



COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

May 31, 2002

TO: EACH SUPERVISOR
FROM: Conny B. McCormack, Registrar-Recorder/County Clerk

UPDATE ON PROPOSITION 41 FUNDING ALLOCATION PROCESS FOR VOTING SYSTEM MODERNIZATION

The passage of Proposition 41 at the March 5, 2002 election established a \$200 million bond program for voting system modernization. The language of this proposition states that decisions regarding criteria for application for funds and the formula or criteria for funding allocation will be the responsibility of a five-member Voting Modernization Board (VMB) consisting of three appointees by the Governor and two by the Secretary of State (SOS).

Although the VMB has not yet been constituted (the SOS recently made his two appointments but the Governor has not yet announced his selections), the Secretary of State has made preliminary plans to convene the first meeting of the VMB on June 6, 2002 assuming at least one of the Governor's appointees has been selected in order to have a quorum. The Secretary of State wants the VMB to move quickly in order to make funding available to counties beginning this fall.

In preparation for funding allocation decisions, the SOS requested all counties submit a pre-application by June 5, 2002 in order to compile preliminary numbers based on estimates provided by counties that plan to request funds. We submitted a pre-application yesterday (copy attached). I have been advised by the Elections Director of the SOS that although all counties have not yet submitted pre-applications, the financial requests to date exceed \$300 million for a fund that is limited to \$200 million. Therefore, the VMB's decisions regarding funding allocation criteria will be crucial to determining the amount of funds the County can anticipate from this bond measure. As one of the nine California counties under federal court order to replace our punch card voting system in advance of the 2004 elections, we are striving for recognition of our needs for funding to implement a phased-in approach to new voting system installation.

Attached is additional information received late today from the SOS outlining key issues and decision items for the VMB to consider once it is constituted and begins to meet regarding allocation of Proposition 41 funds. I or Chief Deputy Kris Heffron will be in attendance at the first meeting of the VMB whether it is held next week or at a later date. I will keep you apprised as this process unfolds.

Attachments
C: CAO
CIO
County Counsel

May 30, 2002

**PROPOSITION 41
VOTING SYSTEM MODERNIZATION
PRE-APPLICATION INFORMATION**

NAME OF COUNTY: Los Angeles

CONTACT PERSON: Conny B. McCormack
Registrar-Recorder/County Clerk
(562) 462-2716

- Q. Does your County plan to apply for funds from Proposition 41 to update your voting system?
- A. Yes.
- Q. Please indicate the amount of funds you estimate your County will apply for (this is only an estimate; you will not be held to this number should it change as you refine your request).
- A. It is our understanding that Prop 41 money is only applicable to the costs associated with the voting equipment (i.e. machines/hardware and the software costs for ballot layout/ballot tally), and that the funds cannot be used for other expenses incurred when converting to a new voting system including training of staff and poll workers, consultants, voter education on the new voting system, warehouse reconfiguration, on-going hardware/software maintenance, etc. Prop 41 was established with a 3:1 State/County matching grant formula. Our County's estimate for voting equipment and software costs for our three phase approach (explained below) is approximately \$107,500,000 of which \$80,625,000 would be the amount requested from the State in accordance with the formula.
- Q. If your County is planning to convert to a new voting system, please indicate a) your current voting system, b) the voting system you plan to convert to and c) the date of planned conversion.
- A. The County's current voting system is Votomatic punch card. Our County envisions transitioning from the punch card system in three phases. Phase I will begin in November 2002 when Direct Record Electronic (DRE) touch screen voting will be in place for "early voting" at 21 locations throughout the County during the two week-period prior to the election. All 21 sites will contain every ballot type (500+ distinct types), enabling any voter to cast a ballot on the touch screen system at the voter's choice of any of the established sites throughout the County. A contract for the DRE equipment (hardware/software costs \$3.5 million) and support services was finalized on

April 16, 2002. In addition to plans to continue to use this equipment for early voting in conjunction with all major elections in the future, sufficient DRE equipment was purchased to conduct election day voting on touch screens at every voting location for small-scale, special elections that are called during the next few years. The goal is to familiarize as many voters as possible with electronic voting prior to full Countywide implementation of DRE voting (i.e. Phase III as described below).

