



# Voting Modernization Board

## Modernizing Voting Equipment in California

John A. Pérez, Chair  
Barbara Alby, Vice Chair

Jim Cunneen  
Tal Finney  
Michael Bustamante

### VOTING MODERNIZATION BOARD

### BOARD MEETING MINUTES

### SECRETARY OF STATE AUDITORIUM

Monday, September 16, 2002

10:00 am

#### I. CALL TO ORDER

- a. Call to Order by Chairman Pérez – 10:25 am

#### II. PUBLIC COMMENT

John Mott-Smith discussed Florida election. Secretary of State will be asking the vendors for a report on their voting systems and what went wrong. The role of the Voting Modernization Board is to allocate money to any county that buys certified systems; the Secretary of State is responsible for all certifications of systems and vendors.

Conny McCormack, Los Angeles County – Gave a presentation on the Florida election and the problems counties had with their new touch screen voting machines, and problems with training poll workers. She distributed a report by the California Association of County Elections Officials (CACEO) to the Board from May 2002 that addresses why elections are so complicated and some solutions that the legislature will look into.

Conny McCormack – There was a demonstration unit at every polling place and many people took a demonstration. There was a big voter turnout and crowds waiting in line. In addition, there are larger precincts in Florida than California. Names were laid out too close together. Would like to suggest focus group testing for machines.

Lou Dedier – Acknowledged that the major problems are a result of lack of training. In Florida there were a lot of training issues, which is the number one issue. In addition, he stated that voting machines are tested differently here than in Florida. We do logic and accuracy tests on 100% of voting machines.

### III. ROLL CALL AND DECLARATION OF QUORUM

#### **Roll call administered by Debbie Parsons**

**Present: Chairman Pérez, Michael Bustamante, and Barbara Alby**

**Absent: Tal Finney, Jim Cunneen**

**Quorum established.**

#### PUBLIC COMMENT OF ITEMS NOT ON AGENDA (CONT.,)

Kathryn Ferguson, Sequoia Voting Systems –  
Suggested that counties need to contract with vendors that have a lot of experience, otherwise the poll workers will need a lot of training. Vendors need to do this for them. The third, fourth and fifth largest counties in Florida had successful elections. Need to go with a vendor with a lot of experience or else you will have to have a lot of training. Vendors need to do this for them.

Arthur Singer, Rose Resnick Lighthouse; Attorney -  
Discussed a Washington post article on Maryland's experience. They have training and a website for demonstrations, outreach and practice. In addition, they have judges at every polling place.

(10:50 am - Jim Cunneen arrived)

John Tuteur, Napa County  
Stated that Napa County will not be able to front the money for new voting systems and urged the Board to consider having the state pay for invoices first.

Alan Dechert, Data Factors  
Stated that he agrees with the May 2000 proposal by Haney Brady UC Berkeley.

Pete McGinnis, ES & S -  
Distributed a letter from Secretary of State Jim Smith in Florida, copies available for everyone.

### VI. OLD BUSINESS

M/S –Cunneen/Bustamante to tentatively adopt minutes. Chairman Pérez requested a later vote after they had an opportunity to read the minutes.

Statement of Plans and Projects:

John Mott-Smith – Stated that we need to forward this document to the Voting Modernization Finance Committee. Awaiting approval from governor.

Public comment from Dan Kysor, Advocate for California Council for the Blind –

Gave comments regarding accessibility and audio DRE's, doesn't see a requirement for a percentage of machines that have to be accessible. Questioned whether 100% of the DRE machines are certified for audio output?

John Mott-Smith – It's up to county to choose the way they provide accessibility. This board proactively asked for demonstration and description of what that would be.

## V. STAFF REPORT ON APPLICATIONS RECEIVED

John Mott-Smith – Presented a staff report to the Board. Out of the 58 counties, 52 sent in applications. The six counties that did not submit applications for funding consideration are: Amador, Del Norte, Mono, Sonoma, Sierra and Ventura. Five counties requested funds lower than the amount of their formula allocation. The five counties were: Calaveras, Mariposa, San Luis Obispo, Santa Barbara and Tulare. Applications were reviewed by three staff members for completeness. A copy of the checklist staff used is attached and missing items were solicited for incomplete filings. Stanislaus County is the only county whose application is incomplete at this time.

Bustamante suggested motion to let Stanislaus have extra time to get required application in. Stanislaus County's application lacked an Accessibility Plan and Board of Supervisors Resolution.

