STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD MEETING

SECRETARY OF STATE
1500 11TH STREET
SACRAMENTO, CALIFORNIA 95814

MONDAY, FEBRUARY 24, 2014
10:50 A.M.

TIFFANY C. KRAFT
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277
APPEARANCES

BOARD MEMBERS
Mr. Stephen Kaufman, Chair
Mr. Micahel Bustamante, Vice Chair

STAFF
Executive Officer: Jana Lean
Staff Consultant: Katherine Montgomery
Staff Counsel: Robbie Anderson
Executive Assistant: Stacey Jarrett
OVSTA Consultant: Ryan Macias
HAVA Consultant: Susan Lapsley

ALSO PRESENT
Dean Logan, Registrar Recorder County Clerk, Los Angeles County
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CHAIR KAUFMAN: We are going to call the first meeting of 2014 and certainly not the last for the Voting Modernization Board. So let's get the meeting started and call the roll, such as it is at this point.

MS. JARRETT: Stephen Kaufman?

CHAIR KAUFMAN: Here.

MS. JARRETT: Michael Bustamante?

VICE CHAIR BUSTAMANTE: Present.

MS. JARRETT: Tal Finney?

CHAIR KAUFMAN: Not yet. Joining us. We're hoping Mr. Finney joins us at some point soon in the proceedings.

Okay. We have one public comment, but I'm assuming you're going to hold that until our discussion on Item 5. So, well, I guess now we need to take action if we're going to adopt. Let's put aside the adoption of the minutes, Item Number 4 from May 18th, 2012, which was our last meeting, if you can remember that. So let's set that aside and see if we have a quorum at some point during the meeting so we can adopt the minutes. Okay? All right.

So Item Number 5 is the real reason that we're here today. And we are not slated to take any action today, but there have been some significant developments since the last time we met as a Board, both with respect
to the certification of voting systems here in the state
of California and with respect to our role and ability as
a Board to provide funding to counties for their voting
systems.

So we are going to take a report from staff
today. Hopefully, we're going to hear an overview of what
SB 360, which is the legislation that certainly changed
the game here in California on voting systems. So we're going to take a staff report on that. There's going to be
some staff recommendations made in terms of Board policies
and procedures for us going forward in being able to award
funding to counties for additional steps in the process
beyond the purchase of voting systems.

And what I'm hoping that will take place here is
we'll get the information. We can have a discussion here
about some of the suggestions that are being made to how
we proceed on a going-forward basis.

And for the benefit of Dean and anybody else who
may listen or view this at some point, we intend to come
back shortly with some solidified policies and procedures
to adopt and implement so that L.A. County and other
counties can proceed with additional requests for funding
to the Board.

So with that, Katherine, do you want to take the
lead and introduce the other folks who are going to be
presenting to us?

    MS. MONTGOMERY: First, we'll hear a high level report from Susan Lapsley.

    MS. LAPSLEY: You'll hear from Ryan. I'll do an introduction. I'll pass it over to Ryan.

    I'm Susan Lapsley, the Deputy Secretary of State, HAVA Director, and counsel here at the Secretary of State's Office.

    SB 360 was passed, and it had four major changes to the Election Code, specifically Division 19, that deals with voting systems. The first one is that it reorganizes the Election Code Division 19 and the provisions relating to voting systems.

    The second that is as of January 1st, 2014, it eliminates the Federal Election Assistance Commission certification requirement, which has been historically a requirement here in California.

    And third, it establishes the ability for jurisdictions to conduct a pilot program of the voting system without going through full certification.

    And four, it allows the VMB to use moneys for research and development of voting systems. So with that, I'll turn it over to Ryan. Ryan is our Office of Voting System Technology Assessment member, only member at this point, and has been working extensively and can give you
some more insight into what the changes mean.

MR. MACIAS: So first, the elimination of the EAC -- the federal EAC certification and/or qualification makes it such that the Secretary of State is tasked with conducting the full certification testing. There was a grandfather date which currently sits at August 1st of 2013. We have one system currently being certified under the old rules, but moving forward, voting systems will be tested. SB 360 set a minimum standard, which is the Voluntary Voting System Guidelines Version 1.1 from August 31st of 2012. This is a set of voting system standards that has yet to be adopted by the EAC because they do not have a quorum to vote on it. But they began circulating back in 2007 and then had two sets of amendments since then. And the August 31st, 2012, is the latest that the EAC is still or just finished receiving comment on and is still looking at but cannot vote on it at this time.

CHAIR KAUFMAN: Ryan, before you jump ahead, is the AC still leader-less. They do actually have an Executive Director. Because I know the last time we met, they didn't. Now they don't have a quorum. Is there anybody in charge over there?