Due to the timeline of punch card voting system de-certification, which was accelerated by the recent federal court decision mandating replacement of punch card voting with any other certified voting system in advance of the March 2004 Presidential Primary Election, there is insufficient time for the County of Los Angeles to issue a request for proposal, select a vendor and finalize a contract for a sum of approximately \$100 million in less than two years. Additionally, as was thoroughly explained in this County's testimony at the Secretary of State's hearing on de-certification in November 2001 (copy attached), it would be unwise, and indeed invite disaster, for the largest County in the United States, with 4 million registered voters and 5,000 voting locations, to attempt countywide conversion to a new DRE system at a high profile election such as the March 2004 Primary Election.

Therefore, Los Angeles County plans Phase II, consisting of an intermediate conversion to an optical scan single card system for use at all voting locations beginning with the November 2003 Uniform District Elections (UDEL), with continuing use countywide throughout the 2004 election cycle. Even after the contemplated full conversion to a DRE touch screen system countywide, the optical scan single card system will remain in place for absentee voting by mail. The cost of equipment conversion to the single card optical scan voting system is expected to be approximately \$4 million. Based on Proposition 41's grant formula of 3:1, it is estimated that \$3 million of the cost of this optical scan transitional system will be included in the County's application for Proposition 41 funds.

Phase III, full countywide conversion to a DRE touch screen system in all 5,000 voting precincts is estimated to cost \$100 million for hardware/software. The first large-scale DRE election is anticipated to be the November 2005 UDEL election, followed by countywide implementation for the 2006 Primary Election.

Attachment

Executive Office
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Political Reform



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Secretary of State
State of California

ELECTIONS
1500 - 11th Street, Room 560
Sacramento, CA 95814
P.O. Box 944280
Sacramento, CA 94244-2600
(916) 657-2188
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only 1-800-833-8683
(916) 653-3214 FAX
Internet: www.ss.ca.gov

May 31, 2002

TO: All County Clerks/Registrars of Voters (02147)

VIA FAX

FROM:

cjohn mott-smith
JOHN MOTT-SMITH

Chief, Elections Division

SUBJECT: URGENT INFORMATION – PROPOSITION 41

As you know, as of today we have scheduled an initial meeting of the Voting Modernization Board for June 6th beginning at 10 am here in our building. Attached is a copy of the agenda for that meeting.

I recommend that if your county is applying for Proposition 41 funds you, or someone from your county, plan to attend this meeting.

However, the meeting may be cancelled. As of today, Friday May 31st, we do not have any appointments to the Board from the Governor. Secretary Jones has made his two appointments, but without at least one of the governor's 3 appointments the Board will not have a quorum and will not be able to function. We remain hopeful that the Governor will make an appointment today and will keep you posted as to the status of the meeting.

I also attach a draft of a white paper on "Key Issues and Discussion Items" for the Board at their meeting so that you can review it beforehand.

If you have any questions, please feel free to contact me directly at 916/653-3228.

B&e/ccrovrejune6-052

Executive Office
 Archives
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May 24, 2002

VOTING MODERNIZATION BOARD

Board Meeting
Thursday June 6, 2002
10:00 am

Secretary of State Building
 Auditorium
 1500 11TH Street
 Sacramento, Ca 95814

AGENDA

- I. WELCOME AND ADMINISTRATION OF OATH OF OFFICE
 The Honorable Bill Jones, Secretary of State
- II. CALL TO ORDER
- III. ROLL CALL AND DECLARATION OF QUORUM
- IV. SELECTION OF CHAIR AND VICE CHAIR
- V. 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.
- VI. NEW BUSINESS AGENDA ITEMS The opportunity for public comment will be offered for each New Business Agenda Item listed below.
 - a. VOTING MODERNIZATION BOARD POLICIES AND PROCEDURES
 Receive a staff report and consider adoption of the Voting Modernization Board Policies and Procedures
 - b. OVERVIEW OF PROPOSITION 41
 Receive a staff presentation regarding Proposition 41 and a description of the voting systems currently certified for use in the State

