

STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD MEETING

SECRETARY OF STATE
AUDITORIUM
1500 11th STREET
SACRAMENTO, CALIFORNIA

FRIDAY, MAY 18, 2012

10:03 A.M.

Reported by Jacqueline Toliver, CSR No. 4808

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APPEARANCES

Board Members: Stephen Kaufman, Chair
Michael Bustamante Vice Chair
(Appearing Telephonically)
Carl Guardino
(Appearing Telephonically)
Tal Finney

Executive Officer: Jana M. Lean

Staff
Consultant: Katherine Montgomery

Executive Assistant: Stacey Jarrett

Also Present: Robbie Anderson
Ryan Macias

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1 P R O C E E D I N G S

2 ***

3 CHAIR KAUFMAN: All right. Let's call the
4 meeting of the Voting Modernization Board to order.

5 MS. MONTGOMERY: Stephen Kaufman?

6 CHAIR KAUFMAN: Here.

7 MS. MONTGOMERY: Michael Bustamante?

8 VICE CHAIR BUSTAMANTE: Here.

9 MS. MONTGOMERY: Tal Finney?

10 MR. FINNEY: Here.

11 MS. MONTGOMERY: Carl Guardino?

12 MR. GUARDINO: Here.

13 CHAIR KAUFMAN: Okay. Welcome everybody to the
14 first meeting of 2012 for the Voting Modernization
15 Board. It's been some time since we actually held a
16 meeting, so it's good to see everybody back in action.

17 Even though my fellow board members are not
18 visible, I'm glad to see that everybody is participating
19 today. So welcome.

20 We have a few things on our agenda we'd like to
21 cover, so the first thing is, do we have any public
22 comment?

23 MS. MONTGOMERY: No.

24 CHAIR KAUFMAN: Have we received any cards?

25 MS. MONTGOMERY: No.

1 CHAIR KAUFMAN: No cards. Okay.

2 So let's go to Item No. IV on the Agenda, the
3 adoption of the February 24th, 2011, Actions and Meeting
4 Minutes.

5 Do we have a motion to approve the minutes?

6 MR. FINNEY: I'll make a motion. Tal.

7 VICE CHAIR BUSTAMANTE: Second. This is
8 Michael.

9 CHAIR KAUFMAN: Good.

10 Since, you know, some people aren't here, do you
11 want to just do roll-call vote?

12 MS. MONTGOMERY: Sure.

13 Stephen Kaufman?

14 CHAIR KAUFMAN: Approve. Yes.

15 MS. MONTGOMERY: Michael Bustamante?

16 VICE CHAIR BUSTAMANTE: Yes.

17 MS. MONTGOMERY: Tal Finney?

18 MR. FINNEY: Approve.

19 CHAIR KAUFMAN: Carl Guardino?

20 MR. GUARDINO: Well, I'm going to abstain
21 because I was not present.

22 CHAIR KAUFMAN: Fair enough. Three ayes. One
23 abstention. We'll adopt the minutes.

24 Item No. V is the Project Documentation Plan
25 Review and Funding Award Approval for Humboldt County.

1 This is Phase 2 for Humboldt County.

2 And Katherine, if you could go through the
3 report and maybe just refresh everybody with regard to
4 the initial phase of Humboldt County's allocation.

5 MS. MONTGOMERY: Humboldt County's Phase 2
6 Project Documentation Plan meets the requirements for
7 completeness. Humboldt has replaced their Premier
8 AccuVote system originally purchased in 1995 with 80
9 units of the HART InterCivic eScan system.

10 Humboldt County was using Diebold Premier
11 AccuVote Optical Scan units, and it became necessary for
12 county staff to program an election in two separate
13 systems. Such a duplication of effort was not an
14 efficient use of resources. The AccuVote Optical Scan
15 units were purchased by Humboldt County in 1995 and were
16 reaching the end of their useful life, which resulted in
17 increased maintenance costs to the County.