MR. MACIAS: Yes, they do have an Executive Director and the Voting System Testing and Certification Program has a Director. That is still Brian Hancock. And
the Voting Systems Testing and Certification Program itself does not need a quorum to certify voting systems. But they do need a quorum to be able to adopt any new standards. But the Testing and Certification Program is still moving forward and certifying new voting systems.

CHAIR KAUFMAN: Thanks.

MR. MACIAS: And that VVSG 1.1 I was discussing is in SB 360 and now California law beginning January 1st as being the standards that the Secretary of State shall test to until the Secretary of State adopts formally its own regulations. Currently, the Secretary of State has proposed regulations that are out for public comment at this point and are part of the Office of Administrative Law process. And potentially can be passed in the near future.

MS. LAPSLEY: Let me clarify where they're at in the process. So we've already had a public comment on it. We had public hearing on them. We are preparing the rulemaking file for the Office of Administrative Law, which is the agency this must approve and review regulations in the state.

CHAIR KAUFMAN: So those regulations, when adopted, would be the new standards for any voting equipment.

MS. LAPSLEY: That isn't otherwise grandfathered

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CHAIR KAUFMAN: That isn't otherwise grandfathered in.

But any voting system -- if I guess -- if a county wanted to adopt a voting system and receive HAVA funding, they would still need to meet the federal EAC standards. Or are those irrelevant to the HAVA funding?

MS. LAPSLEY: The standards are irrelevant to the HAVA funding. We have to have -- in order to provide HAVA funding, we have to have a certified system, period.

VICE CHAIR BUSTAMANTE: And that certification -- sorry.

CHAIR KAUFMAN: Whether that be by the Secretary of State or the federal AE --

MS. LAPSLEY: Here, in California, it has to be -- up until January 1st, it had to be both. Now it would have to be just the state.

CHAIR KAUFMAN: Right.

MR. MACIAS: The other thing the bill did in regards to certification is it requires the Secretary of State to publish requirements for the approval of what are called State-approved testing agencies, which is similar to the voting system testing laboratories at the EAC. The SATAs, as we call them, would be the equivalent of the voting system testing labs and would conduct the testing
to the VVSG 1.1 currently or the Secretary of State's adopted regulations.

VICE CHAIR BUSTAMANTE: Can I ask a question real quick? You mention that -- well, I guess the easy question is so when will the Secretary of State -- when will this process end? Do you have a late --

MS. LAPSLEY: The regulation process?

VICE CHAIR BUSTAMANTE: Yeah.

MS. LAPSLEY: At this point, OAL -- we need to get the rulemaking file into OAL. We need to review -- we received seven comments, all very lengthy, 20-plus pages in nature. So right now we are reviewing all those comments received. And part of preparing the rulemaking file is to summarize and respond to each of those. So right now, we're working on that.

There is a possibility that we would need to make some changes based upon comments received. And if we did and they were substantive, we would have to go out for a 15-day public comment period and then would be able to submit it to OAL. OAL has 30 working days to review the file. So realistically, we're looking probably July for all to be said and done in a -- if there is no hickups and --

VICE CHAIR BUSTAMANTE: Hopefully before the end of the year.
MR. MACIAS: That's it on the certification.
The next step is that jurisdictions are now authorized to conduct a pilot program for experimental use of voting systems prior to obtaining certification from the Secretary of State, so as long as the system meets specific criteria. At minimum, the jurisdictions must submit to the Secretary of State a plan for proposed pilot programs subject to votes cast on a voting system during a pilot program to a risk limiting audit and to notify the Secretary of State in writing of any defect, fault, or failure in the hardware, software, or firmware of the voting system, which is similar in nature to what voting systems currently have to do who are going through regular certification.

And then last, local jurisdictions may use Voting Modernization Fund moneys to contract and pay for the research and development of a non-proprietary voting system that uses disclosed source, including the manufacturing of a limited number of voting system units for use in pilot programs for submission to the Secretary of State for certification or conditional approval.

CHAIR KAUFMAN: Okay. Thank you, Ryan.
MR. MACIAS: That's what I you have.
MS. MONTGOMERY: Next, we'll hear from Robbie Anderson.
MR. ANDERSON: Since it inception in 2002, the VMB has granted fund moneys for the purchase of voting systems to certified by the Secretary of State pursuant to Division 19 of the California Elections Code. The county could apply for funds if it met all the following requirements which were found in Elections Code Section 19234:

1. The county had purchased a new voting system on after January one 1999 and is continuing to make payments on that system as of the effective date of Section 19234.

2. The county matches fund moneys at a ratio of one dollar of county moneys for every three dollars of fund moneys.

3. The county has not previously requested fund money for the purchase of a new voting system.

And 4. The voting system has been certified by the Secretary of State.

In October of 2013, Senate Bill 360 was signed into law by Governor Brown. SB 360 renumbered section 19234 to Section 19254 and now allows fund moneys to be used for the purchase of systems that are either certified or conditionally approved by the Secretary of State.

