b) Notwithstanding (a) herein, if a single ExpressVote XL machine is assigned to a poll site on Election Day and the number of voters served is 450 or less, there must be at least two ExpressVote XL machines if more than two voters have used the Ballot Marking Device at such poll site within the past four years; and
- (c) During the Early Voting period, each ExpressVote XL machine shall not be assigned to serve more than 2,900 registered voters (excluding voters in inactive status); provided however, no early voting site shall have less than two ExpressVote XL machines; and

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify certain components of said system, to wit:

- ES&S EVS 6.3.0.1 Voting System hardware components:
  - DS200 v1.2 3.0.0.1 optical scan tabulator
  - DS200 v1.3 3.0.0.1 optical scan tabulator
  - DS200 v1.3.13 3.0.0.1 optical scan tabulator
  - DS300 3.0.0.1 optical scan tabulator
  - ExpressVote XL 4.2.1.1 ballot marking device
  - DS450 4.2.0.1 central count tabulator

- DS850 4.2.0.1 central count tabulator
- DS950 4.2.0.1 central count tabulator
- ES&S EVS 6.3.0.1 Voting System software components:
  - Electionware 6.3.0.1 Election Management Systems (EMS); and

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections request that ES&S address the issues raised in the report of Cyber Castellum “Evaluation of SLI ES&S EVS 6.3.0.1 Code Review Reports at such time that it submits any updates to ES&S EVS 6.3.0.1;” and

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify the ES&S EVS 6.3.0.1 voting system.

**Approved August 2, 2023**  
**VOTE 3 YES - 1 NO**



**ADOPTED AS AMENDED APPROVED RESOLUTION 23-28**  
**August 2, 2023**  
**CERTIFICATION OF THE CLEAR BALLOT**  
**CLEARVOTE 2.4 VOTING SYSTEM**

**WHEREAS**, Title II of Article 7 of the Election Law *inter alia* provides for the examination of and process for approving voting systems and their components for use at elections in the State of New York; and

**WHEREAS**, Clear Ballot has submitted the ClearVote 2.4 voting system, which contains new hardware and software components; and

**WHEREAS**, SLI Compliance (SLI) has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

**WHEREAS**, the summary report of SLI Inc. was provided to the Board for consideration and has been duly considered; and

**WHEREAS**, the New York State Technology Enterprise Corporation (NYSTEC) has performed an independent review of the work conducted by SLI Compliance (SLI); and

**WHEREAS** the summary report of NYSTEC was provided to the Board, for consideration and has been duly considered; and

**WHEREAS**, having considered the Usability Test documentation provided by Clear Ballot, it is the opinion of the Operations Unit that the determinations as set forth in the State Board's Regulations, 9 N.Y.C.R.R. Part 6210.19 can be applied without alteration; and

**WHEREAS**, having considered the summary reports and the results of functional testing, the Operations Unit of the New York State Board of Elections recommends the certification of certain components of said system, to wit:

- Clear Ballot ClearVote 2.4 voting system hardware components:
  - ClearCast
  - ClearMark
  
- Clear Ballot ClearVote 2.4 voting system software components:
  - ClearDesign EMS Version 2.4
  - ClearCount Version 2.4
  - ClearCast Version 2.4
  - ClearMark Version 2.4

**WHEREAS**, the testing reports have identified several minor issues in the source code, and

**WHEREAS**, having duly considered the aforesaid reports, functional testing, staff analysis and recommendations, and applicant submissions;

**NOW THEREFORE BE IT RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify the Clear Ballot ClearVote 2.4 Voting System on condition that with Clear Ballot's next submission for certification related to this system Clear Ballot shall prepare and submit for further review and approval an upgrade to address the issues raised in the NYSTEC report "Testing Oversight of Clear Ballot ClearVote 2.4 dated June 23, 2023."

