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August 20, 2019

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Pennsylvania's election security advocates were rocked last week by news that two of the three members of Philadelphia's Board of Elections received campaign contributions from lobbyists working for Election Systems & Software, the company whose voting machines the board then selected. The two, both Philadelphia City Council members,

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have since temporarily resigned from the elections board to run for re-election to council.

While the interim elections board has [voted to stick to the contract](#), Allegheny County Common Pleas Judge Kathryn Hens-Greco, an interim member of Allegheny County's election board, moved quickly to identify any similar conflicts in the Allegheny County process. Writing on Friday to her fellow board members — County Councilman Tom Baker and Council President John DeFazio — as well as several members of the separate voting machine search committee, she called on everyone involved to “immediately disclose publicly and in writing whether any of us have received any money, gifts or other things of value or have been the subject of lobbying with regard to the choice and purchase of voting machines.”

The judge and Mr. Baker are interim members of the elections board because the regular members, County Executive Rich Fitzgerald and County Councilman Sam DeMarco, are running for re-election this year, making them ineligible to serve on the board now. In her email, Judge Hens-Greco wrote, “I will start. I have not received any money, gifts or other things of value or lobbying with regard to this process. Additionally, I have had no private meetings with any vendors or lobbyists.”

Mr. Baker, chair of the interim committee, told the Post-Gazette that he had not received any contributions, either, noting that because he is not up for re-election this year, he has raised no money. Assistant County Solicitor Allan Opsitnick said in a statement, “There have been no reports from any of the members of the committee of any prohibited communications or proffered gifts.”

County government spokeswoman Amie Downs pointed to language on the county website reiterating the county's ethics code and barring communication between committee members and vendors and their intermediaries, “except in the context of vendor presentations or similar events.” “Committee members shall not accept any gratuity, item or service, no matter how minimal in value,” the code says. All 10 members of the voting machine search committee are Allegheny County employees. The third election board member, Mr. DeFazio, could not be reached for comment.

Judge Hens-Greco said she called for the disclosures only because she “would hate for it to get colored in any way by some feeling that somehow there was some impropriety.” “The process, I think, has been very well done, by Allegheny County,” she said. “It's good-government work, and I like when I can say that.” The news from Philadelphia came shortly before the next steps in Allegheny County's process to select new voting machines: Monday afternoon, the search committee [submitted its evaluation](#) of the systems on offer, and the board is scheduled to meet to consider the report Aug. 30.

The search committee evaluated nine voting systems from four vendors, including Election Systems & Software. Election Systems & Software supplied the county's current voting systems and is the largest voting system vendor in the country. The other three systems are Clear Ballot, Hart InterCivic, and Dominion Voting. New voting machines are required for compliance with requirements that there be voter-verifiable paper ballots statewide, as part of a settlement

following a lawsuit demanding a recount by 2016 Green Party presidential candidate Jill Stein. They also must be compliant with the federal Americans with Disabilities Act.

The search committee's report evaluates the systems on both grounds, as well as ease of election administration. Given the county's 130 municipalities and 43 school districts, "The selected system in Allegheny County must be capable of supporting an election of up to 10,000 candidate positions and 7,000 contests," the report noted. Appendices in the report include a cost summary and a tally of first-choice selections from people who attended public demonstrations held around the county. Clear Ballot led, with 81 of 201 first-choice picks.

The search committee was appointed by the board of elections in March, before Mr. Fitzgerald, Mr. DeMarco and Mr. DeFazio became official candidates for re-election and were replaced. Mr. DeFazio has since rejoined the board, after losing his primary. "The normal schedule for the board of elections that would have occurred in March was moved up a couple of weeks, to a date before Rich [Fitzgerald] and company would have to recuse themselves," said Juliet Zavon, a regular at county council meetings. The board of elections meets 14 days before elections; the meeting was held March 5, four weeks before an April 2 special election. The three members became candidates, and ineligible for the board, March 12. Ms. Zavon and other advocates have repeatedly called for greater transparency from the search committee.

Mr. DeMarco said that holding the meeting earlier, before they filed their petitions, also allowed the search process to get started earlier. Mr. DeMarco said he had not received any contributions or had private meetings with vendors or lobbyists. Mr. Fitzgerald has had no private meetings with vendors or "with any third party for the purpose of advocating for or on behalf of a particular elections system vendor or voting system," according to Ms. Downs.