18 The HART InterCivic eScans and related equipment
19 were purchased and deployed for the first time in the
20 November 2009 UDEL Election.

21 The HART InterCivic eScan system was
22 conditionally approved by the Secretary of State on
23 December 6, 2007, and is fully compliant with federal
24 and state law. Humboldt County's system offer voters
25 both DRE and optical scan ballots. Humboldt County

1 continues to provide paper ballots to disabled voters
2 who prefer to vote on paper. Humboldt County has booths
3 accessible to voters in wheelchairs and they continue to
4 provide supply precinct board members with magnifiers,
5 voting pen grip adapters, and instructions in large
6 print. Humboldt County also provides curbside and
7 assisted voting.

8 Please note that the staff-proposed funding
9 award is based upon allowable reimbursement under
10 Proposition 41 for voting equipment hardware and
11 software only. The extended service maintenance line
12 items listed in the Humboldt County contract with HART
13 InterCivic would not be covered as a reimbursable claim
14 under Proposition 41.

15 It is our recommendation that Humboldt County's
16 Phase 2 Project Documentation Plan be approved and a
17 Funding Award Letter be issued in the amount of
18 \$313,833.48.

19 CHAIR KAUFMAN: Okay. And we have a
20 representative of Humboldt County here with us this
21 morning, so if you'd like to come up and provide any
22 comment or make a presentation, that would be welcome.

23 MS. KELLY SANDERS: Thank you. My name is Kelly
24 Sanders, I'm the Elections Manager for Humboldt County.

25 CHAIR KAUFMAN: Kelly, before you go forward,

1 can you guys hear on the phone?

2 VICE CHAIR BUSTAMANTE: It's a little hard to
3 hear. Please speak up a little bit.

4 CHAIR KAUFMAN: Try to speak as loud you can.

5 MS. SANDERS: Sorry. I'd like to thank the
6 members of the Board for providing us the opportunity to
7 meet here today, and also the Secretary of State staff.

8 Humboldt County did purchase the HART InterCivic
9 eScan equipment and related ballot tallying system,
10 along with DFM's database management system in 2009, and
11 we successfully implemented that in the 2009 November
12 UDEL Election. The system seems to be a great fit for
13 Humboldt County and assists us in providing secure and
14 reliable voting systems for the voters of Humboldt
15 County, and we're hoping for approval of our request
16 today.

17 Thank you.

18 CHAIR KAUFMAN: Before you run away from the
19 microphone, I had a question for you, and then maybe
20 some of my fellow Board members have a question.

21 I was noting in the Executive Summary -- and
22 this, I think, has less to do with your request than the
23 big picture here because, as you may have seen on the
24 agenda, we're also going to be looking at some issues
25 going forward; and it's important for us board members

1 to understand what's going on with the available
2 equipment out there and what issues the counties are
3 facing at this point in the process ten years down the
4 road now from when this Board was created. And I did
5 note that in your report you referred to the fact that
6 you had identified some serious flaws in the GEMS
7 system, GEMS system, during the November of 2008
8 presidential election --

9 MS. SANDERS: Correct.

10 CHAIR KAUFMAN: -- as a result of your own
11 internal audit.

12 MS. SANDERS: Right.

13 CHAIR KAUFMAN: And I'm wondering if you could
14 just share with us what your experience was with that
15 system and what came out of it.

16 MS. SANDERS: With the GEMS system?

17 CHAIR KAUFMAN: Yeah. And what were the
18 findings; what were the issues that were identified.

19 MS. SANDERS: What happened in the 2008
20 presidential election, the GEMS system dropped an entire
21 deck of ballots from our system. Sometimes when we are
22 scanning ballots if it looks like we can't count the
23 ballots first and how many are going through the feeder
24 and if it didn't match with what the machine read --

25 CHAIR KAUFMAN: You hand count just how many

1 ballots there are?

