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3
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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
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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

INDEX

PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I. Call to Order	1
II. Roll Call and Declaration of Quorum	1
III. Public Comment: This time is set aside for public presentations regarding Board-related matters not appearing on the Agenda. Members of the public making presentations are limited to two (2) minutes per speaker.	
IV. Adoption of May 18, 2012, Actions & Meeting Minutes	
V. STAFF REPORT ON RELATED ISSUES: Receive staff report on the following issues related to Senate Bill 360:	5
(A) Overview	
(B) Funding Allocations	
(C) Board Policies and Procedures	
VI. Other Business	
VII. Adjournment	40
VIII. Reporter's Certificate	41

1 to the certification of voting systems here in the state
2 of California and with respect to our role and ability as
3 a Board to provide funding to counties for their voting
4 systems.

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

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

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

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

1 presenting to us?

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

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

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

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

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

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

21 And four, it allows the VMB to use moneys for
22 research and development of voting systems. So with that,
23 I'll turn it over to Ryan. Ryan is our Office of Voting
24 System Technology Assessment member, only member at this
25 point, and has been working extensively and can give you

1 some more insight into what the changes mean.

2 MR. MACIAS: So first, the elimination of the
3 EAC -- the federal EAC certification and/or qualification
4 makes it such that the Secretary of State is tasked with
5 conducting the full certification testing. There was a
6 grandfather date which currently sits at August 1st of
7 2013. We have one system currently being certified under
8 the old rules, but moving forward, voting systems will be
9 tested. SB 360 set a minimum standard, which is the
10 Voluntary Voting System Guidelines Version 1.1 from August
11 31st of 2012. This is a set of voting system standards
12 that has yet to be adopted by the EAC because they do not
13 have a quorum to vote on it. But they began circulating
14 back in 2007 and then had two sets of amendments since
15 then. And the August 31st, 2012, is the latest that the
16 EAC is still or just finished receiving comment on and is
17 still looking at but cannot vote on it at this time.

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

23 MR. MACIAS: Yes, they do have an Executive
24 Director and the Voting System Testing and Certification
25 Program has a Director. That is still Brian Hancock. And

1 the Voting Systems Testing and Certification Program
2 itself does not need a quorum to certify voting systems.
3 But they do need a quorum to be able to adopt any new
4 standards. But the Testing and Certification Program is
5 still moving forward and certifying new voting systems.

6 CHAIR KAUFMAN: Thanks.

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

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

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

25 MS. LAPSLEY: That isn't otherwise grandfathered

1 in.

2 CHAIR KAUFMAN: That isn't otherwise
3 grandfathered in.

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

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

11 VICE CHAIR BUSTAMANTE: And that certification --
12 sorry.

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

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

18 CHAIR KAUFMAN: Right.

19 MR. MACIAS: The other thing the bill did in
20 regards to certification is it requires the Secretary of
21 State to publish requirements for the approval of what are
22 called State-approved testing agencies, which is similar
23 to the voting system testing laboratories at the EAC. The
24 SATAs, as we call them, would be the equivalent of the
25 voting system testing labs and would conduct the testing

1 to the VVSG 1.1 currently or the Secretary of State's
2 adopted regulations.

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

7 MS. LAPSLEY: The regulation process?

8 VICE CHAIR BUSTAMANTE: Yeah.

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

16 There is a possibility that we would need to make
17 some changes based upon comments received. And if we did
18 and they were substantive, we would have to go out for a
19 15-day public comment period and then would be able to
20 submit it to OAL. OAL has 30 working days to review the
21 file. So realistically, we're looking probably July for
22 all to be said and done in a -- if there is no hickups
23 and --

24 VICE CHAIR BUSTAMANTE: Hopefully before the end
25 of the year.

1 MR. MACIAS: That's it on the certification.

2 The next step is that jurisdictions are now
3 authorized to conduct a pilot program for experimental use
4 of voting systems prior to obtaining certification from
5 the Secretary of State, so as long as the system meets
6 specific criteria. At minimum, the jurisdictions must
7 submit to the Secretary of State a plan for proposed pilot
8 programs subject to votes cast on a voting system during a
9 pilot program to a risk limiting audit and to notify the
10 Secretary of State in writing of any defect, fault, or
11 failure in the hardware, software, or firmware of the
12 voting system, which is similar in nature to what voting
13 systems currently have to do who are going through regular
14 certification.