Further, SB 360 allows a county to contract and pay for the following:
1. Research and development of a new voting system that has not been certified or conditionally approved by the Secretary of State and uses only nonproprietary software and firmware with disclosed source code except for unmodified commercial off-the-shelf software and firmware as defined in the bill.

2. Manufacture of a minimum number of voting system units reasonably necessary for either of the following purposes: To test and seek certification or conditional approval for the voting system; or to test and demonstrate the capabilities of the voting system in a pilot program, also defined in the bill.

SB 360 would require changes to the VMB existing policies and procedures. Prior to SB 360, counties brought both a plan to purchase certified voting systems and equipment and were reimbursed by the VMB based upon paid invoices. Now, under SB 360, counties may reimbursed by the VMB for voting systems that are conditionally certified by the Secretary of State's office. If the county purchases a conditionally certified voting system, the current process of reimbursement based upon paid invoices could continue.

In addition, counties may now be granted fund moneys for the research and development of voting systems where the VMB, the process may need to change to allow
counties to come to the Board with a plan for the research and development and may request an authorization of funding. The counties may use the authorization of funding award letter to secure a contract with a vendor and/or consultant to begin the research and development process. Existing VMB policies and procedures may need to be changed to provide funding allocations for research and development projects.

During the research and development process, counties may come to the VMB iteratively to request further authorization or funding of the research and development process. The Voting Modernization Board Act of 2002 Funding and Application Procedural Guide will need to be amended to reflect changes required by SB 360.

MS. MONTGOMERY: So in front of you, you have the proposed Voting Modernization Bond Act as amended funding application to procedural guide. We left all of our changes highlighted so the gentleman of the Board can see what we were thinking needed to be changed. So we can go through that line by line however --

CHAIR KAUFMAN: Certainly page by page and then we can drill down and if you have questions Mr. Bustamante or myself we can take them a page at a time.

MS. MONTGOMERY: Robbie Anderson has mostly taken the lead on the changes, so him and I can help you go page
CHAIR KAUFMAN: I think what would be helpful in Robbie in going through this is if you could highlight and summarize why a change was made in a particular area rather than reading word for word each change. And then we can focus on the once that really require our attention.

MR. ANDERSON: All right.

CHAIR KAUFMAN: We'll jump in and stop you with questions.

MR. ANDERSON: The first page there we did throughout the document we changed some of the tenses. It would say the VMB is announcing this much money. We change it to say the past. So that's what the first paragraph there is.

Your eligible projects we provided for the R&D projects under 360. And then changed the Elections Code section there change by 360.

And then the next we added a definition of 360, what it does, for an overview.

And moving down to the funding award and the acknowledgement, currently, the county will be given a funding award and then they get an acknowledgement of receipt of that. We created an authorization of funding award for an R&D project and say, okay, county X, you're
authorized $10 million for this project. And they can
take that to their Board or contractor and get the ball
rolling, and then they would give us the acknowledgement
of that authorization.

CHAIR KAUFMAN: Let me stop you there for a
minute. I just wanted to explore this for a minute. So
under the current system where counties are just being
awarded funding to pay for projects that they already have
to have basically paid for, we give them a funding award
letter and that's kind of it, right. Then they submit the
paperwork and they get their money?

MS. MONTGOMERY: And the receipts.
CHAIR KAUFMAN: And the receipts.
MS. MONTGOMERY: Correct.
CHAIR KAUFMAN: So now they would be getting an
authorization letter that says we agree to authorize the
funding for this project, which they then take to their
Board. And say, hey, they're willing to give us the money
to do this so now we can go ahead and enter the
agreement --

MR. ANDERSON: Yeah.
CHAIR KAUFMAN: -- for this research and
development.

MR. ANDERSON: And then they would come back
later, as the progress flows, then they would fund the
award letter later. So first part now is just an authorization.

CHAIR KAUFMAN: So authorization, step one. And then they come back and say -- but I mean, do we -- once we, as a Board, vote -- so are we voting to authorize -- when we go through this process, will we be voting to authorize and then voting again to fund? Or once they receive the authorization, it's up to whatever amount they sought, and then the rest is procedural in terms of paperwork that gets submitted to staff to kind of account for making sure the money is being spent on what we have approved it for?

MS. LEAN: I think the process is kind of -- that's what we're trying to lay out here is if we go ahead and do the authorization before any money was disbursed, they have to come back and explain what they spent the money on. So while --

CHAIR KAUFMAN: You just said, "what they spent the money on. When we get them the authorization, we're not giving them the funding."

MS. LEAN: That's correct. It's --

CHAIR KAUFMAN: It's what they will spend the money on?

MS. LEAN: Correct. When they get that contract with the consultant and they get the ball rolling, we're
basically authorizing them to let their Boards know their funding is there. So once they actually complete that phase, then they can come back and say, okay, we have this authorization, now can you pay us.

