



John A. Pérez, Chair
Stephen Kaufman, Vice Chair

Michael Bustamante
Tal Finney
Carl Guardino

Voting Modernization Board

Modernizing Voting Equipment in California

VOTING MODERNIZATION BOARD BOARD MEETING MINUTES

Monday, May 10, 2004
Secretary of State Building

- I. Call to order by Chairman John A. Pérez at 10:25 am.
- II. Roll Call administered by Debbie Parsons, quorum established.

Present: John A. Pérez, Stephen Kaufman, Michael Bustamante

Note: Tal Finney arrived late

Absent: Carl Guardino

III. Public Comment: None

IV. ADOPTION OF FEBRUARY 9, 2004 MEETING MINUTES

- 1. A motion was made by Stephen Kaufman and seconded by Michael Bustamante to adopt the meeting minutes of the February 9, 2004 meeting, with minor additions to comments relating to the conditional certification of the Diebold AccuVote-TSx voting system. Motion passed.**

- V. STATUS REPORT ON COUNTY PROJECT DOCUMENTATION SUBMITTALS: Jana Lean presented the staff report to the Board on the status of all counties' voting modernization progress. At the December 17, 2002 meeting of the Voting Modernization Board, the VMB adopted a January 1, 2005, deadline for counties to receive approval from the VMB for Project Documentation Packages. Under this adoption, counties that do not receive approval by the deadline forfeit their Approved Allocation. At the October 15, 2003 meeting of the VMB, the Board requested staff to prepare a report on the status of all counties' voting modernization progress. All 58 counties were surveyed on their modernization status. Twenty counties have submitted Project Documentation Plans and have been issued funding awards equaling approximately \$84.1 million. Of these 20 counties, 7 counties are modernizing their voting systems in multiple phases. 38 counties have yet to submit Project Documentation Plans to modernize their voting equipment. Of those 38 counties, 8 estimate that they will submit their plans during 2004, 16 counties in 2005. Accordingly, based on information available to date, a minimum of 30 counties, who are collectively eligible for \$42.3 million, do not anticipate meeting the January 1, 2005 deadline for plan submittal. Counties

commented that they were extremely reluctant to begin modernizing their voting equipment given the uncertainty of the standards to be applied to new voting equipment technologies, such as the new requirement of an Accessible Voter Verified Paper Audit Trail (AVVPAT) for DRE equipment, the potential de-certification of DRE machines in California and the limited number of vendors that sell certified equipment in California. On April 30, 2004, the Secretary of State issued orders decertifying the use of DRE voting systems in California. The Secretary of State banned and decertified the use of Diebold AccuVote-TSx hardware and firmware voting equipment in California. This equipment was purchased and used by four counties during the March 2, 2004 Primary Election, which includes Kern, San Diego, San Joaquin and Solano. The Secretary of State also decertified all DRE systems in California but allowed the counties who used DRE's in the March 2, 2004 Primary Election (Alameda, Merced, Napa, Orange, Plumas, Riverside, San Bernardino, Santa Clara, Shasta, Tehama and Los Angeles for early voting only) to use these systems in the November 2, 2004 General Election, if they either installed an Accessible Voter Verified Paper Trail before the November Election, or if they meet 23 security measures identified in the order. In Essence, the Secretary of State has placed a moratorium on the sale of DRE's in California.

Staff recommended that the Board extend the January 1, 2005 deadline to January 1, 2006, to enable counties to have more time to submit Project Documentation Plans before the reversion of the funds.

PUBLIC COMMENT:

Conny McCormack, Los Angeles County Registrar – Los Angeles County has submitted their Project Documentation Package, and is one of seven using the phase-in approach, and wanted to clarify that counties with approved phased-in approach funding awards would not be included in the counties who's funds would be reverted if they do not convert to their new voting system by the current January 1, 2005 deadline. Chairman Pérez confirmed that any county who has submitted their Project Documentation Plan outlining a phased-in approach plan would not be affected by the current January 1, 2005, as they have already received approval by the VMB on implementing their voting system conversion phased approach plan.

Michael Smith, Marin County Registrar – Suggested to the Board a third option to allocate all the money as soon as possible, the rest to the city officials, so the counties can focus on finding a system they can use. Mr. Smith said his county is watching Placer's proposal and may come forward with a project documentation package soon.

