



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 23, 2021

Sheryl Guy
Antrim County Clerk

Via email: GuyS@antrimcounty.org

Dear Clerk Guy:

It is my understanding that the Antrim County Board of County Commissioners passed a resolution calling for your county counsel to inform the Bureau of Elections that the upcoming May 4 election will be conducted with all ballots being counted by hand. I encourage you to consult with your legal counsel about the implications of this resolution for your office. Below is a summary of relevant state law.

Decades ago, the Michigan State Legislature enacted provisions of the Michigan Election Law that expressly require that ballots be counted by a certified electronic system. MCL 168.37, 795, 795a. They did not include any provision that authorizes a hand count of ballots in determining official results, outside of a recount. The Michigan Election Law does not allow county or state officials to waive these requirements.

Nor does the Election Law permit a county commission to direct clerks on which voting equipment they can use. MCL 168.37a states that "a county *clerk*, in consultation with each city and township clerk in the county" will "determine which electronic voting system will be used in the county[.]" (emphasis added). The County Board of Commissioners is without legal authority to determine how votes will be counted. Antrim County may use a different certified voting system vendor (Hart Intercivic or Election Systems & Software), rather than Dominion Voting Systems, but that is your decision to make with the counsel of local clerks—not the Commission's.

The Commission's decision may stem from misplaced reliance on ongoing misinformation—which has been repeatedly, comprehensively, and definitively debunked—regarding both Dominion Voting Systems and the error that occurred in the initial reported unofficial results in Antrim county. As you know, the Bureau of Elections in cooperation with your office and a number of local election clerks conducted a public hand count of every ballot cast for President in Antrim County, which confirmed that the ballot tabulators counted ballots accurately. Statewide, more than 1,300 clerks of both parties participated in at least one election audit this year. The audits found no examples of misconduct.

Suggestions of tampering with election results are baseless. The Department of Justice, FBI, Department of Homeland Security, and Cybersecurity and Infrastructure Security Agency “investigated multiple public claims that one or more foreign governments owned, directed, or controlled election infrastructure used in the 2020 federal elections; implemented a scheme to manipulate election infrastructure; or tallied, changed, or otherwise manipulated vote counts. The Departments found that those claims were not credible.”¹

Please feel free to contact me if I can provide any additional information that may be helpful.

Sincerely,

Jonathan Brater, Director
Michigan Bureau of Elections

¹ <https://www.dhs.gov/news/2021/03/16/joint-statement-departments-justice-and-homeland-security-assessing-impact-foreign>.