John A. Pérez – Commented about Stanislaus County, did not understand why they could not comply with the deadlines as the other counties did.

Jim Cunneen – Stated his concerns of making an exception to give Stanislaus extra time.

Michael Bustamante – Requested a time frame for Stanislaus County to complete their application.

Barbara Alby – Stated she would like to treat Stanislaus County's application as incomplete.

Michael Bustamante – Rejected Stanislaus' application. According to the rules, a county has seven days to provide proper documentation.

**M/S Michael Bustamante/Jim Cunneen to reject Stanislaus County's application for funding consideration;**

**Roll call by Debbie Parsons**

**Chairman Pérez – aye**

**Barbara Alby – aye**

**Michael Bustamante – aye**

**Jim Cunneen – aye**

**Tal Finney – absent**

**Motion passes**

Chairman Pérez – Requested a new chart from the staff detailing the total amounts of the counties’ funding requests.

John Mott-Smith – Described the wide range of Accessibility Plans described in the applications. The project documentation is the next for the Board to discuss. Staff requested guidance from the Board.

**M/S Cunneen/Bustamante to approve applications that have been submitted;**

**Roll call by Debbie Parsons**

**Chairman Pérez – aye**

**Barbara Alby – aye**

**Michael Bustamante – aye**

**Jim Cunneen – aye**

**Tal Finney – absent**

**Motion passes**

John Mott-Smith discussed the Acquisition schedule. He stated that there is a large amount of money in unknown category (\$71 million). The Treasurer’s office said they will accept estimates. The nine decertified counties are at the front end on the acquisition schedule and are on track of meeting court ordered requirements.

## VI. FUTURE PROCEDURES

John Mott-Smith gave staff report on future procedures. The VMB should review each application, which will be received on a flow basis. The first step is the Project Documentation Form (PDF). Five staff will review the PDF’s – legal, technical, etc.

John A. Pérez – Concerned about application and documentation not matching on the different forms. Staff needs to list accessibility on PDF form under item three.

Public comment on Agenda Item VI – Bob Planthold, Consumers in Action for Personal Assistance. Distressed that some counties’ accessibility plans were brief and vague on their applications. Believes the form should ask if there has been a consultation with an ADA coordinator. He requested the Board to require a statement from the counties on the level of training and experience the counties’ staff have with accessibility.

John Mott-Smith– Detailed the process after receiving the PDF’s from the counties. The Board would execute a funding agreement, which would be a legal document. Chairman Pérez will sign all agreements.

Key issues for discussion: process for disbursement of unused funds, \$12 million that has reverted for reallocation. A county can lose funds by failure to submit proper documentation, not use funds, or withdrawal from funding program. One of the first issues the Board needs to discuss is the deadline for the money that has been allocated to revert back to the fund if a county does not accomplish their plans. The Board needs to decide how long the money/allocation will be good for before starting round two of the funding allocations.

Barbara Alby – Requested the staff to conduct a survey of the counties on a deadline.

Michael Bustamante – Questioned if the funds in the meantime will be sitting in an interest bearing account.

John Mott-Smith – Answered no, there will be no more additional money.

Chairman Pérez – Wants to make sure counties are making good faith effort.

Public comment on Agenda Item VI - Steve Rodermund, Orange County – Concerned about receiving the allocation late and getting pushed up against the wall. Would like to know a definitive date when his county will receive their funds so they can get their Board of Supervisors approve their actions.

Chairman Pérez – Doesn't want to force counties that are unable to move forward quickly to feel uncomfortable. If Orange County wants to move quicker than we do at allocating money, that's fine. But the Board does not want to push the counties.

Ed Johnston – Kern County  
Stated his and other counties' concerns about submitting a signed agreement with a vendor in case the Board might not accept their agreements.

John Mott-Smith assured the Board that the PDF the counties need to submit requires a signed agreement with the vendor.

Chairman Pérez – Stated that the contract is subject to an agreement with the state, and if a vendor won't work with a county, the county should find a vendor that will.

John Mott-Smith – Asked the Board to clarify if the \$3000 per machine cap only applies to DRE's.

**M/S Cunneen/Alby to clarify that the \$3000 matching cap was specifically for DRE machines.**

**Roll call by Debbie Parsons**

**Chairman Pérez – aye**

**Barbara Alby – aye**

**Michael Bustamante – abstain**

**Jim Cunneen – aye**

**Tal Finney – absent**

**Motion passes.**

Lou – Stated that the set amount for DRE's is fine, but not for optical scan machines which range around \$4,500 per machine. Actual range is \$1,500-60,000 per machine.