**Approved August 2, 2023**  
**VOTE 4 YES - 0 NO**



**PROPOSED RESOLUTION 23-27 – August 2, 2023**  
**CERTIFICATION OF THE ES&S EVS 6.3.0.1 VOTING SYSTEM**

**WHEREAS**, Title II of Article 7 of the Election Law inter alia provides for the examination of and process for approving voting systems and their components for use at elections in the State of New York; and

**WHEREAS**, Election Systems and Software, LLC (ES&S) has submitted a voting system which contains new hardware and software components in addition to modifications to hardware and software from the previously certified ES&S voting system; and

**WHEREAS**, the New York State Board of Elections (NYSBOE) on July 12, 2022 passed resolution 22-11 authorizing the testing for such system; and

**WHEREAS**, SLI Compliance (SLI) has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

**WHEREAS**, the reports and testing documentation of SLI was provided to the Board for consideration and has been duly considered; and

**WHEREAS**, the New York State Technology Enterprise Corporation (NYSTEC) has performed an independent review of the work conducted by SLI; and

**WHEREAS** the reports and testing documentation of NYSTEC was provided to the Board, for consideration and has been duly considered; and

**WHEREAS**, all identified issues, as discovered and reported during testing, have been resolved to the satisfaction of SLI, NYSTEC and the Election Operations staff through the provision of additional documentation, revisions to existing documentation and/or the application of NYSBOE voting system procedures as compensating controls; and



**WHEREAS, it appears that there are provisions in section 6209.2(f) of the Voting System Standards that have been omitted from the testing process; and**

**WHEREAS, the Voting System Security Policy (attached hereto) and all additional procedures referred to therein, as promulgated by the New York State Board of Elections, are required to be implemented by County Boards of Elections as applicable to ensure the security and integrity of the voting process; and**

**WHEREAS, written public comments were duly received and considered by the Board; and**

**WHEREAS, having duly considered the aforesaid materials and reports, functional and security testing, staff analysis and recommendations, applicant submissions, and public comments, the Election Operations Unit of the New York State Board of Elections recommends the certification of certain components of said system, to wit:**

- ES&S EVS 6.3.0.1 Voting System hardware components:
  - DS200 v1.2 3.0.0.1 optical scan tabulator
  - DS200 v1.3 3.0.0.1 optical scan tabulator
  - DS200 v1.3.13 3.0.0.1 optical scan tabulator
  - DS300 3.0.0.1 optical scan tabulator
  - ExpressVote XL 4.2.1.1 ballot marking device
  - DS450 4.2.0.1 central count tabulator
  - DS850 4.2.0.1 central count tabulator
  - DS950 4.2.0.1 central count tabulator
- ES&S EVS 6.3.0.1 Voting System software components:
  - Electionware 6.3.0.1 Election Management Systems (EMS); and

**WHEREAS, NYS Election Law § 7-104 (26) requires that “All paper ballots of the same kind for the same polling place shall be identical”; and**

**WHEREAS, the ballot card format produced by the ExpressVote XL is not identical to the alternative full-face ballot format, requiring that all voters use the ExpressVote XL to mark their ballot in order to comply with NYS Election Law § 7-104 (26);**

**and the need for efficient and orderly elections; and**

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do hereby certify the ES&S EVS 6.2.0.1 Voting System with the following components of said system to wit:

- ES&S EVS 6.3.0.1 Voting System hardware components:
  - DS200 v1.2 3.0.0.1 optical scan tabulator
  - DS200 v1.3 3.0.0.1 optical scan tabulator
  - DS200 v1.3.13 3.0.0.1 optical scan tabulator
  - DS300 3.0.0.1 optical scan tabulator
  - DS450 4.2.0.1 central count tabulator
  - DS850 4.2.0.1 central count tabulator
  - DS950 4.2.0.1 central count tabulator
- ES&S EVS 6.3.0.1 Voting System software components:
  - Electionware 6.3.0.1 Election Management Systems (EMS); and

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections do not certify the following component of at this time the use of the ES&S EVS 6.3.0.1 Voting System:

- ExpressVote XL 4.2.1.1 ballot marking device.

**BE IT FURTHER RESOLVED** that the Commissioners of the New York State Board of Elections request that ES&S address the issues raised in the report of CyberCastellum “Evaluation of SLI ES&S EVS 6.3.0.1 Code Review Reports at such time that it submits any updates to ES&S EVS 6.3.0.1.