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

22 CHAIR KAUFMAN: Okay. Thank you, Ryan.

23 MR. MACIAS: That's what I you have.

24 MS. MONTGOMERY: Next, we'll hear from Robbie
25 Anderson.

1 MR. ANDERSON: Since it inception in 2002, the
2 VMB has granted fund moneys for the purchase of voting
3 systems to certified by the Secretary of State pursuant to
4 Division 19 of the California Elections Code. The county
5 could apply for funds if it met all the following
6 requirements which were found in Elections Code Section
7 19234:

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

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

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

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

19 In October of 2013, Senate Bill 360 was signed
20 into law by Governor Brown. SB 360 renumbered section
21 19234 to Section 19254 and now allows fund moneys to be
22 used for the purchase of systems that are either certified
23 or conditionally approved by the Secretary of State.

24 Further, SB 360 allows a county to contract and
25 pay for the following:

1 1. Research and development of a new voting
2 system that has not been certified or conditionally
3 approved by the Secretary of State and uses only non
4 proprietary software and firmware with disclosed source
5 code except for unmodified commercial off-the-shelf
6 software and firmware as defined in the bill.

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

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

23 In addition, counties may now be granted fund
24 moneys for the research and development of voting systems
25 where the VMB, the process may need to change to allow

1 counties to come to the Board with a plan for the research
2 and development and may request an authorization of
3 funding. The counties may use the authorization of
4 funding award letter to secure a contract with a vendor
5 and/or consultant to begin the research and development
6 process. Existing VMB policies and procedures may need to
7 be changed to provide funding allocations for research and
8 development projects.

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

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

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

24 MS. MONTGOMERY: Robbie Anderson has mostly taken
25 the lead on the changes, so him and I can help you go page

1 by page.

2 CHAIR KAUFMAN: I think what would be helpful in
3 Robbie in going through this is if you could highlight and
4 summarize why a change was made in a particular area
5 rather than reading word for word each change. And then
6 we can focus on the ones that really require our
7 attention.

8 MR. ANDERSON: All right.

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

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

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

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

21 And moving down to the funding award and the
22 acknowledgement, currently, the county will be given a
23 funding award and then they get an acknowledgement of
24 receipt of that. We created an authorization of funding
25 award for an R&D project and say, okay, county X, you're

1 authorized \$10 million for this project. And they can
2 take that to their Board or contractor and get the ball
3 rolling, and then they would give us the acknowledgement
4 of that authorization.

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

12 MS. MONTGOMERY: And the receipts.

13 CHAIR KAUFMAN: And the receipts.

14 MS. MONTGOMERY: Correct.

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

21 MR. ANDERSON: Yeah.

22 CHAIR KAUFMAN: -- for this research and
23 development.

24 MR. ANDERSON: And then they would come back
25 later, as the progress flows, then they would fund the

1 award letter later. So first part now is just an
2 authorization.

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

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

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

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

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

24 MS. LEAN: Correct. When they get that contract
25 with the consultant and they get the ball rolling, we're

1 basically authorizing them to let their Boards know their
2 funding is there. So once they actually complete that
3 phase, then they can come back and say, okay, we have this
4 authorization, now can you pay us.

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

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

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

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

22 MS. LEAN: It would be similar to the way it is
23 currently, but the terminology would be different for
24 authorization for the funding. But with a little bit more
25 reporting requirements along the way.

1 CHAIR KAUFMAN: Sure. Because there's not a
2 physical system.

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

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

11 VICE CHAIR BUSTAMANTE: No.

12 CHAIR KAUFMAN: Okay.

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

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

20 CHAIR KAUFMAN: Can I ask you something on the
21 application submittal deadline? I realize we're modifying
22 the policy that was in place years ago and now we're
23 modifying it. But just so -- this is the lawyer in me.
24 We've changed it to say initially they were received. But
25 do we want to -- should we ever get to another round of

1 funding, do we want to -- I guess I don't remember
2 exactly -- were there any counties that -- there was one
3 or two counties that never submitted the initial
4 application?

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

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

14 MS. LEAN: I think that would be a great idea.
15 How about we work with you on language?

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

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

22 CHAIR KAUFMAN: Before you jump ahead, is this
23 date still relevant? So says "Where county is eligible to
24 receive fund money so it meets all the following:
25 Purchase new voting equipment after January 1, '99, and is

1 continuing to make payments on that system on March 6th,
2 2002," or was. Is that still a relevant date that they
3 had to have been making continuous payments on whatever
4 system they purchased as of March 6th, 2002?