2 VICE CHAIR BUSTAMANTE: Stephen, is there any
3 way to give her a microphone or something?

4 CHAIR KAUFMAN: She has a microphone, but I
5 think she just needs to move a little closer.

6 MS. SANDERS: Yeah. Sorry.

7 But whenever the system would -- the total
8 amount of ballots that went through the system would
9 conflict with what the hand count was, we would delete
10 that batch and rerun it. Unfortunately, the GEMS system
11 in that process deleted the very first batch, the zero
12 deck, and it was unknown to Humboldt County that that
13 was an issue with that system; so it deleted a deck that
14 we did not intentionally want to delete. And this was
15 caught through the Humboldt Transparency Project.

16 They did a scan of all of the ballots in
17 Humboldt County after an election, and we noticed that
18 we were missing, I think it was, around 270 ballots from
19 the November 2008 election. So we contacted Premier,
20 and they got back to us and said yes, that indeed was a
21 flaw with their system.

22 And a memo had gone out on that, but staff had
23 changed in Humboldt County and the information had not
24 gotten passed along to the newer staff. And
25 subsequently our voters contacted the Secretary of

1 State's office and an investigation was performed, and
2 as a result of that the GEMS -- that version of the GEMS
3 system was decertified by the Secretary of State.

4 CHAIR KAUFMAN: And that identification took
5 place well after the election results were certified.

6 MS. SANDERS: It was right after they were
7 certified, yes.

8 CHAIR KAUFMAN: Do any of you gentlemen have any
9 questions for Humboldt County?

10 (No response.)

11 CHAIR KAUFMAN: Okay. Hearing none, would
12 anyone like to make a motion to approve the funding
13 request for Humboldt County?

14 MR. GUARDINO: Motion to approve for the staff
15 recommendation for the funding request for Humboldt
16 County.

17 MR. FINNEY: I'll second.

18 CHAIR KAUFMAN: Tal Finney seconds.

19 Again, since everybody is not here, why don't we
20 do a poll.

21 MS. JARRETT: Michael Bustamante?

22 VICE CHAIR BUSTAMANTE: Aye.

23 MS. JARRETT: Chair Kaufman?

24 CHAIR KAUFMAN: Aye.

25 MS. JARRETT: Tal Finney?

1 MR. FINNEY: Aye.

2 MS. JARRETT: Carl Guardino?

3 CHAIR KAUFMAN: Carl?

4 MR. GUARDINO: Suddenly it's really hard to hear
5 you, but she said my name, and it's "Aye."

6 CHAIR KAUFMAN: Okay. Congratulations Humboldt
7 County, and we wish you success with your new system.

8 MS. SANDERS: Thank you very much.

9 CHAIR KAUFMAN: Okay. We have a couple of staff
10 reports to go through. The first one is something that
11 was requested of the Board at the last meeting way back
12 in February of 2011. We talked about the fact that here
13 we are ten years later and we're still sitting on a lot
14 of money. And it looks like by the most recent tally
15 there's still \$65 million worth of funding available
16 sitting there remaining for potential second allocation.
17 And we shaped a survey to go to all the counties to get
18 a sense of how the counties were feeling about the
19 status of their purchases and whether they were going to
20 be looking for more funding from this Board. And we
21 sent out a survey in -- March?

22 MS. MONTGOMERY: I believe it was April.

23 CHAIR KAUFMAN: April. Okay. The survey went
24 out and we got a nice response, and I'll ask the staff
25 to provide a report on the responses we've received.

1 MS. MONTGOMERY: Just a quick survey of the
2 survey, a couple of quick items. Fifty of the 58
3 counties responded to this survey. And like Stephen
4 said, that's a pretty good response. Of the counties
5 that responded, 90 percent are interested in applying
6 for a second round of funding for additional voting
7 equipment if it is made available.

8 Of the 25 counties who responded and still have
9 remaining funds, 84 percent of them plan to use their
10 remaining initial formula allocation funds.

11 Also, a large number of the counties who
12 reported being interested in modernizing their current
13 voting systems are concerned about the lack of approved
14 voting systems currently on the market in California.