John Mott Smith asked the Board to clarify if the state will pay on invoices or reimburse counties after they paid on invoices.

Chairman Pérez – Agreed with Bustamante’s concern that the Board pay on invoices, and not make a county pay first. Emphasized that the Board is not contracting with the vendors but with the counties. The counties should submit both their documentation with us and their documentation with their vendor to the Board.

Jim Cunneen – Requested staff to find out how it has been done in the past with bond money that was distributed, whether they required paid or unpaid invoices first and asked if anyone else knew.

Chairman Pérez – Opened up public comment on counties being heard on payment.

Ann Reed, Shasta County –

Shasta County’s preference is to have a vendor submit an invoice to the county after the system is installed, and then the county will submit it to the Board. Stated that they have never submitted an invoice to the state.

Mischele Townsend, Riverside County –

Has worked in Riverside County for over 25 years and have dealt with bond programs. They had to finance their voting system over a 15-year period. Refund clause – board was concerned. 2005 time limit, don’t expect costs to drop. Federal buyout of punch card systems. Riverside County has to pay their full 25% share. If there is a refund, which she doubts, that should come out of their 25% share.

Chairman Pérez – Emphasized that the state will only pay based on actual purchase price, if the counties want to finance their portion, that is up to them.

All Board members agreed.

Chairman Pérez – \$200 million doesn’t fully fund transformation counties are trying to do. If a county receives a rebate, the VMB should get a prorated percentage of the rebate so the Board can allocate it to counties that need it.

Michael Bustamante – If county pays \$3000 per machine and they were still under amount of money they were allocated, we might want to reconsider gap.

Chairman Pérez – With the cap at \$3000 per DRE, different counties may negotiate different purchase prices. Counties have to come up with at least 25% of the purchase price. Requested a motion that any rebate received as a term of the contract be shared on a pro rata basis come back to our pool of money to be allocated.

**M/S Alby/Cunneen that any rebate received as a term of the contract be shared on a pro rata basis comes back to the VMB’s pool of money to be allocated.**

**Roll call by Debbie Parsons**

**Chairman Pérez – aye**

**Barbara Alby – aye**

**Michael Bustamante – aye**

**Jim Cunneen – aye**

**Tal Finney – absent**

**Motion passes.**

Michael Bustamante – PDF seems to be all laid out – long term strategy.

John Mott-Smith – Stated that the most important discussion item is the date for a Funding Agreement, the absence of which triggers reversion of funds.

Chairman Pérez – Questioned if they should take into effect what the federal government is doing.

Michael Bustamante – No, we are not clear what federal government is doing.

John Mott-Smith – If they fund replacement of punch cards, counties that didn't use punchcards won't be eligible for funds.

Chairman Pérez – There may be a county that we are only matching 3-2, our only requirement is that we get one dollar for every three. I'd like to come back to this if the federal government passes anything. The Board's predisposition is to be consistent with the formula, but we don't want to lock ourselves down. We have a policy for first round of allocation, but we haven't committed yet what we are going to do with the reverted funds.

Jim Cunneen - Formula is in place, in absence of action, there is a policy for disbursement.

John Mott-Smith – In the round, any of the 58 counties may apply.

Item 2 – Meeting Dates

Chairman Pérez – Board discussed meeting dates and determined the next two meetings would be December 11, 2002 and January 15, 2003. The chairman asked the members to clear the suggested dates for 2003 future meetings on their calendars. Staff will follow up on future dates.

Barbara Alby –Requested staff to make a few corrections in the July 17, 2002 meeting minutes: 4<sup>th</sup> page, under my name, change “all” to “some”. In the last sentence put “population” and “eligible voters” in the correct order.

**M/S Cunneen/Alby to approve the minutes from July 17, 2002 meeting**

**Roll call**

**Chairman Pérez – aye**

**Barbara Alby – aye**

**Michael Bustamante – abstain**

**Jim Cunneen – aye**

**Tal Finney – absent**

**Motion passes.**

VII. ADJOURNMENT

**M/S Bustamante/Cunneen to adjourn**

**Roll call**

**Chairman Pérez – aye**  
**Barbara Alby – aye**  
**Michael Bustamante – aye**  
**Jim Cunneen – aye**  
**Tal Finney – absent**

**Motion passes.**

Meeting adjourned at 12:50 pm.

*Minutes submitted by Debbie Parsons*