5 MR. ANDERSON: I'm not sure.

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

9 CHAIR KAUFMAN: Okay.

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

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

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

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

1 CHAIR KAUFMAN: Right.

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

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

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

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

14 MS. MONTGOMERY: Eight.

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

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

21 MR. ANDERSON: Next major change in page 7,
22 conditions of funding. This is where we talked about
23 before with the funding award versus the authorization of
24 funding award and the acknowledgement of those two
25 documents.

1 And then eight would be the loss of funding. We
2 added on number four the project does -- is not consistent
3 with the requirement set forth in SB 316. And existing
4 five talking about failure to complete the project or
5 requesting an extension. We just added number six, the
6 same thing for the R&D process. If they don't finish it,
7 you get the money back or reduce the authorization to zero
8 or county seeks an extension they can request that and the
9 Board can consider it.

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

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

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

22 MS. LEAN: As you are aware, we don't have
23 millions of dollars sitting in the fund account. So
24 before any payment would be requested, the State
25 Controller's Office told us they need about 60 days out.

1 So payment request form also says we have 60, 45 and
2 amount of time we can pay it. So with the 60-day notice
3 and the 60 days to pay will be fine.

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

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

10 CHAIR KAUFMAN: Okay.

11 MR. ANDERSON: The last change is on page 10.
12 Required use of funds. We just added a reference to the
13 contract or vendor in the R&D phase. And then also
14 attached to the back of the guide is a bit of appendices.

15 CHAIR KAUFMAN: The letters, the notifications.
16 Okay. Thank you. I think it would be appropriate to ask
17 staff, are there any more staff reports on that?

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

21 Dean, I think it would be helpful for us, one,
22 for you to give the Board just a status report on your
23 efforts to develop a system on behalf of the county of Los
24 Angeles; and also two, if you have any comments on the
25 staff proposal with regard to the process for seeking and

1 awarding funds, if you have any comments with respect to
2 the proposed authorization process, that would be helpful
3 to hear.

4 MR. LOGAN: Great. Thank you very much.

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

11 MR. LOGAN: Great. Thank you very much.

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

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

24 Obviously, Senate Bill 360 was, as you indicated,
25 a game changer in California. It really removed several

1 of the significant roadblocks that were in the way of L.A.
2 County proceeding with getting a new voting system. So
3 we're pleased that that step occurred and that that is now
4 the law in California.

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

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

18 I also wanted to note the recent report from the
19 Presidential Commission on elections administration
20 specifically made note of the reality of the crisis in the
21 country with regard to voting systems development and
22 certification processes. In that, they cited the
23 instability of the Election Assistance Commission. As you
24 heard today, while the EAC does have an Acting Director,
25 it has no members and is unable to adopt any voting

1 systems standards. In fact, the standards that we've now
2 adopted in California are still pending at the federal
3 level and there is no end insight for that.

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

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

16 So to give you an update on where we are in L.A.
17 County, we have invested a significant amount of local
18 funds in research for the voting system process. And we
19 are now at a point where we have an early stage prototype
20 of a ballot marking device, which will be a key component
21 of the voting system that we envision for the future in
22 Los Angeles County. We are at a stage where we are ready
23 to contract to take that to the next level where that
24 prototype can actually become a functional piece of
25 equipment that can be field tested that can be compared to

1 the standards by which it would be certified against once
2 those standards are established. So we are still on a
3 waiting pattern in that regard.

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

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

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

24 So to speak to the process and the procedures
25 that were just presented to you, I'm seeing those for the

1 first time today, just as you are. I will take this back
2 and our staff will go through them and give feedback to
3 the Secretary of State staff, who have been wonderful in
4 this process of working with us through the implementation
5 of 360 and contemplating what lies ahead for L.A. County.

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

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

23 And the second, I think this is really a
24 technicality just looking forward. I wonder instead of
25 referencing SB 360, since it's now the law in California,

1 if those portions of the procedures should reference the
2 specific elements of the Elections Code, just for future
3 reference as we go. As we go into future years SB 360,
4 may not be a term that's as relevant to counties and to --
5 might be better to reference under specific Election Code.

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

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

21 I think, for us, the concern is if we're looking
22 at the earliest of the new standards being adopted by the
23 Secretary of State being in July, if we're looking at the
24 likelihood of this process going into late spring, that's
25 also during the time of the State Primary. And it's going

1 to be a difficult time for us that we would love to be in
2 a position to have this contract begin so that the people
3 that we contract with can be working on their deliverables
4 while we're working on delivering the State Primary
5 election. So I think everybody here understands that. I
6 just wanted to put that on the record. And to the extent
7 that we can be of any assistance in moving that forward,
8 we are happy to do that. Thank you.