15 CHAIR KAUFMAN: And that's that.

16 MS. MONTGOMERY: That's that.

17 CHAIR KAUFMAN: You know, it seemed to me in a
18 lot of the responses it was apparent that many of the
19 counties would like to get new voting equipment but
20 don't feel that there's an adequate system for them to
21 do so. And I'd like to hear from staff regarding what
22 the status is of the certification process and where
23 things stand in terms of the available systems,
24 particularly since L.A. County has made it known that
25 they don't feel that there is a system that is available

1 for them right now that can adequately serve the largest
2 voting district in the country. So perhaps staff can
3 address that issue.

4 MR. MACIAS: Yes. This is Ryan Macias with the
5 Office of Voting Systems here at the Secretary of
6 State's Office.

7 As for L.A. County, as we all know, they're
8 running their VSAP right now, which is Voting System
9 Advisory Program, I believe. We have not had an
10 intimate involvement in that process, so I can't really
11 speak to what it is they are looking for.

12 The latest I heard is that they are planning to
13 work with a vendor to create a system from the ground
14 up; therefore, nothing that is currently in the EAC
15 process for testing is, one, adequate to them or, two,
16 something that they are even looking to use. I know
17 their goal is by 2015 to be implementing a brand new
18 system that will be built from the ground up.

19 However, as for the rest of the EAC and voting
20 systems testing certification process, just recently we
21 had one new voting system get certified by the EAC. It
22 has been stated that they will be coming to California.
23 This voting system vendor is Unison, with the voting
24 system entitled "Open Elect version 1.1." It is the
25 same vendor that currently is in use that created the

1 InkaVote Plus System for L.A. County, but this system is
2 not a generation of that system; it is actually
3 something that was built from the ground up. That is
4 the only system that is out there currently that has
5 been certified by the EAC.

6 There's three other systems that we have
7 approximate dates for certification and for approval
8 that would be an upgrade to the election systems and
9 software. It's entitled "Unity 3.4.0.0," and it is
10 basically an updated system to what is approved in
11 California right now, which is Unity 3.0.1.1.

12 And in the survey you will see multiple people
13 who are talking about wanting to go to single-count
14 scanners, specifically the Model 850. This would allow
15 for that. The Model 850 is the central count system
16 that is incorporated in the 3.4.0.0 system. Currently,
17 at the EAC a test plan has been submitted and testing
18 has begun, with an approximate date of completion of
19 November 2012.

20 The next system would be Dominion Democracy
21 Suite 4.9, which is a modified system of the currently
22 certified Democracy Suite 4.6, which was just certified
23 earlier this month by the EAC. But it is not currently
24 in a state that would meet California requirements so
25 they are going back with minor modifications. Minor

1 modifications normally take in the realm of three to six
2 months to get through the EAC. And with that stated,
3 the test plan has begun and testing also has begun, and
4 we are looking -- our understanding is an approximate
5 date of November 2012 to be done with the EAC.

6 And, lastly, would be the Dominion Premier
7 Assure 1.3. This is an upgraded GEMS system. They
8 changed the name to the Assure 1.3, but it is a newer
9 generation of the GEMS system, and it currently has an
10 approved test plan by the EAC and an approximate date of
11 September of 2012 to be completed at the EAC.

12 The Dominion has stated that they are not sure
13 whether or not they are going to bring that system to
14 California, because they're waiting to find out whether
15 the jurisdictions are going to express interest in
16 actually bringing in that system.

17 CHAIR KAUFMAN: When you said September 2012,
18 that was at the EAC?

19 MR. MACIAS: That's at the EAC. All these dates
20 are at the EAC. Although we've heard talk from most of
21 the vendors that, you know, the systems are planning to
22 come to California, you know, it's going to be up to
23 them. There's no outstanding applications at this time.
24 But I'm going to actually regress a little bit.