So another portion of what we were proposing in this update that there's periodic reports. Part of those periodic reports tell us where they are along, and that will help us with any kind of paid invoices.

CHAIR KAUFMAN: Okay. But again, just so I'm clear on the terminology, during that portion of it when they report back, just give us periodic status reports, is there a Board action that's required at that point or that's the money again once it's been authorized, staff has the ability to release the funds based on the reports meeting our criteria?

MS. LEAN: I think that's what we were anticipating, they would be authorized to be paid without having to come back to the Board.

CHAIR KAUFMAN: The Board says here's your first two million. Come back when you've done the next thing and here's another --

MS. LEAN: It would be similar to the way it is currently, but the terminology would be different for authorization for the funding. But with a little bit more reporting requirements along the way.
CHAIR KAUFMAN: Sure. Because there's not a physical system.

MS. LEAN: Correct. But it's up to discussion with the Board members what they would like to see happen. Because we could make it more stringent, but I don't necessarily -- in my opinion, I don't think we necessarily have to do that, as long as we get some periodic reports and things are moving along.

CHAIR KAUFMAN: Okay. Do you have anything on that?

VICE CHAIR BUSTAMANTE: No.

CHAIR KAUFMAN: Okay.

MR. ANDERSON: Then at the bottom of page 1 the county match type is inserted a reference to the R&D. We still have to do the match.

Page 2, some tense cleanup. And for the number of applications, we inserted the county may submit one initial application. We put in per funding round, in case the Board decides to do another round.

CHAIR KAUFMAN: Can I ask you something on the application submittal deadline? I realize we're modifying the policy that was in place years ago and now we're modifying it. But just so -- this is the lawyer in me. We've changed it to say initially they were received. But do we want to -- should we ever get to another round of
funding, do we want to -- I guess I don't remember
exactly -- were there any counties that -- there was one
or two counties that never submitted the initial
application?

MS. LEAN: We finally got them to submit. It was
Trinity County. We did get all the counties to submit.

CHAIR KAUFMAN: Okay. So we don't need to worry
about eligibility. I guess what I was wondering is do we
need to say instead of initially, should we say to be
eligible for the initial funding round, applications were
required to be received. And then do we want to
acknowledge that the Board could establish additional
funding rounds and set additional submittal deadlines?

MS. LEAN: I think that would be a great idea.

How about we work with you on language?

MR. ANDERSON: Moving onto page 3, an
introduction, just change the tense to bring it up to
date.

Section 3, just added the reference to 360 in the
purpose. Same with number one on eligibility
requirements, just reference 360. And --

CHAIR KAUFMAN: Before you jump ahead, is this
date still relevant? So says "Where county is eligible to
receive fund money so it meets all the following:
Purchase new voting equipment after January 1, '99, and is
continuing to make payments on that system on March 6th, 2002," or was. Is that still a relevant date that they had to have been making continuous payments on whatever system they purchased as of March 6th, 2002?

MR. ANDERSON: I'm not sure.

MS. LEAN: We can look at the modification on that. I know the January 1, 1999, is still part of the code. But we'll modify that, if needed.

CHAIR KAUFMAN: Okay.

MR. ANDERSON: Under the section the county had to meet all the requirements, so number four, we added references to conditionally approved and then also an "or" they do the R&D route.

And then also we had a number five, "fund money shall not be distributed to a county seeking fund money for R&D under SB 360 unless a signed and executed contract between the county and the vendor and/or consultant is presented to the Board."

CHAIR KAUFMAN: So this gets to what we were talking about before the concept here is that we authorized they go back to their Board, then they come back with a signed contract.

MS. LEAN: They could do that via the interim periodic reports and skip having to come back to the Board to get yet another approval.
CHAIR KAUFMAN: Right.

MR. ANDERSON: And moving down, matching funds requirement, we just added the reference to the SB 360 method.

Moving on to page 5, the project documentation package, modified number five originally provided for a schedule of milestones, but we added the time line for the research and development of a proposed new voting system.

And then down at number ten originally referenced any new federal law, and we inserted HAVA which was the law we were discussing at that point.

And then moving on the page 6, the number of copies. Originally it was eight copies.

MS. MONTGOMERY: Eight.

MR. ANDERSON: Times have changed. We want one original copy and then via e-mail or on a disk electronic.

CHAIR KAUFMAN: I've glad we've made some progress in twelve years. And at the top whatever we do we discussed previously on page 2, we can conform here on page 6.

MR. ANDERSON: Next major change in page 7, conditions of funding. This is where we talked about before with the funding award versus the authorization of funding award and the acknowledgement of those two documents.
And then eight would be the loss of funding. We added on number four the project does -- is not consistent with the requirement set forth in SB 316. And existing five talking about failure to complete the project or requesting an extension. We just added number six, the same thing for the R&D process. If they don't finish it, you get the money back or reduce the authorization to zero or county seeks an extension they can request that and the Board can consider it.

