

State Election Commission  
Tuesday, February 20, 2018 – 8:30 a.m.  
Secretary of State Conference Room  
Minutes

Members Attending:

Gary Collias, Chair  
The Honorable Mac Warner, Secretary of State  
Taylor Downs (By Teleconference)  
Vince Cardi (By Teleconference)

Others Attending:

Donald Kersey, Director of Elections and Deputy Legal Counsel  
Chuck Flannery, Chief of Staff and Deputy Secretary of State  
Missi Kinder, Campaign Finance Specialist  
James Peters

The State Election Commission met on Tuesday, February 20, 2018 at 8:30 a.m. in the Secretary of State's Office. Chairman Collias called the meeting to order, and a roll call established a quorum.

The first item on the agenda was the consideration of request of certification of Elections Systems & Software's (ES&S) EVS 5.2.3.0. Mr. Kersey spoke about the report from Computer Experts Steve Hyre and Tony Schliesser regarding ES&S's EVS 5.2.3.0 voting system. This system upgrade is essentially to fix one county's issue with a scanner that was installed by a manufacturer. This scanner's lens allows more light through than necessary, which affects the tabulation of ballots on election night. This patch allows the machines to capture a clearer picture of the ballot while tabulating.

ES&S didn't include this patch on the 5.2.2.0 because it had not been approved by the Election Assistance Commission (EAC) at that time, but it has now been approved and certified by the EAC.

The State Election Commission determined that although this component has a new number, it is not a new voting system, and it does not require examination by state computer experts.

Mr. Warner made a motion to approve EVS 5.2.3.0 with Mr. Cardi seconding the motion. The motion passed unanimously.

The second item on the agenda was the consideration of candidate(s) requesting withdrawal from the Ballot. Mr. Kersey explained that on January 27, 2018, James Peters filed to run for a seat in the House of Delegates. After the withdrawal period, Mr. Peters' supervisor informed him that he was not eligible to keep his job while being a candidate on the ballot. Further, if elected, he would be ineligible to take office and keep his current job. Mr. Peters stated that his job title is not covered under Civil Service, and he did not realize that he was categorized as a classified employee. He was told that would have to take a leave of absence or resign his job if he remained on the ballot.

Mr. Kersey told the commission the Secretary of State's office advised him to examine W. Va. Code §3-5-19(a)(4), which explains why he cannot be on the ballot or take office while continuing his current employment. Mr. Peters stated that he would not have filed as a candidate if he had known he would have to leave his job.

Mr. Peters filed to run as a Democrat in the 36<sup>th</sup> House of Delegate District, along with 5 other Democrats and 3 Republicans. The 36<sup>th</sup> District is a 3 member district, so Mr. Peter's absence from the ballot would not create a vacancy on the ballot.

Mr. Cardi made a motion to remove Mr. Peters from the ballot due to ineligibility, with Secretary Warner seconding the motion. Motion passed unanimously.

The commission entered into Executive Session at 9:00 a.m.

After exiting Executive Session the meeting adjourned at 9:10 a.m.