25 Yesterday there was an announcement that Mark

1 Robbins, who was the executive director -- acting
2 executive director at the EAC, was sworn in to a new
3 position; so currently we do not even have an acting
4 executive director at the EAC. And what that ultimately
5 means is -- the acting executive director was the sole
6 person that was allowed to make a certification decision
7 on voting systems, so until we have a new acting
8 director in place, basically we're at a standstill at
9 this point on voting system certification of the EAC
10 process.

11 CHAIR KAUFMAN: So if that's the November 2012
12 and September 2012 dates, even if we had an acting
13 executive director, those would be the best dates coming
14 out of those systems.

15 MR. MACIAS: Coming out of the three of the four
16 that have yet to be certified. And, like I said, we put
17 the Dominion Premier Assure -- we're still looking at
18 September-ish, if they decide to bring it to California.
19 But ES&S and Dominion have stated that they are
20 definitely bringing those new systems forward, you know,
21 after the November date.

22 MS. LEAN: If they bring them forward, how long
23 will it take California?

24 MR. MACIAS: Approximate dates or approximate
25 time frames is around three to six months per system,

1 and that's going to depend on the system itself, the
2 technology, whether it's an upgraded system or a brand
3 new system, the amount of testing that's going to need
4 to take place; but a good estimate is between three and
5 six months for the entire process.

6 CHAIR KAUFMAN: So at best we're looking at
7 mid-2013?

8 MR. MACIAS: That's correct.

9 VICE CHAIR BUSTAMANTE: I have a question. You
10 had referenced California requirements, which stands
11 above and beyond the EAC's requirements. What is that
12 requirement?

13 MR. MACIAS: Well, there are multiple
14 requirements here in California that are different than
15 the EAC. The EAC specifically states that they are
16 testing the technology, and to basically meet the voting
17 system -- the voluntary voting system guidelines of 2005
18 as a system as a whole, but the EAC has always
19 recommended that states do their own testing to meet
20 specific state laws.

21 The system I referred to was the Dominion
22 Democracy Suite 4.9 system. I do not know what criteria
23 they did not meet, but some of the things that the EAC
24 does not test would be California specific rotation,
25 California specific ballot layout information; and so,

1 you know, other election definition criteria that is
2 specific to California election law.

3 CHAIR KAUFMAN: Other questions?

4 Well, obviously, not having any certified
5 systems makes it difficult for counties to move forward
6 and us to move forward with any plan of action regarding
7 cutting off the first round of funding or implementing a
8 second round of funding; so we appear to be hamstrung by
9 the process, which is discouraging at best.

10 VICE CHAIR BUSTAMANTE: I have a question. The
11 requirement that you mentioned in election law, is that
12 State legislation or is that at the Secretary of State
13 level?

14 MR. MACIAS: That is State legislation.

15 VICE CHAIR BUSTAMANTE: Okay. So what can the
16 Secretary of State's office do to help speed this
17 process up, because right now from the time that
18 somebody submits at the EAC to the time that it is
19 approved in California -- generally speaking, what's the
20 time frame?

21 MR. MACIAS: That's a very difficult question,
22 because the EAC process has taken anywhere from --
23 there's currently a system in the EAC process that has
24 been there since December of 2007, I believe, that still
25 has not made it out.

1 VICE CHAIR BUSTAMANTE: Well, let me ask you
2 this: So once the EAC has approved, what is
3 California's time frame?

4 MR. MACIAS: That would be approximately three
5 to six months to get through the entire testing approval
6 process, which includes holding public hearings and, you
7 know, all of that. It's approximately 36 months.

8 VICE CHAIR BUSTAMANTE: So has the Secretary of
9 State's office engaged the EAC at all to try to find a
10 way to speed up the process, given, you know, the
11 largest county in California and one of the largest
12 counties in the country is hamstrung to modernize its
13 equipment?

14 MR. MACIAS: Yes. We've had multiple
15 discussions back and forth with the EAC. Our office
16 works directly with the voting system testing and
17 certification team at the EAC, and we've discussed many
18 options.

