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**VOTING MODERNIZATION BOARD**  
**BOARD MEETING MINUTES**  
**SECRETARY OF STATE AUDITORIUM**  
**Wednesday July 17, 2002**  
**10:00 am**

**I. CALL TO ORDER**

The meeting was called to order by Chairman Pérez.

**II. ROLL CALL AND DECLARATION OF QUORUM**

Roll Call administered by Debbie Parsons

Present: John A. Pérez, Barbara Alby, Jim Cunneen  
(Tal Finney arrived at 10:15)

Absent: Michael Bustamante

Quorum established

**III. PUBLIC COMMENT**

Perez/Cunneen

**IV. OLD BUSINESS**

a. Adoption of Minutes

M/S Cunneen/Alby to adopt minutes from the 6/19/02 meeting.

Motion passes to adopt minutes, 4-0.

b. Conflict of Interest Code Report

Report given by Steve Trout

M/S Cunneen/Alby to adopt conflict of interest code.

Motion passes, 4-0.

## V. CONTINUED BUSINESS AGENDA ITEMS FROM JUNE 19, 2002.

John Mott-Smith – reviewed application for funds, statement of plans and projects, Brad Clark's counties survey & \$3,000 per machine data sheet. Also explained process after approval of formula. Explained the Binder Contents to the Board members. The Board now has 13 formulas to choose from. Counties are anxious for them to pick a formula.

Chairman Pérez opened up public comment on anything not on agenda. None.

### a. FINALIZE APPLICATION AND AGREEMENT - CRITERIA FOR ALLOCATION OF FUNDS TO COUNTIES TO UPDATE VOTING SYSTEMS

Adoption of the Voting Modernization Board Fund Application and Procedural Guide

1. Bob Planthold – On behalf of Consumers in Action for Personal Assistance (C.I.A.P.A.).  
The Board needs to do whatever they can to be sure technology is accessible for the right of a secret ballot.
2. Peter Kutras – Santa Clara County  
Made three primary points: 1. Board needs to be deliberate and take their time. 2. Wants priority given to the nine decertified counties that represent over half the population of the State. Santa Clara's three formulas give consideration to the nine counties. Options 1-3 are priorities, 2<sup>nd</sup> option preferred. Most harmful is new formula based on \$3,000 per machine. 3. Concerned that staff did not include their electronic version, and misrepresented their formula.
3. Debby Hench – San Joaquin County  
Urged the Board to please make a decision today. They have the RFP and need to go to our Board of Supervisors to tell them amount. Santa Clara County has not even done their RFP yet so their numbers are only estimates. San Joaquin County had Votomatic in the 70's, and changed systems in the 80's. They should not be responsible for the counties that have not changed systems yet. Cannot consolidate precincts as easily as other counties and have no choice but to have more polling places.
4. Conny McCormack – Los Angeles County  
Submitted a letter that's in the members' packet. Would like to have special consideration as a decertified county. \$3,000 guideline per machine – a machine is not a voting system,

it's not that easy. \$4,000 cap per machine is in the ballpark of what she has heard from the vendors.

5. Edward Johnston – Kern County

Kern County is in deep financial condition. Not a good excuse because we will have a lot of layoffs. Opposes any preference to the nine decertified counties. Supports formula on registered voter or eligible voters. County has a high prison and farm worker population that don't vote. Permanent absentee voters are very important too. Costs to move to touchscreens is not large, but for some counties it is. Please include in cost. Urged the Board to please make a decision today. \$5,039,000 is the cost from the counties' RFP.

6. John Tuteur – Napa County

The new formula based on \$3,000 per machine is well below what Napa County needs, but will take it. Willing to meet the minimum. I will have paper and touchscreen at each polling place. We have already spent 60k of our share to integrate. How much money is the state going to make available? Cost of voting systems is no way near costs of DRE systems. Conversion costs is not great. Like Kern, Napa does not do as well with population or registered voters based formulas.

7. John Ulin – Heller Ehrman, Co-counsel for plaintiff with ACLU on Common Cause v. Jones and also representing groups with disabilities.