- c. VOTING MODERNIZATION BOARD BUDGET AND STAFFING Receive a staff report and consider adoption of a Memorandum of Understanding providing Board support services
- d. PROPOSITION 41 IMPLEMENTATION SCHEDULE
Receive a staff report and consider adoption of the Meeting and Implementation Schedule
- e. APPLICATION AND AGREEMENT - CRITERIA FOR ALLOCATION OF FUNDS TO COUNTIES TO UPDATE VOTING SYSTEMS
Receive a staff report and consider adoption of the Voting Modernization Board Fund Application and Procedural Guide
- f. VOTING MODERNIZATION PLAN
Receive a staff report and consider adoption of the Voting Modernization Board Voting Modernization Plan

VII. ADJOURNMENT

NOTICES:

- Following or at anytime during the meeting, the Board may recess or adjourn to closed session to consider pending or potential litigation or personnel related matters (Authority: Government Code Section 11126)
- Agenda items may be taken out of order
- Persons interested in addressing the Board on any Agenda item must fill out a speaker request form and present it to the Board's administrative staff prior to the Board's consideration of the item. The Board may limit the time for an individual's public testimony
- In accordance with Title II of the Americans with Disabilities Act of 1990, reasonable accommodations are available. Requests for reasonable accommodations should be made at least 5 working days in advance of the meeting date. To request reasonable accommodations please call (916) 653-1424
- For further information or copies of Agenda items please call (916) 653-1424

VOTING MODERNIZATION BOARD

KEY ISSUES AND DECISION ITEMS

MAY 31, 2002

1. **SCHEDULE FOR THE ALLOCATION OF FUNDS**

BACKGROUND

Proposition 41 does not indicate a schedule for allocation of funds to counties to modernize voting systems.

OPTIONS

- 2.A Adopt the attached meeting, application, and public hearing schedule that results in fund allocation by October of 2002.
- 2.B Establish a different schedule.

KEY ISSUES

The VMB has conflicting imperatives to consider and balance. The VMB can undertake an aggressive schedule to get Proposition 41 funds to the counties as quickly as possible, or it can determine that more time is required to appropriately administer its duties under Proposition 41.

ARGUMENTS FOR AN AGGRESSIVE SCHEDULE

- Any county wanting to convert to a more modern voting system for the March 2004 Presidential Primary needs to immediately begin the process of making that conversion. New systems should be tested in smaller, local elections -- such as November 2003 UDEL elections -- to work out bugs and make necessary refinements prior to using the voting system in a statewide election. The process of selecting a new voting system depends, in part, on the availability of state funds. A county may choose one system if they have certain knowledge that they will receive \$X from Proposition 41, but an entirely different system in the absence of state funds.
- 9 counties in California (Alameda, Los Angeles, Mendocino, Sacramento, San Bernardino, San Diego, Santa Clara, Shasta, and Solano) -- representing approximately 55% of those eligible to vote in the state -- are under the order of a federal court to convert from Votomatic or Pollstar to a new voting system by March 2004.

- Some counties have already implemented new voting systems and know exactly the cost and will be seeking reimbursement for that cost.

ARGUMENTS FOR A LONGER FUND ALLOCATION TIMEFRAME

- Many, if not most, counties have not yet begun, or are in the very early stages of the process for conversion to a new voting system. These counties may not have initiated or completed an RFP to select a technology and a vendor. An aggressive schedule could be predicated on an application process that does not require final purchase at the time of application, but which does not actually disburse funds to a county until that purchase is complete.
- Several counties may be contemplating a phased conversion process, that could begin with an early voting program to acquaint voters with a new system. Again, this approach could be implemented with a conditional application process.
- Several applications for certification of new voting systems are currently pending with the Secretary of State's office. Until certified, these systems cannot be used in elections in California. Arguably, the more systems counties have to choose from the more competitive the marketplace will be and the greater chance the state will have to get the most for its Proposition 41 dollars.
- Some counties will be converting to two new voting systems -- one for polling place voters and one for absentee voters. This increases the complexity of all steps of the conversion process.