Kim Alexander, California Voter Foundation – Encouraged the Board to extend the deadline.

The Board discussed the possibility of extending the project documentation submittal deadline from January 1, 2005 to January 1, 2006 and after a very thorough discussion, a motion was made by Michael Bustamante and seconded by Tal Finney to table this item to the next board meeting and would like additional county input. Motion passed unanimously.

Chairman Pérez asked staff to provide the deliberations notes from the December 2002 meeting that set the 1/1/05 deadline and the language of Prop 41 to the next meeting. The Board also requested that SOS legal counsel be present for the duration of all VMB meetings and asked for the legal definition of paper trail.

VI. PROJECT DOCUMENTATION PACKAGE REVIEW AND FUNDING AWARD

APPROVAL: Receive staff report from Jana Lean and recommendations for approval of funding awards to Placer County. Placer County's "Phase 1 – Project Documentation Package" meets the requirements for completeness. The Diebold AccuVote optical scan voting system being used by Placer County is certified for use in California. Placer County's "Phase 1" optical scan equipment does not fully address the new state and federal requirements for accessibility. However, Placer County does have a comprehensive voter accessibility plan which includes: (1) community input through the Voting Accessibility Advisory Committee; (2) audiotapes of ballot measures; (3) accessible polling locations and materials (such as accessible voting booths, large type voting instructions and magnifying devices, voting pens with attached grip adapters for voting ease, and poll worker or staff assistance for curbside and assisted voting); and, (4) outreach programs to assist the disabled community. To fully comply with state and federal law, Placer County plans to incorporate a "Phase 2" into their overall plan and intends to purchase one accessible touch screen unit for each of their polling places. The staff recommendation is to approve Placer County's "Phase 1 – Project Documentation Package" and issue a "Funding Award" letter in the amount of \$1,514,901.08.

PUBLIC COMMENT

Jim McCauley, Placer County Registrar – Mr. McCauley stated that Placer County's timing to implement Phase 2 is September 2004. Placer County plans to be HAVA compliant by 2006. They will be short on money for Phase 2.

Jim March, Black Box Voting – Commented that the Board should be aware of the poor security issues with the Diebold software and that county recounts should be random.

Steve Weir, Contra Costa County Registrar – Noted that Contra Costa is waiting and watching Placer County and is in support of their two phased approach. Said DRE's are poisonous right now, and supports Placer County.

Michael Smith, Marin County Registrar – Marin County is also in support of Placer County's two phased approach.

A motion was made by Michael Bustamante and seconded by Stephen Kaufman to approve Placer County's "Project Documentation Package" and issue a Funding Award letter in the amount of \$1,514,901.08. Motion passed.

VII. CHANGES TO APPROVED PROJECT DOCUMENTATION PLAN

Kern County and San Joaquin County removed themselves from the agenda due to the Secretary of State decertifying their voting equipment.

VIII. CHANGES TO POLICIES AND PROCEDURES REGARDING THE CHECK DISTRIBUTION SYSTEM

Chairman Pérez asked for this agenda item to be moved to the next meeting for further discussion.

A motion was made by Michael Bustamante and seconded by Stephen Kaufman to table this item to the next meeting. Motion passed.

IX. BOARD RECEIVED STAFF REPORTS ON THE FOLLOWING ISSUES

A) Status of VMB Conflict of Interest Code – Jana Lean stated that the Board members need to review the Conflict of Interest Code and this item will be on the next meeting’s agenda.

B) Status of Standard Agreement Language between VMB and Counties regarding Promise to use HAVA 102 money as county match. The Board members reviewed the Standard Agreement Language and decided to review it again at the next meeting.

X. OTHER BUSINESS – July Meeting Date Change

Staff discussed the option of changing the meeting date of the July meeting due to a conflict with the county elected officials annual meeting.

A motion was made by Tal Finney and seconded by Stephen Kaufman to change the July 15, 2002 meeting to July 22, 2004. Motion passed.

XI. ADJOURNMENT

There being no further business or public comment to come before the Board, a motion was made by Tal Finney and seconded by Michael Bustamante to adjourn the meeting at 1:35 pm. All Ayes, Motion passed.

**Minutes submitted by Debbie Parsons*