Board should give funding priority to nine decertified counties by funding their requests as written or as modified at the full 3-1 ratio. Should allocate remainder of funds based on a population basis. Intent of voters and official summary of Prop 41 was to purchase new systems to replace chad systems. Population basis in favor over precinct basis. Legal points – legal liability, Board is bound by Constitution, federal and state statutes, equal protection cause – Bush v. Gore decision, for voters to have their votes count. Two legal points: 1. Equal protection – cannot favor urban over rural areas 2. Voting Rights Act.

Jim Cunneen statement: Board is in position to allocate a finite amount of funds to the largest amount of the population.

8. Mischelle Townsend – Riverside County

Summary chart numbers for Riverside County are inaccurate, asked staff to please correct to actual costs of \$14 million.

9. Marsha Wharff – Mendocino County

Mendocino County is one of the decertified counties. We put in our estimate late, that is why the numbers have increased. Have looked at machines that are both certified and not certified yet. County has never reached 20% of absentees, they are 15%. Supported a decision to be made today. Does not support giving the nine de-certified counties special consideration. All 58 counties should receive funding.

10. Rosalyn Lever – Orange County

Clarified the legislative analysis in Prop 41 – says any county to receive funding. Orange County is a large county, and has an expensive DataVote system. Our RFP is out. Board needs to be equitable for all 58 counties. Populations don't vote, registered voters vote. Orange County had 370 different ballot styles for the last election. We don't have control of how many voters vote.

11. Michael Smith – Marin County

The appropriate decision should be no preference given to decertified counties, should be equitable to all counties.

12. Laura Winslow – Solano County

The \$3,000 per machine formula is lower than all the other formulas except the polling place formula. It's too low for our county.

Public Comment closed.

Board took a five minute break followed by 30 minutes of Q & A and open discussion:

John A. Pérez – Discussed two areas of concern: 1. Wide variety in estimated costs of equipment. Favors a cap on amount of machines. The Board needs to be responsible to obligation of accessible voting machines to make voting accessible to all voters. 2. Place base (polling, precinct, etc.) is not good enough, formulas need to be people based (eligible voters, registered voters, etc.).

Barbara Alby - Favors releasing money to all counties at the same time. Needs to take a compilation of all the formulas. Doesn't want to go beyond what the voters approved, such as factoring in the population growth issues, that is up to the counties.

Tal Finney - Board's focus is on the formula. Concerned about the legal arguments. Board needs to take into consideration arguments that took place in major cases such as Common Cause v. Jones. Concerned about security. With respect of allocation of funds, the Board needs to blend factors – take the greatest good for the greatest number.

Jim Cunneen - Agrees to blend some of the formulas.

John A. Pérez, Barbara Alby , Tal Finney, and Jim Cunneen all agreed not to give the nine decertified counties preference.

- Public Comment from Arthur Singer (Rose Resnick Lighthouse for the Blind in San Francisco), late due to traffic:  
Recommended a mandate for at least one voting machine per polling place be accessible for the blind.

Jim Cunneen - started to narrow down the formulas.

John Mott-Smith – Counties requirement is to prepare polling places for 100% turnout, but only need to provide for 75% of ballots. Only two formulas have absentee voters factored in.

John A. Pérez – No formula will work for all counties.

Barbara Alby - Take population formula off the table, John A. Pérez wants to keep it.

John A. Pérez – With consent of the Board, took off Santa Clara's #2 formula off table. Wants to take precinct base formula because of the inconsistencies done in number of precincts.

Barbara Alby - Wants to keep precinct on the table for discussion.

Tal Finney – Wants to keep people, machine and precincts.

12:30-1:15 p.m. – Lunch Break

1:30 p.m. – Voting Modernization Board reconvened.

Board members discussed different formulas and ranked their preferences:

Jim Cunneen's rank: 1. 4 cycles formula; 2. Santa Clara #3; 3. Polling place; 4. Registered Voters; 5. Eligible Voters; 6. Population; 7. Precinct; 8-10 – the rest

John A. Pérez' rank: 1. Population ; 2. Registered Voters; 3. Eligible Voters; 4. Polling place; 5. Registration x 75%turnout; 6. Precinct base

Barbara Alby's rank: 1. Election cycles; 2. Precinct; 3. Polling place; 4. \$75,000 per machine purchase; 5. Registered Voters; 6. Eligible Voters; 7. \$3,000 per machine formula; 8. Population; 9. Santa Clara #3

Tal Finney's rank: 1. Eligible Voters; 2. Registered Voters; 3. Santa Clara #3; 4. Polling place; 5. Population.