And then number eight -- sorry -- page 8, periodic reports. Jana mentioned that. Request periodic reports from the county as they move along.

Section 9, payments. Change the appendices for the payment request form once the county gets where the Board can receive payments or also depending on what method they use going the voting system route or SB 360 route, change the forms there.

We added a new paragraph before. "County submits an R&D payment request form. The county must notify the Board at least 60 days in advance of request to facilitate the sale of the bonds."

MS. LEAN: As you are aware, we don't have millions of dollars sitting in the fund account. So before any payment would be requested, the State Controller's Office told us they need about 60 days out.
So payment request form also says we have 60, 45 and
amount of time we can pay it. So with the 60-day notice
and the 60 days to pay will be fine.

CHAIR KAUFMAN: Okay. And then again that's a
notice that goes to staff that triggers whatever you need
to do?

MS. LEAN: Correct. Right. But before anything
is authorized, you are notified. The Chair is notified
that this has come in.

CHAIR KAUFMAN: Okay.

MR. ANDERSON: The last change is on page 10.

Required use of funds. We just added a reference to the
contract or vendor in the R&D phase. And then also
attached to the back of the guide is a bit of appendices.

CHAIR KAUFMAN: The letters, the notifications.

Okay. Thank you. I think it would be appropriate to ask
staff, are there any more staff reports on that?

I think it would be appropriate to call our lone
public speaker Dean Logan, the Registrar recorder for the
County of Los Angeles.

Dean, I think it would be helpful for us, one,
for you to give the Board just a status report on your
efforts to develop a system on behalf of the county of Los
Angeles; and also two, if you have any comments on the
staff proposal with regard to the process for seeking and
Mr. Logan: Great. Thank you very much.

Chair Kaufman: Thank for coming up today. Very much appreciate you traveling all this way to come and show your interest. Obviously, L.A. County is the big elephant sitting out there. But appreciate that you took the time to come up here today and grace us with your presence.

Mr. Logan: Great. Thank you very much.

For the record, I'm Dean Logan, the Registrar Recorder County Clerk for Los Angeles County. And I want to thank you for having a meeting and for your perseverance on this Board. I know it's been a long haul, and it appears it's going to be longer as we go forward.

I'm pleased to come before you today to let you know that, in L.A. County, we are making significant progress on the modernization of our voting system. It's been a long road and similarly continues to be a long road. But I think that things are coming together well. And this is -- what you're discussing today is a key component of that process.

Obviously, Senate Bill 360 was, as you indicated, a game changer in California. It really removed several
of the significant roadblocks that were in the way of L.A. County proceeding with getting a new voting system. So we're pleased that that step occurred and that that is now the law in California.

I think it's worth noting a couple things just to kind of add onto the staff report that you heard. Again, just to reinforce that with the implementation of SB 360, California now has arguably the most stringent and specific voting systems certification requirements in the county.

So I think despite the path that we took to get there, I think California is in a leadership position in that regard. There are many states and many jurisdictions all over the country that are approaching the same dilemma that L.A. County has faced for the last several years. I think what's happened here will significantly help with that.

I also wanted to note the recent report from the Presidential Commission on elections administration specifically made note of the reality of the crisis in the country with regard to voting systems development and certification processes. In that, they cited the instability of the Election Assistance Commission. As you heard today, while the EAC does have an Acting Director, it has no members and is unable to adopt any voting
systems standards. In fact, the standards that we've now adopted in California are still pending at the federal level and there is no end insight for that.

I would note I didn't anticipate at this point in my career that the quorums would be much a big issue for me. But between the EAC and this Board, I think they're becoming a potential issue.

But also the Presidential Commission did note the efforts that are taking place in Los Angeles County and similarly in Travis County, Texas, to take a different approach towards voting systems development. So I'm encouraged by that. That was a bipartisan Board. So it lends some weight and credibility to what we're trying to establish here in California. And we'll note that as we go further.

So to give you an update on where we are in L.A. County, we have invested a significant amount of local funds in research for the voting system process. And we are now at a point where we have an early stage prototype of a ballot marking device, which will be a key component of the voting system that we envision for the future in Los Angeles County. We are at a stage where we are ready to contract to take that to the next level where that prototype can actually become a functional piece of equipment that can be field tested that can be compared to
the standards by which it would be certified against once
those standards are established. So we are still on a
waiting pattern in that regard.

But the key element or the next stage in our
process is to contract to have that prototype and the
research that went into it developed into a set of system
specifications and standards so we could actually begin
looking at what manufacturing and testing and
certification of that piece of equipment would look like.

We have a contractor that we're negotiating with
now. And we are prepared as soon as you have adopted the
procedure that you're talking about today to submit a plan
in the proposal and to seek authorization. Again, we
aren't as concerned about actually being able to have the
money distributed to the county. We are concerned about
the time frame for getting the authorization for that
because, at this stage, our project is now going to be in
a waiting pattern until we can get that authorization.

