



**MEMORANDUM
OFFICE OF THE
PLACER COUNTY CLERK – RECORDER –
REGISTRAR OF VOTERS**

TO: Honorable Board of Supervisors
FROM: Jim McCauley, Placer County Clerk–Recorder–Registrar of Voters
DATE: April 29, 2008
SUBJECT: Report on Impact of Changes in Voting System Procedures Required by the CA Secretary of State on the February 2008 Election

Recommendation

None. Informational report only.

Background

Election voting systems, equipment, and procedures have been a matter of controversy since the November 2000 Presidential Election. Following that election, in March 2002, California voters passed a bond act to fund new voting equipment purchases by counties and in October 2002, the federal Help America Vote Act of 2002 (HAVA) was enacted. Among other provisions, HAVA established requirements for identification verification of new voters, for allowance of provisional voting, and for voting machine and polling place accessibility. Funding was also provided for replacement of voting machines, especially punch card voting equipment.¹

Requirements for *accessible* voting equipment, popularly referred to as "touch screen" voting equipment, were among the most visible of the various HAVA requirements and were intended to enable voters with disabilities to vote independently and confidentially. Specifically, at least one HAVA compliant, federally qualified, accessible voting machine is required at each polling location in California and the nation. Additionally, new touch screen units purchased for California use after January 2005 were also required to have accessible, voter-verifiable paper audit trail (AVVPAT) records as a backup for the electronic voting records.

In August of 2006, your Board approved the purchase of HAVA compliant and accessible touch screen voting machines – one per precinct – to be utilized in each Placer County polling location beginning with the Nov. 7, 2006 General Election. The touch screen equipment was able to be acquired, staff and poll workers trained, and the equipment deployed successfully for the November 2006 election. The new touch screen equipment, together with Placer's

¹ Unfortunately, Placer was denied funding for replacement of its previous Datavote punch card system, due to an erroneous interpretation by the state of the federal regulations. The County has been contesting this issue since the funds were originally allocated by a previous CA Secretary of State. While recent Secretary of State McPherson supported Placer's efforts to secure the substantial punch card "buy out" funding to which it was and remains entitled, Secretary Bowen has not responded or assisted in obtaining these funds for Placer.

existing optical scan equipment, was also used in special elections held since November 2006 and in the recent February Presidential Primary election.

On March 22, 2007, newly elected California Secretary of State Debra Bowen initiated a "top-to-bottom review" of the voting machines certified for use in California in accordance with the authority set forth in Sect. 19222 of the CA Elections Code. The review was ultimately limited to optical scan and electronic "touch screen" voting equipment manufactured by Diebold Election Systems, Inc. (now Premier Election Solutions), Hart Intercivic, and Sequoia Voting Systems. The review included examination of documentation and previous testing reports, source code review, "red-team" penetration testing and accessibility assessments. The Secretary of State contracted with the University of California for the review teams as described in the May 9, 2007 Top-To-Bottom Review Summary.

On August 3, 2007, ostensibly based on the results of the "top-to-bottom review", Secretary of State Bowen decertified the optical scan and touch screen voting systems and equipment manufactured by the companies listed above for use by California counties. The Secretary then imposed numerous, new conditional recertification restrictions and requirements for continued use of the voting systems and equipment in the 2008 elections. The balance of this memo assesses the impacts of the new restrictions and requirements.

Impacts

For those estimated 21 California counties that were using touch screen equipment as their primary poll voting equipment (which was not the case in Placer County), the new requirements were particularly hard-hitting, since the conditional recertification requirements limited use of touch screen equipment to only *one* unit per poll location and required 100% manual recounts of all touch screen results. This effectively rendered redundant the vast majority of the expensive touch screen units in those counties, and almost certainly will require the counties to purchase or lease new optical scan equipment to replace the vetoed touch screen units, at considerable new expense to the taxpayers. It will also greatly increase ballot printing costs in those counties.

For counties (such as Placer) who had adopted optical scan voting equipment as their primary voting system at the polls, the Secretary edicts still had significant impact. Arguably, foremost among these was the prohibition against modem transmission² of optical scan vote counts on election night after the closing of the polls. For the February election, this prohibition forced Placer to bring in the optical scan precinct voting equipment to the central vote counting location on election night *before* results could be uploaded and information provided to the waiting public and the media. In effect, this change eliminated the benefits previously achieved through modem data transmission technology and thereby delayed election night vote results for the February election, particularly for the mid-sized to larger California counties. Like Placer, many counties probably also required additional staffing at their main election facilities to check in voting equipment and verify security seals before removing memory cards for election night vote counting.