19 We've even discussed internally if there would
20 be any options to speed it up in the State as well.
21 But, you know, again, as for L.A. County specifically,
22 you know, they are taking a different role or a
23 different approach with what they're doing with their
24 VSAP, and basically stating that there's nothing that is
25 currently out there that would work for them in creating

1 a whole new process in trying to find out what will work
2 for them and then begin creating a system from the
3 ground up.

4 VICE CHAIR BUSTAMANTE: So do you agree with
5 that statement of theirs that there is nothing available
6 for them?

7 MR. MACIAS: I can't answer that question, not
8 being intimately involved in running Los Angeles
9 County's election. I think there are systems out there
10 that will work for jurisdictions within the State of
11 California and meet California law, but as for the
12 implementation for Los Angeles County specifically, I
13 can't really answer that question for them.

14 VICE CHAIR BUSTAMANTE: Sure. I understand.
15 Los Angeles has said that, I think, that they were
16 looking to trying to having it implemented for
17 2015/2016, something like that. Is that correct?

18 CHAIR KAUFMAN: That is what we're being told,
19 yes.

20 VICE CHAIR BUSTAMANTE: So if the EAC has a
21 process that goes anywhere from, you know, five days to
22 six years and you have a process that goes anywhere from
23 three months to six months, how confident are you that
24 L.A. County, in search of a brand new system that has
25 never been even thought of yet, will be in a position to

1 implement something by 2015 or 2016?

2 MR. MACIAS: I would say that the process that
3 they are going through and building a system from ground
4 up has been -- my experience and what I have seen
5 through the EAC systems that have been built from the
6 ground up have actually gone through a lot quicker
7 because they are not based on legacy code and based on
8 the legacy system that are just getting upgrades and
9 changes to them; they're actually being built, you know,
10 specific to meet the voting system guidelines of 2005.

11 So I would feel fairly confident in that process
12 of being able to go through by 2015 or 2016 if L.A.
13 County begun building the system on the time frame that
14 they're looking at, which is early 2014, I believe. I
15 feel fairly confident they can get through, as long as
16 we have an executive director and an EAC available.

17 VICE CHAIR BUSTAMANTE: Thank you.

18 CHAIR KAUFMAN: Part of the problem has been
19 that the EAC -- forgetting about whatever time it takes
20 for them to do something -- they haven't even had
21 anybody there.

22 MR. MACIAS: As for voting system testing
23 certification, you are correct, they have not had a
24 quorum; they have not had members. But as for voting
25 system testing and certification, that process does not

1 need a quorum nor does it need EAC membership. That is
2 the sole discretion of the executive director to be able
3 to make testing and certification decisions. So that
4 has been the good news, up until yesterday when
5 Mr. Robbins left the EAC. But that was the one portion
6 of the EAC that was still moving forward quickly and
7 proficiently.

8 CHAIR KAUFMAN: Anyone else? Carl? Tal?

9 MR. FINNEY: Not for me. Thanks.

10 CHAIR KAUFMAN: Did we just lose somebody?

11 VICE CHAIR BUSTAMANTE: Sounds like we did. I'm
12 here.

13 MR. GUARDINO: I'm here too.

14 CHAIR KAUFMAN: All right. Well, I don't know
15 that there's much of a decision we can make regarding
16 this. And, frankly, we don't have a decision on the
17 Agenda, but it sounds like we're going to have to
18 continue to take a wait-and-see attitude with this. It
19 would be great if we as Board members could get an
20 update from you all when and if the EAC does something
21 to replace the executive director.

22 I do know we have a comment card from Kim
23 Alexander, so before we close this topic, Kim, if you'd
24 you like to approach.

25 MS. KIM ALEXANDER: Good morning. Thank you for

1 letting me speak at this part of the Agenda. I thank
2 you, too, for the meeting today and the excellent staff
3 report and the discussion about Humboldt. That was
4 really helpful.

5 I just wanted to let you know I'm involved in a
6 group called the Future of California Elections and
7 working with a number of nonprofits and election
8 officials in California to tackle some of the challenges
9 that we face with voting systems and other issues of our
10 election process. And one of the things we are looking
11 at is the certification process and, in particular,
12 L.A.'s challenge, which is one county that is, as
13 mentioned, the largest county in the country.