So we are prepared to make a proposal for your
Board to authorize funding at this stage. We're probably
looking in the range of a ten million dollar authorization
for that particular contract. And again, we can provide
details of that once the process is developed.

So to speak to the process and the procedures
that were just presented to you, I'm seeing those for the
first time today, just as you are. I will take this back
and our staff will go through them and give feedback to
the Secretary of State staff, who have been wonderful in
this process of working with us through the implementation
of 360 and contemplating what lies ahead for L.A. County.

Two things that I noticed just in the
presentation that are questions, not necessarily fully
baked suggestions yet. But one is I want to be sure that
within the context of those procedures the term "voting
system" is used a lot. And I want to be sure we're not --
that we don't run into issues with the definition of
voting system in the sense that SB 360 actually envisions
or allows for multi-components to make up the entire
voting system.

So, for instance, the proposal that I just
referenced that we're prepared to bring to you would be
for the development of specifications for a ballot marking
device. It would not be a contract for the development of
an entire voting system. So I don't know if we need to
add language to say the voting system or a component of a
voting system or just look at the definition. I just want
to be sure we don't get hung up there.

And the second, I think this is really a
technicality just looking forward. I wonder instead of
referencing SB 360, since it's now the law in California,
if those portions of the procedures should reference the specific elements of the Elections Code, just for future reference as we go. As we go into future years SB 360, may not be a term that's as relevant to counties and to -- might be better to reference under specific Election Code.

Finally -- I think I already mentioned this -- but I think there is a sense of urgency for us. I know there's been a sense of urgency from your Board with regard to Los Angeles County. So I want to reassure you that we have a full-time team that's actually growing that's working on this project. We've now kind of flipped this where we're going to be in a waiting pattern, waiting for this process to happen.

I understand the need for adoption of this and the need for lead time for the staff to be able to receive the applications, do an analysis, and bring those back before your Board. I would just ask to the extent possible that we can accelerate that to the point we can. And once the procedures are adopted, that we can actually get some meetings scheduled relatively quickly.

I think, for us, the concern is if we're looking at the earliest of the new standards being adopted by the Secretary of State being in July, if we're looking at the likelihood of this process going into late spring, that's also during the time of the State Primary. And it's going
to be a difficult time for us that we would love to be in
a position to have this contract begin so that the people
that we contract with can be working on their deliverables
while we're working on delivering the State Primary
election. So I think everybody here understands that. I
just wanted to put that on the record. And to the extent
that we can be of any assistance in moving that forward,
we are happy to do that. Thank you.

CHAIR KAUFMAN: Thank you, Dean.

When you were talking about the voting system,
the component piece of it for this, you're referring to
the vote recording device and then on the back end the
tally system and that piece of it in the office.

MR. LOGAN: Right. Well, traditionally, voting
system under HAVA and I believe under the State process
has been defined as the end to end voting system. The
entirety of the voting system, which includes the election
definition file, I mean, everything through the tally and
certification of those votes.

CHAIR KAUFMAN: And the fact there could be
multiple devices used for different types of voting.

MR. LOGAN: Correct. I guess to get that context
in terms of where we're at in L.A. County, the development
of a tally system as we're envisioning it is going to be
dependant on what the ballot marking device is and how it
functions.

So we can't really move to development of that piece until we've kind of baked in and made a final decision that's what the ballot marking device is going to look like. That was our starting point. I want to be sure that we don't have to wait until all of those components are done in order to move forward on the research and development piece. Obviously, on the certification piece, everything has to be done and ready to go.

CHAIR KAUFMAN: Right. Thanks.

Did you have any questions?

VICE CHAIR BUSTAMANTE: Just a couple. So who's been working on this? Is this something that's been done internally or you've been working with someone outside?

MR. LOGAN: Both. We have an internal development team that's been working on this for several years, as you know. We started by doing research. And in the research phase, we contracted initially with the Cal Tech MIT voting technology project. They did a significant amount of early research through a grant from the James Irvine Foundation. We had internal staff dedicated to this.

The county has invested funds in the project. We also received a grant from the Los Angeles County Quality
and Productivity Commission that allowed us to go through a design phase that we did through a contract with IDO, which is a human centered design and research firm out of the Bay Area. They are the contractor that with us developed the prototype that I mentioned. They are also the contractor that we are currently in negotiations with for development of the specifications.

I would add that that's one of the unique features of what we're doing. And I think what is sort of envisioned under this new process under 360 is that the contractor who we will use to develop the specifications for this system is not a contractor that will ultimately manufacture and market the system.

And for us, the value there is that they will be designing the specifications based on voter needs and our needs as election administrators. And they won't be doing it from the standpoint of building something that they intend to make a profit on. That falls under the language in the bill of non-proprietary publicly owned components of the voting system.

