

September 13, 2002

Via Facsimile ((916) 653-3214) and U.S. Mail

Hon. John A. Perez
Chairman
Voting Modernization Board
c/o Office of the California Secretary of State
Elections Division
1500 11th Street, Room 590
Sacramento, California 95814

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Re: Criteria For Consideration Of Proposition 41 Funding Applications And Timetables For Future Funding Decisions

Dear Chairman Perez and Honorable Members of the Voting Modernization Board:

As you know, this firm has represented the interests of Californians with disabilities before the Voting Modernization Board. We also are co-counsel for the Plaintiffs in Common Cause v. Jones, CV-01-3470-SVW, the federal court litigation that resulted in an Order decertifying pre-scored punch card ("PPC") voting systems in California effective March 1, 2004. We write today in these dual capacities, and joined by our colleagues and co-counsel at the ACLU Foundation of Southern California, to urge the Board, as it considers the pending applications for Proposition 41 funding and the timetables for allocation and use of such funds:

- (1) to require counties receiving Proposition 41 funds to adopt voting systems that (a) provide voters with disabilities equal access to the voting booth and the opportunity to cast secret ballots they can complete without assistance and (b) are capable of providing ballots in multiple languages; and
- (2) to establish timetables for the use of Proposition 41 funds and the reversion and reallocation of unused funds that will enable the 9 PPC counties¹ that face a court-ordered March 2004 deadline for the completion of their voting systems conversions to make use of reallocated funds as they strive to meet that deadline.

Proposition 41 Funds Should Be Used To Assure Equal Voting Access For People With Disabilities: This Board's Funding Application and Procedural Guide mandates that "[a]ll applications for funds shall include a plan describing how the county will make its voting equipment

¹ The PPC counties are Alameda, Los Angeles, Mendocino, Sacramento, San Bernardino, San Diego, Santa Clara, Shasta, and Solano. Together they contain well over half the State's voters.

accessible to persons with disabilities.” As representatives of California’s millions of voters with disabilities, we now urge the Board to follow up on this requirement by granting Proposition 41 funding *only* to those counties adopting voting systems that provide people with disabilities equal access to the ballot booth and the opportunity to cast a secret ballot they can complete without assistance. Specifically, the Board should require all counties receiving Proposition 41 funding to provide people with disabilities access *at every polling place* to direct recording electronic voting equipment with: (a) audio attachments that allow blind and visually impaired voters to listen to the choices on the ballot; (b) large screens, easily manipulated larger controls, or gel pad controls that can be operated by voters with manual dexterity limitations; and (c) head movement or "sip and puff" control options that enable voters with severe disabilities to control the equipment and vote by turning their heads or using their breath. In this way, the Board can assure that California’s new voting systems will afford voters with disabilities their long-denied legal rights to cast their ballots secretly and without assistance, in the same manner as other voters.

Funded Voting Systems Should Have The Capacity To Provide Ballots In Multiple Languages: The Board also should consider the rights of California’s language minority voters when it awards Proposition 41 funding. The number of languages in which ballots must be provided is constantly expanding – in Los Angeles County, for example, ballots must now be provided in nine languages – and new voting systems must be able to accommodate the counties’ changing needs. Accordingly, we urge the Board to approve funding only for voting systems that are capable of providing ballots in all of the languages in which ballots are required to be provided – including languages using non-Roman alphabets – and expanding their language capacities to meet the counties’ changing needs over time. In this way, the voting systems funded by Proposition 41 will enable California’s language-diverse voters to make their many voices heard in the State’s electoral process.

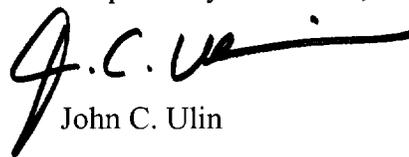
The Timetables For Allocation And Use Of Proposition 41 Funds Should Be Set So That The PPC Counties Will Receive Any Reallocated Funds Early Enough To Use Them In Their Efforts To Meet The Court-Ordered March 2004 Deadline For Their Voting Systems Conversions: Finally, as it sets the timetable for (a) use of Proposition 41 funds; (b) reversion or return of allocated funds by counties that are unable to use any portion of their Proposition 41 funding; (c) further allocation of unallocated funds; and (d) reallocation of unused or returned funds, we urge the Board to consider the exigent needs of the nine PPC counties. In order to meet the court-ordered March 1, 2004 deadline for the completion of their voting systems conversions, the PPC counties must act promptly and need to know as early as possible what resources they will have available to use in their efforts. Under these circumstances, the Board should set dates for the reversion of unused Proposition 41 funds and any additional allocations of funds far enough in advance of the March 2004 elections to allow the PPC counties to make effective use of any additional funding they may receive as they plan for a successful conversion to new voting systems in time for those elections.

We also urge the Board to give priority to the nine PPC counties in the reallocation of unused funds. By the time any unused funds are reallocated, all counties will have had an equal opportunity to obtain Proposition 41 funding. Giving priority to the PPC counties in the allocation of unused funds would thus satisfy the voters’ expressed desire that Proposition 41 funds be used to “replace

outdated punch card (chad) systems,” Official Summary of Proposition 41 (November 2001), without denying any county an opportunity to obtain funding on the same basis as other counties. It also will enable the PPC counties to maximize the resources available to them and to improve their ability to make successful transitions to new voting systems a year from next March.

We and our colleagues at the ACLU have submitted the foregoing proposals in the interest of assuring that Proposition 41 funds are used in ways that satisfy the fundamental rights of California’s voters with disabilities and language minority voters, and that assure the most successful transition possible to the next generation of voting systems both in the PPC counties and throughout the State.

Respectfully Submitted,



John C. Ulin