14 There is an opportunity for L.A. to engineer the
15 next generation of voting equipment. Not just for L.A.
16 but for everybody. And a lot of people realize there's
17 this great opportunity, but it requires us to think
18 creatively about how we're going to get from here to
19 there.

20 I never thought I would say this in this room,
21 but I would like us to consider opening up a discussion
22 about maybe making the Prop 41 money more flexible so
23 that maybe as a one-time expenditure we would
24 consider -- or not endorsing it but just something to
25 consider -- allowing Los Angeles County, in particular,

1 to spend its significant allotment of Prop 41 money in
2 part to develop its system and not have to wait for
3 something that's coming out of the already certified
4 funds; because, clearly, if we do that, we may be
5 waiting beyond when all these needs could be met.

6 So I just wanted to kind of put that out there.
7 I hope you might fill that into your discussion.
8 Obviously it will take change in the legislation to do
9 that, but I think there are a lot of people who would be
10 interested in pursuing that. I just wanted to mention
11 that.

12 CHAIR KAUFMAN: Thank you, Kim. You should know
13 that I've actually had a conversation similar to that
14 with L.A. County.

15 MS. ALEXANDER: Okay.

16 CHAIR KAUFMAN: I do think it's going to take
17 looking at things a little bit beyond where we are, and
18 I think there are legislative issues that are involved.
19 So I think, you know, we'll have conversations with the
20 Secretary of State's Office about where to go with that.

21 MS. ALEXANDER: Great. Thanks a lot.

22 CHAIR KAUFMAN: Okay. Given where we're at
23 there, I guess let's move on to the second staff report,
24 Item VI(B), relating to -- well, counties who are going
25 through a transition and perhaps moving on to other

1 voting equipment and what happens with the original
2 voting equipment.

3 MS. MONTGOMERY: On September 16th, 2002, the
4 Voting Modernization Board adopted policies and
5 procedures regarding the distribution and use of the
6 bond funds authorized by the passage of Prop 41. One
7 policy that was adopted stated that if a county received
8 a rebate or reduction in the price of the voting system,
9 the county shall refund the board in the same proportion
10 that the State provided funding for the voting system.

11 In July 2011, several counties inquired about
12 selling surplus voting machines, seeking direction with
13 regard to reimbursement from the Voting Modernization
14 funds a portion of the proceeds from the sale of the
15 equipment.

16 On July 7, 2011, under the direction from the
17 Board Chair, the staff issued CCROV Memorandum
18 No. 11045. This CCROV instructed that while the
19 counties did not need explicit permission from the Board
20 to sell surplus equipment that was purchased with Voting
21 Modernization bond funds, they were required to return
22 the proportionate amount of the proceeds of the sale to
23 the Voting Modernization Fund that was used to purchase
24 that equipment. Accordingly, where a county used Voting
25 Modernization bond funds to purchase voting equipment

1 and now is selling equipment, 75 percent of the proceeds
2 must be returned to the Voting Modernization Fund. The
3 remaining 25 percent of the proceeds can be retained by
4 the county.

5 The policies set forth in September 2002 did not
6 specify the disposition of the funds that had been
7 returned to the Voting Modernization Fund.

8 In August 2011, Santa Barbara County returned
9 funds to the Voting Modernization Fund in the amount of
10 \$181,700 that was generated from the sale of 143 ES&S
11 AutoMARK Voter Assist Terminals. This money was
12 deposited into the Voting Modernization Fund.

13 The question for the Board is when a county
14 sells surplus voting equipment and the funds are
15 returned to the Voting Modernization fund as required,
16 should those returned funds be deposited into a general
17 fund to be reallocated to all counties or should the
18 returned funds be kept in a separate account to be
19 redistributed to the selling county as part of the VMB
20 formula allocation?

