

# Senator Alex Padilla

## Fact Sheet



### **SB 360 – PADILLA** **Publicly Owned Voting Systems (3/14/2013)**

#### **Summary**

This bill would allow counties to own, develop, and operate voting systems.

#### **Background**

Our right to vote is the fundamental way in which we engage our government. The integrity of voting relies on the trust that each vote is counted as cast. Transparency of voting systems is vital for the public's ability to verify and trust election outcomes.

The vote count controversy of the 2000 Presidential election caused a national push to upgrade voting technology. In 2002, Congress passed the Help Americans Vote Act (HAVA). HAVA providing every state funding to upgrade their polling place and vote count technology.

California received \$265 million in HAVA funds; including \$75 million for new voting equipment and \$40 million for a new statewide voter database. The voting equipment funds were distributed to each county. The counties were then required to purchase a new voting system.

Nearly all California counties purchased their voting systems from five different vendors. The vendors offered a variety of systems and upgrades resulting in a patchwork of technologies throughout California. In addition, the vendors

considered their technology intellectual property, thereby limiting public access to both the operating software and hardware.

#### **Los Angeles County Voting System Project**

Los Angeles County did not purchase a new system because they could not identify one that met their unique needs. L.A. County is the most populated and geographically expansive county in the U.S. and the most complex election jurisdiction in the nation. The county has 10 million residents spread across 4,000 square miles and over 500 political districts. This complexity is compounded by a voter population that continues to diversify, new federal and state voting requirements, an increase in the frequency of special elections, and an aging voting system. Though it has received some updates, the voting system in Los Angeles County's is 30 years old.

In 2009, the Los Angeles County Registrar-Recorder/County Clerk (RR/CC) launched the Voting Systems Assessment Project (VSAP) with the goal of developing its own voting system. Los Angeles County would be the first county in the U.S. to develop, own and operate its own voting system.

The VSAP developed standards that the new voting system must meet, including;

- The system must provide transparency.
- The system must instill public trust by providing a physical record of the vote.

- The system must be accountable to the voters.
- The system must be flexible and provide access to all voters.

The RR/CC is currently seeking to enter into contract with a company to begin developing the voting system. However, the RR/CC has been unable to enter into the development because current state law requires federal approval from the Elections Assistance Commission (EAC).

### **The Election Assistance Commission**

The EAC was established by HAVA. In theory, the EAC is an independent, bipartisan commission responsible for developing guidance to meet HAVA requirements, and accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds.

In practice, as of 2012 the EAC has neither commissioners nor an executive director.

On November 19<sup>th</sup>, 2012 U.S. Senator Barbara Boxer sent a letter to congressional leaders calling for the appointment of EAC Commissioners. Her letter states; *“The EAC, which currently has no commissioners and no executive director, has not held a public meeting since 2011. Staff members have continued to perform the day-to-day functions of the EAC, but without Senate-confirmed leaders, the Commission can do nothing of importance.”*

The EAC is currently unable to approve new voting systems in a timely manner, especially the Los Angeles County Project which is a new and unique system.

### **Existing Law**

Elections Code 19201

(a) No voting system, in whole or in part, shall be used unless it has received the approval of the

Secretary of State prior to any election at which it is to be first used.

(b) No jurisdiction may purchase or contract for a voting system, in whole or in part, unless it has received the approval of the Secretary of State.

Elections Code 19250.

(a) On and after January 1, 2005, the Secretary of State shall not approve a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(b) On and after January 1, 2006, a city or county shall not contract for or purchase a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(c) As of January 1, 2006, all direct recording electronic voting systems in use on that date, regardless of when contracted for or purchased, shall have received federal qualification and include an accessible voter verified paper audit trail. If the direct recording electronic voting system does not already include an accessible voter verified paper audit trail, the system shall be replaced or modified to include an accessible voter verified paper audit trail.

### **This Bill**

- Allows the California Secretary of State to approve a county developed voting system.
- Explicitly states counties can develop and own public voting systems.