TIMING OF FUNDS AVAILABILITY

Although improvements in voting systems will be funded by the sale of bonds, it is not necessary to wait for the actual sale in order to provide money to counties to convert. The VMB may request the use of the Pooled Money Investment Account.

PROCESS FOR INPUT FROM COUNTIES

Whichever schedule is selected by the VMB, the process must be designed to include meaningful opportunities for counties to: develop applications, submit and present these applications to the VMB and make their best case for funding, and/or resubmit their application if the VMB denies their initial application.

RECOMMENDATION

The VMB should adopt an aggressive schedule for counties to apply for Proposition 41 funds, make their case for funding in a public hearing, and/or have the opportunity to retool and resubmit their initial application if the initial application is rejected. The following schedule is proposed:

JUNE 6, 2002	VMB Organizational Meeting
JUNE 19, 2002	VMB Adopts Criteria for Allocation of Funds and Implementation Plan
JUNE 26, 2002	Applications Available
AUGUST 12, 2002	Applications Due
AUGUST 26, 2002	Public Hearing on Applications
SEPTEMBER 16, 2002	Preliminary Allocation of Funds; Period for Resubmittal Begins
OCTOBER 16, 2002	Finalize Initial Allocation of Funds, including Conditional Allocations

The VMB would meet regularly thereafter, on a schedule to be determined, to review Project Documentation, allocate funds, and revise funding as appropriate.

2. CRITERIA FOR ALLOCATING FUNDS

BACKGROUND

Proposition 41, enacted by the voters at the March 5, 2002 Primary election, created the Voting Modernization Fund. The purpose of the fund is to assist counties in upgrading voting and vote counting equipment. Applications must be made to the Voting Modernization Board, and must meet the criteria set forth in Elections Code sections 19234 and 19235.

The attached table indicates that, based on "ballpark" estimates provided by the counties, the dollar amount of applications for funds exceeds the \$200 million to be allocated. The Board will have to establish criteria for distributing these funds.

STATUTORY CRITERIA/REQUIREMENTS FROM PROPOSITION 41

1. The county has "purchased" (past tense) a new voting system after January 1, 1999, and is continuing to make payments on that system as of March 6, 2002. The issue for the Board is whether it can allocate funds based on a conditional future action. For example, many counties will not have completed the purchase process at the time of application (19234).
2. The county must provide one dollar in matching funds for every three dollars provided by the state (19234).
3. The county may not have previously requested fund monies to purchase a certified voting system. However, the county may apply for funds in phases to complete a plan to fully convert polling place and absentee voting systems.
4. Fund moneys may not be used for "pre-scored punch card" voting systems. This eliminates "Votomatic", "Pollstar" and absentee ballots used with the "Datavote" system.
5. The Board may reject any application for fund money that it finds to be "inappropriate, excessive, or that does not comply with the intent of this article" (19235).
6. Any voting system that is not paper based must produce a printed record of the voter's vote, either at the time the voter casts his or her ballot, or at the time the polls are closed.

OPTIONS

1. Allocate funds based on a formula that distributes funds equally to all applicants based on: (a) the population of the county; (b) the number of persons eligible to register to vote; (c) the pro-rata or proportionate share of the funds requested; or, (d) the number of polling places.
2. Determine that the intent of Proposition 41 was to "upgrade" and "modernize" voting equipment and to promote those voting systems which most fully meet federal language requirements, provide opportunity to persons with disabilities to cast secret ballots, and give added weight to applications for funds for systems that meet this intent.
3. Establish a "first-come-first-served" application process and allocate funds until the \$200 million is exhausted, based on proof of actual purchase of new voting systems.
4. Give priority to applications from counties that are under court order to convert their voting systems.