9 CHAIR KAUFMAN: Thank you, Dean.

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

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

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

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

1 functions.

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

11 CHAIR KAUFMAN: Right. Thanks.

12 Did you have any questions?

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

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

24 The county has invested funds in the project. We
25 also received a grant from the Los Angeles County Quality

1 and Productivity Commission that allowed us to go through
2 a design phase that we did through a contract with IDO,
3 which is a human centered design and research firm out of
4 the Bay Area. They are the contractor that with us
5 developed the prototype that I mentioned. They are also
6 the contractor that we are currently in negotiations with
7 for development of the specifications.

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

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

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

24 MR. LOGAN: Before we have an actual new voting
25 system up and running?

1 VICE CHAIR BUSTAMANTE: In place for voters to
2 use.

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

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

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

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

18 MR. LOGAN: This particular contract that --

19 CHAIR KAUFMAN: Yeah.

20 MR. LOGAN: It's actually a fairly quick
21 contract. I don't know that we've ironed that out
22 completely. But it would be less than a year for that
23 process. I think that the goal is to have those
24 specifications completed and done before the end of this
25 calendar year.

1 VICE CHAIR BUSTAMANTE: Remind me, because I'm a
2 PAV. What systems are in place in the county of Los
3 Angeles that voters use?

4 MR. LOGAN: Right now, Los Angeles County uses a
5 grandfathered in voting system originally developed in
6 1968.

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

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

22 MR. LOGAN: That's a good question. I think vote
23 by mail in the last four years has increased significantly
24 in L.A. County. And we do actively advertise or promote
25 that as an option for voters.

1 I think one of the things that we learned in the
2 research phase of this project is that there are some
3 questions or some of the elements that have made vote by
4 mail popular over the last decade. I think there are some
5 changing factors in that. For instance, the business
6 model of the U.S. Postal Service and the potentially we
7 went through in the last couple cycles where they closed
8 down postal service station, which put us put some risk at
9 counties receiving ballots timely. There's ongoing
10 discussion about reducing the number of delivery dates
11 from the postal service. Those are things we're tracking
12 to be -- just to see what kind of impact that could have
13 on voting.

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

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

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

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

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

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

1 permanent vote by mail process.

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

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

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

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

20 Okay. Well, you know one of the reasons we
21 structured the meeting like this today is I thought it was
22 very important for us to meet and hear and understand what
23 the changes were so that we can make informed decisions
24 about our policies. And we want to provide folks in the
25 community, like you, Dean, with an opportunity to see

1 what's being proposed and comment on the proposed changes
2 to our authorization process.

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

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

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

16 MR. LOGAN: In the next couple days.

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

24 VICE CHAIR BUSTAMANTE: How does the Secretary of
25 state certification in the language rule making kind of

1 team up with any proposed application rules that we would
2 do? I mean, if we meet in April and we take action,
3 really the earliest that can happen until after the
4 Secretary of State has done it --

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

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

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

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

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

24 MS. LAPSLEY: Realistically what's proposed by
25 our office isn't a whole lot different. We've done 1.1

1 with the higher level in a couple areas being source code
2 testing and also accessibility.

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

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

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

11 MS. LEAN: It's components to a voting system.
12 They want to come forward with a request for an
13 enhancement or a component part to their vote by mail
14 system, just like a couple other counties did, the vote by
15 mail sorting systems. And so I don't remember. I haven't
16 seen the whole plan yet.

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

21 CHAIR KAUFMAN: I think that would be the idea.
22 So you know, we will work with staff on our schedules and
23 make sure that we have a quorum.

24 VICE CHAIR BUSTAMANTE: By one means or another.

25 CHAIR KAUFMAN: By one means or another at a

1 future meeting to be held sooner rather than later. And
2 my hope would be by early to mid April at the latest.

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

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

12 CHAIR KAUFMAN: Yeah.

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

15 MR. LOGAN: June 3rd.

16 VICE CHAIR BUSTAMANTE: Okay.

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

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

25 MS. LEAN: Right. I think there is a short

1 little window that I think we can do it in March, but I'd
2 like to coordinate with everyone's schedules to see if
3 that's possible.

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

8 VICE CHAIR BUSTAMANTE: Thank you for coming.

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

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

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

19 (Whereupon the hearing adjourned at 11:48 AM.)
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