

Electronic Ballot Counting Device Advisory Committee
Meeting Minutes of March 9, 2009 at 10:00 a.m.
71 South Fruit Street, Concord, NH, HAVA Conference Room

Members' Attendance:

Thomas Manning, Assistant Secretary of State and Temporary Chair
Walter Fries, Moderator, Danville
Representative Suzanne Harvey
Representative Robert Perry
Anthony Stevens, Assistant Secretary of State

I. Call to Order

Acting Chair Mr. Manning called the meeting to order at 10:30 a.m.

II. Meeting Business

Mr. Manning provided copies of the January 26, 2009 Electronic Ballot Counting Device Advisory Committee meeting minutes. He requested the members review the minutes and address any concerns.

Mr. Fries clarified on page 6 regarding vendor requirements as "expects." Further, on page 6, Mr. Fries clarified "recommended" regarding high level specifications. Representative Perry clarified on page 2 "risk going to jail" regarding state representative races. Mr. Fries moved to accept the December 15, 2008 minutes of the Electronic Ballot Counting Device Advisory Committee meeting. Representative Harvey seconded the motion, voted all in favor.

Representative Perry offered a motion to accept the January 26, 2009 minutes of the Electronic Ballot Counting Device Advisory Committee meeting as amended. Mr. Fries seconded the motion. All present voted in favor.

○ **Mission Statement, goals and objectives**

Mr. Manning explained the purpose of this meeting and the next is to establish a mission statement, goals and objectives.

Mr. Stevens noted a mission statement is needed as a place to begin and noted part of the mission statement is set forth in the law. Mr. Stevens identified goals as a starting point.

Mr. Manning stated he would like to respect the bill from the Legislature and use the exact wording, which states "facilitate the design of an electronic ballot counting device, or the identification of a ballot counting device that will be fail safe and provably correct and can be supported by an independent technical review to eliminate potential manipulations of election results by tampering." Mr. Manning noted a secondary mission should be to research the upgrades that are available to the voting machines in New

Hampshire and recommend which upgrades should be required for the continued use of the machines for the cities and towns.

Mr. Stevens noted that the recommendations brought forth may require changes to the law. Mr. Stevens said he has spoken with senior engineers at Diebold Corporation (Premier Elections Systems) and optical scanning software is not always able to accommodate the State of New Hampshire's changes as readily as it might appear. He noted that ballot design requirements such as staggered lines for candidates in multi-member races are specific to New Hampshire and not necessarily a requirement for other states.

Representative Harvey asked if the machine needed to be changed to accommodate the revised ballots of the last election. Mr. Stevens explained that LHS Associates had to revert to a previously-used election management software (VTS, not GEMS) to accommodate a newly required ballot design that staggers (alternates) lines for candidates in multi-member (representative) races on 2008 ballots and to train local election officials regarding treatment of cross-endorsed candidates.

Representative Perry suggested an addition of primary and secondary responsibilities for clarification. Representative Perry inquired if there would be a fee to make the necessary upgrades to correct design flaws. Mr. Stevens noted that there are generally fees for upgrades, although the Secretary of State sometimes has the opportunity to negotiate prices.

Mr. Fries noted that under the Uniform Commercial Code, the terms and conditions must be analyzed in order to answer Representative Perry's question. Mr. Stevens agreed that an attorney should review the situation.

There was discussion of versions and upgrades which have been accepted and adopted.

Mr. Stevens explained that the 2005 Voluntary Voting Systems Guidelines (VVSG), and draft 2007 VVSG, published by the U.S. EAC available online at <http://www.eac.gov/vvsg> which depict current and potential future requirements for voting systems.

Representative Perry asked what version Mr. Ion Sanchez, County Elections Director in Leon County (Tallahassee) Florida is using. Mr. Stevens said he believes that Diebold introduced the version 1.96.8 to alleviate some of the problems discovered in Leon County. (New Hampshire is using version 1.94w.)

The Committee agreed to the following:

Draft Mission Statement

Primary Duty: Facilitate the design of an electronic ballot counting device, or the identification of a ballot counting device that will be fail safe and provably correct and can be supported by an independent technical review to eliminate potential manipulations of election results by tampering.

Produce a Request for Information (RFI) to determine whether vendors could potentially satisfy the requirements.

Secondary Duty: The committee shall also research the upgrades that are available for voting machines that are currently used in New Hampshire and recommend to the Secretary of State which upgrades should be required for the continued use of the machines by cities and towns.

Discussion on upgrades: Representative Perry asked if any company is working to create a new machine that fits the needs of upgraded technology and security. Mr. Stevens explained that, among others, Diebold Corporation (Premier Election Systems) has a new version called OSX that uses newer scanning technology. (ES&S also has a machine with more robust scanning technology.)

Representative Perry questioned the independent research and development versus the former relationship between Diebold (Premier Election Systems) and Election Systems & Software, Inc. (ES&S). Mr. Stevens explained that he is not aware of a joint management arrangement between those companies, indicating he assumes that the industry is market driven.

Mr. Fries presented a draft system requirements specifications sheet as a place to start. He explained the outline begins with the purpose, desired system, problems to solve, functional requirements and other requirements such as intellectual property rights, documentation, and engineering and quality standards.