KEY ISSUES

DISCUSSION

Preliminary information from county election officials indicates that applications for funds will approximate \$300 million, while Proposition 41 has established only \$200 million for upgrading voting equipment. From this information, it appears that the Board must decide on some form of selection criteria.

Proposition 41 creates a fund to "assist counties in the purchase of upgraded voting systems." It defines "voting system" as "any voting machine, voting device, or vote-tabulating device that does not utilize pre-scored punch card ballots." This definition appears to limit requests for funding to the actual equipment used to vote or count votes, and does not include peripheral costs such as public education, pollworker training, building modifications, etc. Following are optional methodologies for the allocation of available Proposition 41 funds:

The Federal government is currently considering election reform legislation that could result in additional funds being available to states and counties for, among other things, upgrading voting equipment. The amount, timing, and process for applying for these funds will not be known until a bill is agreed on by both the House and the Senate, and is signed by the President. If additional funds are available the distribution of these funds will most likely not involve the Board. Counties could conceivably use federal funds to either augment Proposition 41 monies, or as the local match requirement for applying for Proposition 41 funds.

FORMULA-BASED REIMBURSEMENT

A formula-based reimbursement ensures that all applicants can receive funds. The funds may be distributed by different formulas, including: (1) The number of eligible voters in the county; or, (2) The number of polling places in the county.

Arguably, a formula-based reimbursement is the fairest process, and the least susceptible to subjective decision-making or influences.

Counties would be required to use the funds for voting systems certified by the Secretary of State.

A formula that determines the total number of polling places in the state, and divides \$200 million by that number, yields a \$/polling place. For example, if there are 20,000 polling places in the state, the allocation would be \$10,000 per polling place. The county match requirement would increase this to \$13,333 per polling place.

California counties are permitted to declare precincts with fewer than 250 registered voters as "mail ballot precincts". These precincts do not have polling places -- all the voters vote by mail. The number of polling places for the November 2000 General Election was 25,702. The number of precincts for the March 2002 election was 22,976. The number of "polling places" would be smaller than the number of "precincts", based on the subtraction of mail ballot precincts, as well as subtraction of the number of polling places in counties not applying for Proposition 41 funds.

This money would have to also fund absentee voting systems.

CRITERIA-BASED SELECTION

This method is a more complex and subjective approach to allocation of funds. However, this approach would acknowledge the intent of the Legislature to place Proposition 41 on the ballot to upgrade and modernize voting system equipment. Some of the criteria that could be included in this approach are listed below. Specifically, in order to receive funding, priority would be given to a voting system that is designed to:

1. Be "voter friendly" and easy to use.
2. Be accessible to persons who are elderly or disabled. (This may be a requirement of the federal election reform legislation.)
3. Be capable of meeting the federal requirements for language materials in the Voting Rights Act. (The Census Bureau will issue its determinations of which counties are subject to minority language requirements, and for which languages, either in September of this year or January of 2003. It is anticipated that the number of California counties with language requirements will increase from the

current level of 18 to more than double that number. Additionally, some counties that are currently required to only provide voting materials in one language may, as a result of the 2000 census, have a requirement to provide materials in two or more languages. Finally, the federal law currently applies to Spanish, Chinese, Vietnamese, Japanese, and Tagalog, and the census may result in new languages being included in the minority language requirements of the Voting Rights Act.

4. Be reliable over a period of years, so that voters do not have to continuously change from one voting system to another. The process of conversion from one voting system to another is more than just replacing equipment and other hardware. Voters must be educated about how to operate the equipment properly, and polling place workers must be retrained in order for the conversion to be successful.
5. Reduce or eliminate the opportunity for over votes.
6. Reduce or eliminate the number of unintentional under votes.
7. Reduce or eliminate questions and issues concerning the intent of the voter in casting his or her vote and ballot.
8. Maximize the security of the voting system from error, fraud, or manipulation.
9. Encourage the public's trust in the integrity and accuracy of the voting and vote counting processes.
10. Provide meaningful audit ability of the voting process, for purposes of the one percent manual recount, the canvass of the vote, and any official recount or contest procedure.
11. Offer the potential for "early voting" opportunities.
12. Reduce the cost of conducting the election.
13. Increase the speed of vote tabulating and reporting of election results.

