

Whereas, due to the failure of the Independent Testing Authority laboratories to complete the tasks required of them in a timely fashion, county elections officials have advised that there is not adequate time to secure corrected copies of the ES&S voting system application software and reinstall it in time for use in the February 5, 2008, Presidential Primary Election; and

Whereas, Item 40 of the Additional Conditions for Use of the Election Systems & Software, Inc. Optical Scan Voting System provides that, where circumstances require it, the Secretary of State may adjust or suspend any of the conditions of recertification for a vendor or a jurisdiction, as the Secretary of State deems prudent and necessary to facilitate successful election administration, and that such adjustments or suspensions shall be deemed to be incorporated into the additional conditions as if set forth in full; now

Therefore, I, Debra Bowen, Secretary of State for the State of California, find and determine, pursuant to Division 19 of the Elections Code, as follows:

For the reasons set forth above, Item 1 of the Additional Conditions for Use of the Election Systems and Software, Inc. Optical Scan Voting System is waived for the February 5, 2008, Presidential Primary Election. All of the requirements of Item 1 must be met before the voting system may be used in the June 3, 2008, Statewide Primary Election.



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, this 9th day of January, 2008.

A handwritten signature in black ink that reads "Debra Bowen". The signature is written in a cursive style with a large, flowing "D" and "B".

DEBRA BOWEN
Secretary of State