VICE CHAIR BUSTAMANTE: Under a best case scenario, how long would it take you to do this? How long would you --

MR. LOGAN: Before we have an actual new voting system up and running?
VICE CHAIR BUSTAMANTE: In place for voters to use.

MR. LOGAN: I think realistically, we will probably begin implementation in the off cycle of 2017 with the intent of having a fully deployed new voting system in 2018. It's possible. I'd love to be ambitious and say that maybe some components could be piloted or to begin to be introduced in 2016. But that's very much dependant -- now more so dependent on the development of the voting system standards and how fast we can move through this process.

VICE CHAIR BUSTAMANTE: Absent that, your process is probably two years.

MR. LOGAN: Yeah. Two-plus years, I would say.

CHAIR KAUFMAN: Just out of -- I mean, would this firm phase -- I mean, what's the time line for that first phase that we're talking about?

MR. LOGAN: This particular contract that --

CHAIR KAUFMAN: Yeah.

MR. LOGAN: It's actually a fairly quick contract. I don't know that we've ironed that out completely. But it would be less than a year for that process. I think that the goal is to have those specifications completed and done before the end of this calendar year.
VICE CHAIR BUSTAMANTE: Remind me, because I'm a PAV. What systems are in place in the county of Los Angeles that voters use?

MR. LOGAN: Right now, Los Angeles County uses a grandfathered in voting system originally developed in 1968.

I say that a little bit tongue and cheek. It's the Ink-A-Vote Plus system. It's essentially a punch card that has been converted to an optical scan ballot. They're centrally counted at our headquarters. So for vote by mail voters, they are sent a guide and a ballot card where they have to correspond to number on the guide to the ballot card and mail that back in. In the polling place, they still use the vote recording devices. Instead of punching holes through the card, they use a inking device.

VICE CHAIR BUSTAMANTE: I mean, this doesn't necessarily have to apply to what we're talking about here. But is there any consideration to beef up the vote by mail effort in L.A. County between now and '18 when you have a new system in place?

MR. LOGAN: That's a good question. I think vote by mail in the last four years has increased significantly in L.A. County. And we do actively advertise or promote that as an option for voters.
I think one of the things that we learned in the research phase of this project is that there are some questions or some of the elements that have made vote by mail popular over the last decade. I think there are some changing factors in that. For instance, the business model of the U.S. Postal Service and the potentially we went through in the last couple cycles where they closed down postal service station, which put us put some risk at counties receiving ballots timely. There's ongoing discussion about reducing the number of delivery dates from the postal service. Those are things we're tracking to be -- just to see what kind of impact that could have on voting.

The other thing that we believe is that for future generations of voters that vote by mail does not have the same intuitive appeal or convenience that it has had in the past.

And in terms of emerging voters, don't use the postal service. So I always use my son as an example. He's a college student. He's very actively engaged, a regular voter. But he could not tell you the price of a postage stamp and likely couldn't tell you his mailing address, because it's not a part of what he functions.

While I believe the vote by mail will continue to be an option and an option that we will make broadly

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available and promote, I don't know it's sustainable as a potential single option for voters.

CHAIR KAUFMAN: I think one of the things that Dean and I have had some this conversation and we've talked about with others is I hope and I think as we move forward with developing voting systems that we see more and more flexibility in terms of people's ability to vote in advance of an election so they don't have to rely on vote by mail systems, but can potentially go to the shopping center or go downstairs in their building or what have you and be able to cast their ballots that way on reliable voting equipment that's developed just for that piece.

MR. LOGAN: I think there are other components that we're mindful of in the development process keeping vote by mail as an option occupation what we've seen with larger physical ballots, the return rate, the return postage rate varies if you have multiple page ballots. And we've seen other jurisdictions struggle with that. The cost for returning a ballot is different from one jurisdiction to the next. There's legislation that's been introduced across the street to consider having counties pay the postage on returning ballots. That would be a significant increase in elections costs for L.A. County. Obviously, we have over 1.1 million voters on the
permanent vote by mail process.

There's also continuing legislative proposals to talk about whether or not to allow for the receipt of return ballots based on postmark rather than actually received by 8:00 on election night. I think those are things we're tracking very carefully as we go down the road. That goes back to my comment about the entirety of the voting system is multiple components. The vote by mail component is definitely something we'll have to figure out as we move forward. We just started with that in person component of the ballot.

CHAIR KAUFMAN: By the way, I can't tell you how much the price of a stamp is either. Your son is not alone.

MR. LOGAN: I was happy to learn you can buy stamps that if the price changes, if you have a stamp, you can use it. That was good news.

CHAIR KAUFMAN: I have a whole drawer full of old stamps.

Okay. Well, you know one of the reasons we structured the meeting like this today is I thought it was very important for us to meet and hear and understand what the changes were so that we can make informed decisions about our policies. And we want to provide folks in the community, like you, Dean, with an opportunity to see
what's being proposed and comment on the proposed changes to our authorization process.