FIRST-COME-FIRST-SERVED

Proposition 41 permits any county to apply for funds if it purchased a voting system after January 1, 1999 and it is still making payments on that voting system. It appears that this language was included in order to recognize as pioneers counties that acted to upgrade their voting systems before Proposition 41 funds were available.

Some counties, including possibly some of those under court order to convert to a new voting system, are very early in the process of selecting a vendor and determining costs.

In some instances, it is likely that counties may propose to "phase in" a new voting system. This could be done by first introducing the absentee system to all voters, and in subsequent years converting polling places to optical scan or touch screen technology. By the nature of this phased in conversion, these counties could be placed at the end of the line and not receive funding for the polling place conversion to an upgraded system.

A "first-come-first-served" allocation process could stimulate counties to apply for funds and convert to more modern systems more rapidly, but it may also result in some counties not receiving funds.

COURT-ORDERED CONVERSION

9 counties (Alameda, Los Angeles, Mendocino, Sacramento; San Bernardino, San Diego, Santa Clara, Shasta, and Solano) are under a court order to convert from their current punch card system to a new system not later than March 1, 2004. This conversion must include both the voting system used at polling places and a new system for voting absentee. These counties may convert to any voting system certified by the Secretary of State.

RECOMMENDATION

The Voting Modernization Board should adopt a formula for allocating funds based on the number of polling places in each county.

B&E/VMBwhitepaper-5-052

NEWS



RELEASE

California Secretary of State Bill Jones

BJ02:55

FOR IMMEDIATE RELEASE

Thursday, May 23, 2002

Contact:

Shad Balch
Alfie Charles
916/653-6575

Jones Announces Appointments to Voting Modernization Board

SACRAMENTO --- Secretary of State Bill Jones announced today that he has appointed former Assemblymembers Jim Cunneen and Barbara Alby to serve on the new Voting Modernization Board, which was created by the voter-approved Proposition 41 at the March 5, 2002 primary election.

"Barbara Alby and Jim Cunneen both have the unique qualifications required to carry-out the important role of the new Voting Modernization Board as counties begin upgrading their voting systems," said Secretary Jones. "I've worked closely with both of these individuals for many years and know they understand the importance of ensuring a smooth and timely transition to new voting methods throughout California."

Jim Cunneen, 40, is the President and CEO of the San Jose Silicon Valley Chamber of Commerce. He represented the Silicon Valley in the State Assembly from 1994-2000. Prior to his election to the Assembly in 1994, Cunneen was the Global Corporate Affairs Manager for Applied Materials, a leading Silicon Valley high-tech company. For seven years, he has also assisted his father-in-law with marketing and sales for a family-owned retail furniture business. Jim, his wife, a San Jose attorney, and two children live in San Jose.

Barbara Alby is a partner with her husband in Laser Concrete Construction, a Sacramento-based company specializing in commercial construction. In addition, she serves as Senior Consultant to Representative Roy Ashburn in the State Legislature. She represented the 5th Assembly District from 1993-1998 where she authored the landmark legislation, Megan's Law. Barbara and her husband Dennis live in Folsom.

Proposition 41, the Voting Modernization Bond Act of 2002, allows the state to issue \$200 million in general obligation bonds for counties to replace outdated voting systems. The new five-member Voting Modernization Board will consider applications and disburse bond proceeds to counties as they purchase new voting equipment. Two members are appointed by the Secretary of State and three by the Governor. Board members do not receive a salary, and Senate confirmation is not required.

-more-

BJ55:02

The Governor has not yet named his appointees. The first meeting is tentatively scheduled for June 6, 2002 to meet the short timeline to allow counties to receive funds to replace voting systems in time to meet the March 1, 2004 deadline imposed by a federal court earlier this year.

-30-