21 It is the recommendation of the staff that when
22 a county sells surplus voting equipment and returns the
23 funds to the Voting Modernization Fund as required,
24 those returned funds should be set aside for the selling
25 county and be returned to that county at such time when

1 the county submits an application for funding
2 reimbursement and that application is approved.

3 CHAIR KAUFMAN: Thank you, Katherine.

4 Fellow Board members, any comments about that?

5 VICE CHAIR BUSTAMANTE: Well, from my
6 perspective, I couldn't agree more with staff's
7 recommendation.

8 CHAIR KAUFMAN: And I have to say from my
9 perspective, given the conversation we just had about
10 the fact that we don't even know when the second round
11 of funding will be available to the counties, that it
12 seems short-sighted to hold that money up when it could
13 be put to use by that county again, you know, to address
14 their particular needs; so I would tend to agree as
15 well.

16 MR. GUARDINO: Yeah. I agree with staff's
17 logic on this as well.

18 CHAIR KAUFMAN: All right. Do we have a motion?

19 MR. GUARDINO: Go ahead, Michael.

20 VICE CHAIR BUSTAMANTE: I'll agree with Carl to
21 move for staff recommendation.

22 MR. GUARDINO: I will agree with Michael and
23 second it.

24 CHAIR KAUFMAN: Okay. Again, just for the sake
25 of everybody being able to hear what's going on...

1 MS. JARRETT: Michael Bustamante?

2 VICE CHAIR BUSTAMANTE: Aye.

3 MS. JARRETT: Tal Finney?

4 MR. FINNEY: Aye.

5 MS. JARRETT: Carl Guardino?

6 MR. GUARDINO: Aye.

7 MS. JARRETT: Stephen Kaufman?

8 CHAIR KAUFMAN: Aye.

9 Okay. Good. We don't know when our next
10 meeting will be. It's driven by what the counties need,
11 frankly. Do we have any other rumblings of other
12 potential counties coming before us?

13 MS. MONTGOMERY: The survey did bring up some
14 rumblings, so it looks like we may have another meeting
15 this year. It would be after the election.

16 CHAIR KAUFMAN: Yeah. I would imagine most
17 people are concentrating on that at this time. I do
18 think, you know, just as a matter of going forward and
19 what Kim referred to, it would be, I think,
20 appropriate -- we've already begun the discussion on
21 some level -- for the Secretary of State's office to be
22 looking at ways that the Prop 41 monies might be able to
23 be, you know, allocated and distributed beyond those
24 categories that we set out originally in 2002, and what
25 might require a legislative fix and what might be able

1 to be done by this Board. So, yeah, we'd be interested
2 in hearing about that the next time we're all together.

3 Do any of you guys have anything else to add
4 before we adjourn? Michael?

5 VICE CHAIR BUSTAMANTE: Not I, Mr. Chairman.

6 CHAIR KAUFMAN: Carl?

7 MR. GUARDINO: No.

8 CHAIR KAUFMAN: Tal?

9 MR. FINNEY: No.

10 CHAIR KAUFMAN: Okay. Then with that, I'll take
11 a motion to adjourn the meeting.

12 VICE CHAIR BUSTAMANTE: Moved.

13 MR. GUARDINO: Second.

14 CHAIR KAUFMAN: All in favor of adjourning?
15 Aye.

16 (Ayes in unison.)

17 VICE CHAIR BUSTAMANTE: Thank you, Mr. Chairman.

18 CHAIR KAUFMAN: Thank you all for participating,
19 and thanks to all of those in the audience who came this
20 morning. I appreciate it.

21 (The meeting was adjourned at 10:40 a.m.)

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REPORTER'S CERTIFICATE

I, Jacqueline Toliver, a Certified Shorthand Reporter for the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, a duly qualified Certified Shorthand Reporter, and thereafter transcribed into typewritten form by means of computer-aided transcription.

I further certify that I am not of counsel or attorney for any of the parties to said hearing or in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June 2012.

JACQUELINE TOLIVER
Certified Shorthand Reporter
License No. 4808