According to his annual report, Mr. Fitzgerald did receive campaign contributions in 2018 from both Triad Strategies and Duane Morris, the two lobbying firms involved in Philadelphia. Their contributions totaled \$3,250, of nearly \$800,000 received by his campaign. There is no evidence that either firm has lobbied for voting machine vendors in Allegheny County. "Most lobbying firms give every year ... those two firms probably represent half a dozen companies," said Mr. Fitzgerald. "I have no decision-making involvement, and I have not lobbied any of the members of the search committee or the board of elections," he said. — *Philadelphia Inquirer*

A group of states is preparing to move forward with a joint antitrust investigation of big technology companies, according to people familiar with the situation, adding another layer of scrutiny to an industry already under a federal spotlight. The effort involving state attorneys general is expected to be formally launched as soon as next month, the people said. It is likely to focus on whether a handful of dominant technology platforms use their marketplace powers to stifle competition.

As part of the probe, the states are likely to issue civil investigative demands, similar to subpoenas, to tech companies and other businesses, the people said. The new investigation could dovetail with plans by the Justice Department, which last month [announced its own antitrust review](#) that will focus on tech companies including Alphabet Inc.'s Google unit and Facebook Inc., the people familiar with the plans said. The specific number of states that might join the investigation couldn't be learned, though one person familiar with the effort said up to 20 or more may participate.

Google, Facebook, Amazon.com Inc. and Apple Inc., four companies likely to be a focus of the new investigation, all declined to comment. The companies generally say they operate fairly and don't engage in anticompetitive behavior. The Wall Street Journal [reported in June](#) that a number of attorneys general were considering a probe into big tech companies. As that effort moved toward a formal investigation, representatives of about a dozen state attorneys general, including Republicans and Democrats, met with top Justice Department officials in Washington in July to discuss concerns about lack of competition in the tech industry, according to people familiar with the meeting.

The political makeup of the multistate group isn't set. A bipartisan probe could give the investigation broader leverage and help insulate GOP officials from questions over whether their actions are motivated by political concerns, such as how online platforms treat conservative speech. "The attorneys general involved have concerns over the control of personal data by large tech companies and will hold them accountable for anticompetitive practices that endanger privacy and consumer data," said a spokesman for New York Attorney General Letitia James, a Democrat. A spokeswoman for North Carolina Attorney General Josh Stein, a Democrat, said he is "participating in bipartisan conversations about this issue." Mississippi Attorney General Jim Hood, also a Democrat, said in a statement he continues "to be concerned with the aggregation of data in the hands of a few and [I] am always watchful of any monopoly."

Texas Attorney General Ken Paxton, a Republican, put out a statement after last month's meeting saying that he and other attorneys general discussed "the real concerns consumers across the country have with big tech companies stifling competition on the internet." The expected state investigation would add a third major layer of scrutiny for the tech sector. In addition to the Justice Department probe, the Federal Trade Commission is investigating antitrust concerns at Facebook, including the company's acquisition of nascent tech companies, as well as competitive issues elsewhere in the tech industry.

The involvement of state attorneys general could add to complexity and cost for the companies. These officials were a driving force in the landmark joint state-federal antitrust case against Microsoft Corp. two decades ago. Microsoft agreed to an array of conditions, including making the Windows platform more accessible to third-party software developers. But the states eventually splintered over whether to accept a settlement. Some experts say their involvement expanded and extended the legal battle, at times significantly.

The Justice Department and the FTC earlier this year reached detailed arrangements for reviewing not only Google and Facebook, but also

Amazon.com and Apple. It is possible that some of these big-four tech giants could receive scrutiny from multiple antitrust agencies. Asked for comment, a Google spokeswoman referred to congressional testimony last month by Adam Cohen, its director of economic policy, who said the internet search and advertising giant has “helped reduce prices and expand choice for consumers and merchants in the U.S. and around the world.”

At the same hearing, Facebook’s director of public policy, Matt Perault, said the social-media king “faces intense competition for all of the products and services that we provide.” Representatives of Apple and Amazon echoed those comments at the hearing, each saying their businesses compete against well-established rivals. Regulators, lawmakers and legal experts, however, worry that significant slices of the high-tech marketplace have become uncompetitive. Those include advertising, search, social media, app sales and certain retail sectors, among others.

The recent meeting between state attorneys general and the Justice Department was attended by Attorney General William Barr, Deputy Attorney General Jeffrey Rosen and Assistant Attorney General Makan Delrahim, who heads the department’s antitrust division, people familiar with the matter said. State and federal officials made a general commitment to work together and may formally join forces, the people said. Joint concerns include tech firms’ data-fueled growth and the resulting difficulty would-be rivals face in entering their markets. A Justice Department spokesman declined to comment. – ***Wall Street Journal***