For Placer County, other impacts of the recertification requirements – that had to be implemented in the relatively short period between the Secretary of State's August 2007 issuance and the February 2008 Presidential Primary – included: reinstallation of firmware and applications on the County's central count computer servers and on every piece of voting equipment (about 550 separate machines), additional security seal tracking and chain-of-

² Wireless and modem transmission for *touch screen* voting results were already prohibited by earlier State law.

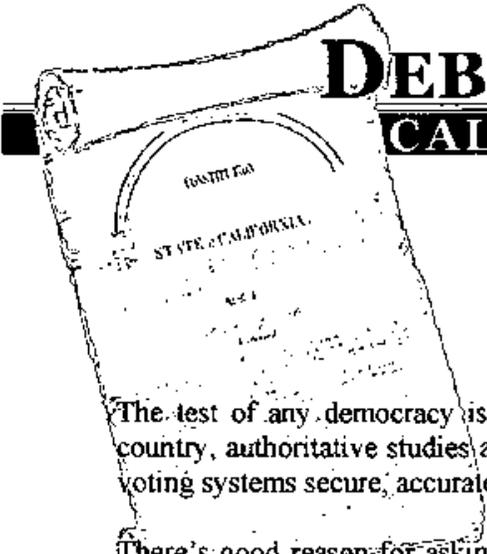
custody signature requirements on voting equipment, new security bags for all of the optical scan voting equipment, additional security cameras for surveillance of the County election warehouses, additional manual checks of optical scan vote results and potentially, expansion of the required 1% manual tally during the canvass period, and review of and changes to many poll worker procedures and resultant additional training. The costs for the new security bags for the optical scan precinct units and the additional security cameras alone were just over \$64,000, although our office also believes that both of these latter purchases did enhance election security.

Additionally, election labor costs rose from \$236,646 for the June 2006 Presidential and State-Local Primary Election to \$361,664 for the February Presidential-only Primary Election, a nearly 53% increase in costs, which is well above the 15% budgeted³ for salary and benefit increases during the period and the 4% increase in the number of registered voters over the same period. We estimate that these requirements-related labor cost increases totaled just under \$79,000 in the February Election and are allocable about equally between the new tasks needed for implementing touch screen voting equipment, which began with the November 2006 election, and for implementing the Secretary of State's August 2007 voting systems directives.

Summary

In August of 2007, the Secretary of State imposed additional restrictions and requirements on use of both optical scan and touch screen voting equipment for elections in California. These restrictions and requirements increased the time required for reporting results on election night for the February Presidential Primary Election. For that election, the County also incurred additional labor costs estimated at approximately \$39,000 to implement the new restrictions and requirements and just over \$64,000 for additional security equipment and supplies outlays, although the latter costs for new optical scan bags and warehouse cameras did augment election security.

³ Comparisons exclude costs for post employment benefits (retiree health costs) not accrued in FY 2005-06.



DEBRA BOWEN

CALIFORNIA SECRETARY OF STATE

NEWS RELEASE

Top-To-Bottom Review

Summary

May 9, 2007

The test of any democracy is whether you can trust the results at the ballot box. Across the country, authoritative studies and nationally recognized experts are asking the question: Are our voting systems secure, accurate, reliable and accessible?

There's good reason for asking the question. In December 2005, California discovered voting system programming code that escaped the review of federal testers. On May 2, 2007, a congressional task force voted to investigate anomalies in 2006 election results in Florida's 13th Congressional District. These are just two examples that have fueled the debate about whether the systems voters are asked to cast their ballots on are trustworthy and whether the testing processes used to certify voting systems are adequate.

California is facing three statewide elections in 2008, making it even more essential that its voting equipment is secure, accurate, reliable and accessible. That's why Secretary of State Debra Bowen is entering into a contract with the University of California (UC) to conduct a top-to-bottom review of the voting systems certified for use in California beginning the week of May 14.

This first-of-its-kind review will include the following components:

- ❑ UC will provide specialists from its campuses, as well as experts from public and private universities and private sector companies throughout the United States to create three teams of experts to conduct the reviews.
- ❑ Each system will undergo a thorough document and source code review, red team penetration testing, and a review to determine whether it's accessible to all voters.
- ❑ The review teams will provide an independent technical evaluation of the voting systems that the Secretary of State will use to carry out her statutory duty with respect to voting systems in determining whether the systems comply with current state and federal law.

The review is expected to conclude in late July, giving the Secretary of State time to examine the results of the review and determine whether each voting system should retain its current certification, have additional conditions attached to its certification, or be decertified entirely.

Approximately \$450 million has been spent or allocated to buy new voting equipment in California over the past few years. The top-to-bottom review will cost approximately \$1.8 million and will be paid for by the voting system vendors and federal Help America Vote Act (HAVA) money allocated by the Legislature and the Governor in the 2006-07 budget to help answer the fundamental question: Are our voting systems secure, accurate, reliable and accessible?

More information on the review can be found by going to www.sos.ca.gov.