Mr. Stevens explained that the Committee is still at 1.1 of the outline. The mission statement has been drafted. Goals and objectives still need to be defined. The mission, goals and objectives should be included in a Request for Information (RFI).

Draft Goals

The following goals were identified:

Accuracy, Reconciliation, Transparency, Recount ability, Auditability, Privacy
Independence, Cost, and Ease of Use for the end user

Goal – Accuracy Requirements

- a. Ability to scan area in and around oval and evaluate to recognize percentage of darkened pixels, shapes such as circles, checkmarks, and x-marks.
- b. Ability to recognize shapes such as circle, checkmark, X
- c. Ability to highlight and segregate ballots with extraneous marks for further review
- d. Evidence of counting accuracy and error rate, consistent with federal standards

Objective – Reconciliation Requirements

- a. Enable simple reconciliation ballots cast and votes tallied for all races and highlighting discrepancies, referencing a particular ballot
- b. May enable public count such as in Humboldt County, CA (Needs discussion)
- c. Third party review of number of ballots
- d. Tells and communicates accurately whether a ballot has been counted (such as red mark on Optech counted ballots)
- e. Printed machine tally sheet (or tape) needs to be easy to understand for election officials and public

Objective

Requirement – Voter Interaction (Committee not agreed on this)

- a. Communicate with voter on the spot to highlight overvote, extraneous marks, or inability to determine voter intent.

Objective

Requirement – Election Official Interaction (Committee not agreed on this)

- a. Identify ballots with overvotes, undervotes, write-in votes, and extraneous marks
- b. Reconciliation of the foregoing
- c. Diagnostic sophistication and usability

Discussion: There was discussion of the voter and election official interaction requirement and it was agreed that there was not a consensus and this would be revisited at another time.

Goal – Transparency

- a. The machine should enable the general public to observe and understand the steps of counting, accumulation, and reconciliation of ballots

Goal – Independence

- a. The ability to vote with minimal assistance

Discussion: Independence is important for accessibility and integration into the

voter system. There was discussion about the privacy factor of the accessible machines and the manual count of the non-integrated systems. There was discussion of the read-back technology for sight impaired voters in the 2005 Voluntary Voting Systems Guidelines.

Goal – Privacy

- a. The ability to vote without another person seeing the ballot

Objective – Reasonable Cost

Discussion: There was discussion of current costs from machines, ballots, configurations, and accessories. The current cost of using Accuvote machines was estimated as follows:

- a. \$6,500 per machine (less for used, refurbished machines and volume purchases)
- b. \$175 per machine per annum for extended warranty
- c. Up to estimated \$3,000 for ballot configuration of elections involving a combination of school and local elections using long SB2-type ballots.
- d. \$550 per state election
- e. Cost per voter

III. Next Meeting Business

Mr. Manning noted the next step would be to send out the minutes for review and begin the Request for Information (RFI) drafting process. There was discussion of the distribution process for the RFI.

Representative Perry suggested having another expert to be the next guest speaker.

Mr. Stevens provided a few suggestions regarding potential guest speakers. Representative Perry suggested an expert to evaluate the RFI and responses. Mr. Stevens believes the responders will provide valuable feedback. Mr. Fries stated this is the first opportunity for vendor responders to discuss requirements issues and concerns.

Mr. Fries stated that a systems specific document would be needed to present to other states to determine the opportunity for joint procurement.

• Documents Distributed

Representative Harvey provided an article entitled “Ghosts in the machine” by David Lindley.

Mr. Fries provided an article entitled “Universal Ballot Sampling To Validate Computerized Vote Counts In Federal and Statewide Elections” by Jonathan Simon and Bruce O’Dell of the Election Defense Alliance.

Mr. Stevens provided a document from LHS Associates dated February 27, 2009 regarding the purchase of one statewide Global Elections Management System.

Mr. Stevens provided a report entitled “On Auditing Elections When Precincts Have

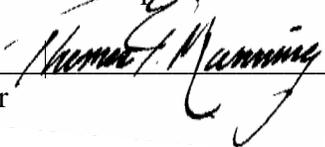
Different Sizes” by Javed Aslam, Raluca Popa, and Ronald Rivest.

Mr. Stevens provided a report entitled “Manual Auditing Requirements” from the Verified Voting Foundation.

Mr. Manning noted that the next meeting will be Monday, April 6, 2009 at 10:00 a.m.

Meeting schedule summary: The meeting was convened at 10:30 AM. Mr. Manning called a brief recess at 12:10 p.m. to accommodate a 12:30 p.m. meeting at the State House for Representative Perry and Representative Harvey. Mr. Manning reconvened the meeting at 12:52 p.m. with Mr. Fries, Mr. Manning, and Mr. Stevens. Representative Harvey and Representative Perry arrived back at 1:45 p.m. Representative Harvey left the meeting at 3:17 p.m. The meeting was adjourned at 3:30 p.m.

Minutes taken and typed by: B. Christopher Maxwell

Received by:  _____, Thomas Manning,
Temporary Committee Chair