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Senate State Government Committee Public Hearing
Tuesday, March 26, 2019
Dauphin County Administration Building
By Gerald D. Feaser, Jr.
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Greetings Chairman Folmer and Chairman Williams, and members of the Senate State Government Committee. The open channel of communication created by this Committee with the county election directors is nothing short of unprecedented. We have the experience and perspective to provide unvarnished and candid observations about how executive, legislative and judicial actions impact – or could impact - the maintenance of voter registration records, establishment of election district boundaries, selection of polling places, staffing of polling places and, ultimately, the delivery of elections. Our perspective is based on reality and not theory.

Today, I'm pleased to support Senate Bill 48, sponsored by Sen. Gordner. The only unfortunate part of this legislation is that it is even necessary. When the General Assembly passed into law the process by which the Department of State certified voting equipment and systems for use in Pennsylvania it appears that the enabling legislation didn't go far enough.

As this legislation is not part of current law, it appears that someone at the Department of State found a magic wand to wave into existence a \$150 million unfunded mandate without even having to consider the repercussions. I still don't believe that the Department's actions and chain reaction that it has set into motion is fully understood, and what this all will mean for the voters and taxpayers of each county.

More than one year ago, on February 9, 2018, the Wolf Administration's Department of State issued a directive to ensure that "the next generation of voting equipment used in Pennsylvania will meet updated standards for auditability and security. The directive will allow counties to expand their auditing practices and position them well to meet new requirements in the event legislation requiring a paper record is enacted at the state or federal level."

For context, just a few days before this edict, on February 6, Governor Wolf had delivered his 2018-19 budget address to the General Assembly without even mentioning the need for funding for new voting systems.

Following the February announcement, most county election officials reacted with relief, as several counties were in the process of planning to replace their voting systems and appreciated the timely guidance, while others – such as Dauphin County – took notice of the new standards and filed them away for the day that a new voting system was needed.

Two months later, on April 12, the Administration seemingly changed its mind and “informed Pennsylvania’s counties to have voter-verifiable paper record voting systems selected no later than December 31, 2019, and preferably in place by the November 2019 general election.” To add insult to injury, the Department announced \$14 million in federal funds – not even one-tenth of the costs to accomplish this – and, oh by the way, there were no systems certified for use in the Commonwealth under the new standards at that time.

County election officials’ reaction at this point was far more pointed. However, some counties, such as my friend here from Mifflin County, already used voter verifiable paper ballots they believed met the new standards. They felt secure that they wouldn’t have to purchase a new system.

Not to leave any sleeping dogs lie, in June, the Department of State kicked the remaining counties already using voter verifiable paper ballots awake by telling them that they too would need to purchase a new system. Now, for the first time, the Department dropped the dreaded “d” word: decertification.

Again, for context, as of June 2018, the Department had only certified one new voting system for use in Pennsylvania under its own new standards, yet all 67 counties were put on notice that selection of a new voting system was in our collective future.

This past November, Susquehanna County was the first county to obtain a new voting system under the new standards. Some heralded this as a sign that things can work under the new structure. To my friends in Susquehanna County, I say that it is just fortunate that the one and only system that was certified prior to the November 2018 election was the voting system that Susquehanna County was comfortable selecting. Truth be told, Susquehanna County had been shopping for a new system for two years and had put aside money for this effort, so score one thanks to the stars aligning rather than solid planning.

Speaking of stars, by the end of 2018, only three voting systems were certified by the Department of State, and CO-STARS – the Department of General Services purchasing framework for counties to purchase certified equipment – had just been put in place for counties to acquire new voting systems.

On Feb. 5, Governor Wolf delivered his 2019-20 budget address. Again, not one word about the need for state funding to cover this new mandate. The following day, the Department of State issued a news release stating that the Administration had requested \$15 million in state funds over the next five years – which is half of the estimated costs – to make this transition.

Back in August of 2018, election officials were left with the impression that the Administration would seek full state funding for this state mandate and I was assured that the Governor would

make the need for these funds part of his budget address, not buried in a news release that would be issued the following day.

It seems to me that someone put the cart before the horse. Logic, at least the way I see it, would have required certification and approval of new voting systems to be done first, followed by resolving the need to identify adequate funding. Only then should the state engage counties to make informed decisions on a playing field more favorable to the taxpayers. Instead, we are facing a feeding frenzy in which all counties are under the gun and vendors hold the upper hand knowing that they have a captive audience and a drop-dead date on the horizon.

Going back to the June 2018 pronouncement for a minute: maybe the Department should have left the 16 counties that already have paper ballot systems off the hook for now and focused just on those counties using systems that don't provide a voter verifiable paper ballot, which I see as a preference and not a necessity.

To be clear, despite the weeping and gnashing of teeth by some, no one has found any evidence that the voting systems in Pennsylvania were successfully hacked. At this Committee's request last September, Dauphin County demonstrated its voting machines, which are not connected to the internet and have no internet or Wi-Fi connection capability. Looking for a Wi-Fi or internet connection on our machines is like looking for a turbo charger on a Model T Ford; it just simply isn't there. The system used to produce and program the cartridges for our voting machines is not even connected to the County's network.

Given the security and safety features built into our current system – including chain of custody of the memory cartridges – I could drop off one of my sealed voting machines in the middle of Red Square in Moscow and the only way the Russians could successfully hack into it is by using an axe. But alas, those facts seem to be ignored as they don't fit the narrative of the day.

If the plan was to find the most inconvenient and objectionable time to make significant changes to the way counties conduct elections, those driving this train couldn't have picked a better time: requiring counties to make decisions on selecting a new voting system during a year in which the hands of the duly elected county officials who should be making these decisions on behalf of taxpayers are tied (since most of them are running for office this year and unable to sit as the Board of Elections), and on the cusp of a presidential election that is shaping up to be even more contentious than the one that precipitated the matter to which we are all reacting.

Of course, I would hope that chaos isn't the goal of those making such decisions, but I am starting to fear the worst. More infuriating is the fact that a third-party presidential candidate was permitted to dictate to the Commonwealth the types of voting systems that we will be permitted to use, the method of auditing those results and the timing for implementation; I find that utterly insulting to the citizens and taxpayers of this state.

If only Senator Gordner's bill were in place now, we'd be able to follow a logical, thorough and inclusive process to determine the future of Pennsylvania's voting systems. But, please don't consider my remarks as characterizing this bill as "too little, too late."

In fact, the Department of State and vendors have told us that the equipment and systems we are being forced to purchase today have a shelf-life of five to 10 years. So, sooner or later, we'll be back here again arguing over decertification and funding for another generation of voting systems and equipment.

So, in closing, we need this bill now more than ever.

Thank you.

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