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## VOTER SERVICES

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### Lycoming County Observations on Voting System Replacement Process

**1. Voter-Verifiable Paper Trail (VVPT) is good election policy.**

- VVPT guarantees an official record of election results that cannot be interfered with by electronic means.
- VVPT provides peace-of-mind for voters and increases overall public faith in the conduct of elections in the Commonwealth.

**2. The April 2018 directive was motivated by a good intention: to ensure VVPAT throughout the Commonwealth. However, the timeline established by the directive was rushed and unrealistic.**

- **Certification Delays.** In April 2018, only 1 next-generation voting system that satisfied the directive was certified for purchase and use in the Commonwealth. No additional voting systems were certified until November 30, 2018.
- **COSTARS Delays.** The COSTARS-39 IFB was issued on April 2, 2018, then cancelled on November 14, then re-issued on December 17. The first bid package from a voting system company did not appear on COSTARS until February 28, 2019.
- DOS will claim that counties have had since April 2018 to comply with the directive, but most counties spent 2018 and early 2019 waiting for certifications and COSTARS to materialize; other than hosting demonstrations to view the new systems, counties could take no action to comply with the directive other than purchase the 1 certified system or begin a time-consuming and potentially litigious RFP/bidding process in lieu of COSTARS. Several counties delayed their implementation from November 2019 to April 2020 due to the delays.

**3. Counties are making progress toward compliance and DOS has provided valuable assistance to counties, but the voting system replacement process has damaged counties' policy planning and capital budgeting and is NOT going smoothly.**

- DOS provided guidance to counties on the contractual protections built into COSTARS, advised counties about contractual language to avoid if we negotiate with vendors on our own, and "fact-checked" claims made by vendors about their certification and COSTARS status. Counties are very appreciative for this assistance.
- The replacement directive disrupted counties' plans to replace their voting systems according to their own needs, workflows, and finances. Lycoming County had a plan in place to replace its voting system in 2021 or 2022, which would have provided time for the voting system market in PA to mature and for the county to spread its logistical preparations and financial planning across a longer period of time.
- The replacement directive imposed a 2-year compliance timeframe that required counties to make rapid, drastic changes to capital budgets that had been developed 3-10 years in advance. Lycoming County lacked the financial bandwidth to shift the capital expenditure from our 2021-22 budget forward to 2019, and we had no choice but to issue a bond to cover the cost.
- The replacement directive damaged counties' bargaining position with voting system companies. DOS claims that the counties "hold all the cards" because the companies want our business, but the companies are very aware that the counties are a captive audience because we are under a mandate and do not have the luxury of time.

**4. Beyond the current replacement cycle, there are long-term problems in the Election Code that need to be addressed.**

- **No decertification process in the Election Code.** The Election Code does not currently specify how the Secretary of the Commonwealth shall proceed with decertifying a voting system. The Legislature should establish a formal decertification process that permits input from the manufacturer, includes legislative oversight, and defines decertification as a tool of last resort.
- **No reasonable limitations on Secretary's authority.** DOS is already telling counties to prepare to replace their voting systems again in 7-10 years. Before then, the Legislature should enact reasonable checks on the authority of the Secretary of the Commonwealth. A future statewide replacement of voting systems should require legislative approval; the decision to order replacement of all systems or to decertify all systems should no longer rest in the hands of a single appointed official.
- **Potential for abuse of Secretary's authority and county board of elections authority by outside constituencies.** Various sub-sections of 25 P.S. §§ 3031.2-3031.5 of the Election Code permit ten registered electors to petition the Secretary to re-examine any voting system, even a system that has just been certified, and the Secretary must comply. They also permit ten registered electors to petition a county board of elections to discontinue use of an electronic voting system. These sections are ripe for abuse and litigation.



