



Public Informational Hearing Background

**The Future of Voting in California:
The People, the Equipment, the Costs
Secretary of State's Office
1st Floor Auditorium
February 8, 2010, 10:00 a.m.**

Voting is the foundation of our democracy. Voters who have doubts about whether their votes are counted as they were cast are likely to question whether elected officials truly represent and serve the public interest.

There are many facets to successfully administering an election, but this hearing will focus on the areas that are most visible to people on Election Day – the voting machines that voters use to cast their ballots and the machines that tally those ballots. Despite, or perhaps in response to, a national overhaul of the voting systems used across the country since 2002, there are many questions about the current state and the future of the voting system marketplace, including:

- Are the voting systems elections officials are offered for purchase and voters are required to use secure, accurate, reliable, and accessible?
- Are there better methods and equipment for casting and counting ballots?
- What unanticipated problems and challenges may any such method or equipment pose for voters and elections officials?
- What are the costs of moving to new voting methods or equipment?
- What are the costs of maintaining existing systems to ensure they are secure, accurate, reliable, and accessible?
- Who should pay for new voting systems?
- What system will be easy for voters to use?
- How should county elections officials assess whether to move to a new voting system and whether a system will fit the needs of their electorate?
- What lessons have been learned since the implementation of the federal Help America Vote Act of 2002 (HAVA) and how can policy makers ensure that mistakes are not repeated?

A decade ago, the recount of ballots cast in Florida in the 2000 Presidential Election focused the nation on how elections were conducted and on the equipment voters were asked to use to cast their ballots. It was that election where many voters and policy makers first became aware of the shortcomings associated with casting and counting ballots on punch card voting systems, which were widely used at the time.

Congress reacted by passing HAVA, which imposed new requirements for voting systems to meet, set new accessibility requirements for every voting system, and which led to the effective elimination of the use of punch card voting systems. The mandates contained in HAVA had the effect of creating a seller's market for the voting system industry, since the vast majority of voting jurisdictions across the country had to replace their existing systems with HAVA-compliant systems by January 1, 2006.

California counties used funding provided in HAVA together with funding from a 2002 voter-approved \$200 million state bond act to buy new voting systems. Some counties purchased systems that equipped every booth in every polling location with a direct recording electronic (DRE) voting machine. Other counties purchased optical scan systems and combined them with one DRE or electronic ballot marking device in each polling location to comply with HAVA. At least one county modified its punch card system to perform as an optical scan system and added a ballot marking device in each polling location to comply with HAVA.

Even before counties in California deployed their new systems, public concerns emerged about the security of DRE systems, which recorded and tallied votes electronically instead of using paper. Although DRE systems had undergone testing and were certified by the National Association of State Election Directors, reports of serious problems and risks associated with the new DRE systems began to emerge from other states where the technology had already been deployed.

The California Secretary of State's 2007 top-to-bottom review of voting systems used in the state uncovered security flaws in both DRE and optical scan voting systems. Following the review, the Secretary of State imposed new conditions to improve the security of both types of systems and limited the use of DREs of two voting system manufacturers to just one DRE per precinct. Following the top-to-bottom review, the Secretary of State added new security testing to the state testing and approval process for all new voting systems before they can be used in California.

Eight years have passed since HAVA became law. Since its enactment, billions of taxpayer dollars have been spent to buy and maintain voting systems. The voting system industry itself has been through changes as well, with a rapid expansion following the enactment of HAVA and now a major market consolidation that will impact county elections officials and voters.

While there are new market entrants on the horizon, there are questions about their viability given the structure of the marketplace and the real or perceived barriers to entry. New technologies that rely on open or disclosed source software are in development, while at the same time, the state of Washington recently joined Oregon as an all-mail balloting state.

Even if the appropriate public policy answer to the current challenges were obvious – which it is not – the reality is any solution will be greatly influenced by the current and projected financial challenges faced at the federal, state, and local levels.

What should Californians demand from the next generation of voting equipment and how can they drive the market to develop the products and options that truly serve the interests of voters? These are the questions the participants in this hearing have been asked to begin to address.