The Voting Modernization Board choices were ranked. Each VMB member then voted on his or her top five choices for a formula. These choices were ranked with (population, registered voters, turnout at last four elections, and polling places) the top four.

John A. Pérez – Requested a motion that a formula be adopted with an average of those 4 existing formulas.

M/S Cunneen/Finney to take their top four formula choices of registered voters, polling place, eligible voters and four voting cycles and blend them together to create their own formula for allocation of funds.

Roll Call by Debbie Parsons:

John A. Pérez – aye  
Barbara Alby - aye  
Jim Cunneen - aye  
Tal Finney – aye  
Michael Bustamante – Absent

Motion passes, 4-0.

Board agreed that the counties would need to submit a contract and an invoice to receive funds.

John A. Pérez – proposed a cap of \$3,000 per machine for the state's share for the purposes of discussion.

Ten minute feedback public comment:

John Tuteur: Thanked chairman. Concerned that he was not going to receive an amount and didn't know what he was going to propose to his Board of Supervisors.

Peter Kutras – Wanted to know if his amount would equal the total yields under each individual formula and took a ¼ of that.

John A. Pérez – Some of the numbers need to be adjusted. Secretary of State staff would work out the amounts.

Conny McCormack – Asked if there would be an escrow account if counties don't spend all the money. Didn't think the numbers were accurate. Concerned that LA County was short \$57 million of what they need.

John A. Pérez – Opened up public comment on the concept of a cap of state donating no more than \$3,000 per machine.

Michelle Townsend – Riverside County spent \$3,100 per machine – below the cap of \$4,000 total per machine.

Connie McCormack – Didn't understand the need to establish a cap, but thought \$3,000 was fine.

Roz Lever – Agreed \$3,000 was fine. Concerned for the rural counties.

Plumas County –Bought machines at \$3,995 per machine.

Barbara Alby stated that based on testimony, a cap of \$3,000 per machine for the State's contribution might be too much, suggested \$2,800.

M/S – Finney/Cunneen to set a cap that the State's allocation of the price per machine at \$3,000.

Roll Call by Debbie Parsons:

John A. Pérez – aye  
Barbara Alby - no  
Jim Cunneen - aye  
Tal Finney – aye  
Michael Bustamante – Absent

Motion passes, 3-1.

John Tuteur – Discussed two issues of accessibility.

M/S – Cunneen/Finney to require that each application for Prop. 41 funds include a plan for accessibility for voting systems.

Roll Call by Debbie Parsons:

John A. Pérez – aye  
Barbara Alby - aye  
Jim Cunneen - aye  
Tal Finney – aye  
Michael Bustamante – Absent

Motion passes, 4-0.

John Mott-Smith suggested to move the application deadline to September 3, 2002, and the next meeting to September 16, 2002.

M/S – Cunneen/Finney to move application deadline to September 3, 2002 and to meet next on September 16, 2002.

Roll Call by Debbie Parsons:

John A. Pérez – aye  
Barbara Alby - aye  
Jim Cunneen - aye  
Tal Finney – aye  
Michael Bustamante – Absent

Motion passes.

- b. FINALIZE VOTING MODERNIZATION PLAN  
Adoption of the Voting Modernization Board Voting Modernization Plan

M/S – Cunneen/Finney to adopt Statement of Plans and Projects and to forward to the Governor.

Roll Call by Debbie Parsons:

John A. Pérez – aye

Barbara Alby - aye

Jim Cunneen - aye

Tal Finney – aye

Michael Bustamante – Absent

Motion passes, 4-0.

August 26 meeting cancelled and postponed to September 16, 2002.

## **VI. ADJOURNMENT**

M/S –Finney/Cunneen to adjourn.

All say aye.

Motion passes, 4-0.

Meeting adjourned at 2:30 p.m.

Minutes submitted by Debbie Parsons.

A tape transcript is available upon request.