So what I would like to do is direct staff to kind of go back through the proposed changes and make some final adjustments to what's been proposed based on the comments you heard today. And I will work with you all, Robbie and Jana and Katherine and staff, to make sure that the language deals with some of the issues we've talked about today.

And Michael, if you have any other comments, you can certainly funnel them to staff.

And Dean, if you have any additional comments you want to formally submit, I guess I would urge doing that in the next couple weeks. What we would like to do is try to --

MR. LOGAN: In the next couple days.

CHAIR KAUFMAN: -- is try to have another meeting scheduled if not end of March, certainly by beginning of April so we can adopt these, adopt our new process, and be able to take applications and requests on a going-forward basis. And we will not let time slip. All of a sudden, this Board has an urgency that perhaps it hasn't had for the last few years.

VICE CHAIR BUSTAMANTE: How does the Secretary of state certification in the language rule making kind of
team up with any proposed application rules that we would do? I mean, if we meet in April and we take action, really the earliest that can happen until after the Secretary of State has done it --

CHAIR KAUFMAN: No, because on the research and development piece, you don't need a certification of --

VICE CHAIR BUSTAMANTE: Didn't the guidelines need to be included as part of the Secretary of State's work with regard to R&D?

CHAIR KAUFMAN: Ultimately, their system or anybody's system that's developed will have to meet whatever guidelines are in place for the Secretary of State. But as far as counties being able to come to the Board and request authorization so they can enter into contracts, I --

VICE CHAIR BUSTAMANTE: I'm not suggesting to slow it down.

MR. MACIAS: And additionally, with SB 360 as of January 1st, 2014, there are the voting system -- Voluntary Voting Systems Guidelines Version 1.1 that are in effect as of today. The Secretary of State's regulations and rulemaking process would then take over that process once adopted.

MS. LAPSLEY: Realistically what's proposed by our office isn't a whole lot different. We've done 1.1
with the higher level in a couple areas being source code
testing and also accessibility.

VICE CHAIR BUSTAMANTE: With the public comment
period and all that stuff. Okay.

CHAIR KAUFMAN: We have another county that's
been making noise about a request. So it's possible we
might have another county on tap under the -- I don't want
to say under the old system, but for funding for an actual
voting system.

MS. MONTGOMERY: That's correct. Placer County.

MS. LEAN: It's components to a voting system.

They want to come forward with a request for an
enhancement or a component part to their vote by mail
system, just like a couple other counties did, the vote by
mail sorting systems. And so I don't remember. I haven't
seen the whole plan yet.

So we might need to schedule a meeting quicker to
accommodate them and then maybe we could adopt these at
that meeting. And then, of course, give enough time for
L.A. County to submit their plan.

CHAIR KAUFMAN: I think that would be the idea.

So you know, we will work with staff on our schedules and
make sure that we have a quorum.

VICE CHAIR BUSTAMANTE: By one means or another.

CHAIR KAUFMAN: By one means or another at a
future meeting to be held sooner rather than later. And my hope would be by early to mid April at the latest.

And frankly, there are certain constraints both for you and other counties and the staff, given our upcoming election. But we want to make sure we get this done before it becomes -- timing becomes even more of a problem.

MS. LEAN: How about we look at our schedules and the election calendar and we look at trying to work with you on your schedule and see if we can set up a meeting with a quorum as quickly as possible.

CHAIR KAUFMAN: Yeah.

VICE CHAIR BUSTAMANTE: Dean, remind me, when is the primary election?

MR. LOGAN: June 3rd.

VICE CHAIR BUSTAMANTE: Okay.

MS. LEAN: Candidate filing ends in a couple of weeks. We'll be handling that with the certified list and the voter information guide. The staff is doing triple duty right now. We want to make sure we can fit in the review of any kind of plan that comes here and be able to coordinate with your schedules.

CHAIR KAUFMAN: Right. That pretty much occupies your second half of March, as I recall.

MS. LEAN: Right. I think there is a short
little window that I think we can do it in March, but I'd like to coordinate with everyone's schedules to see if that's possible.

CHAIR KAUFMAN: Okay. Well, I assure you, Mr. Logan, and other counties out there that may be listening or concerned that we will be acting quickly to get these policies in place.

VICE CHAIR BUSTAMANTE: Thank you for coming.

CHAIR KAUFMAN: Okay. I guess is there any other business that we need to discuss?

MS. LEAN: No. I don't think you can make any kind of quorum, so I think this is a great informational hearing.

CHAIR KAUFMAN: I think it is a great informational hearing. We will put off approving the last minutes at the next meeting. So we will see everybody again sooner rather than later and look forward to it. Thanks, all.

(Whereupon the hearing adjourned at 11:48 AM.)
CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of March, 2014.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
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