



CITY OF LONG BEACH

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April 19, 2005

Bill Wood, Undersecretary of State
Chair
Voting Systems and Procedures Panel
Office of the Secretary of State
1500 11th Street
Sacramento, California 95814

Re: April 21, 2005 VSP Panel Hearing – Item #3

Dear Undersecretary Wood:

On April 12, 2005, the Long Beach City Council directed me to pursue the possibility of consolidating of the City's June 6, 2006, run-off election on the State Primary Election administered by Los Angeles County.

While existing statutory provisions make consolidation practically impossible at this time, discussions have been held between Conny McCormack and I to determine if consolidation can be accomplished through the crafting of proposed legislation to make it a viable option. If consolidation can occur, such would be highly welcomed in the City of Long Beach. If not, a concurrent election would be held by the City and the County of the same day, with two separate voting systems.

While discussing barriers to consolidation on April 15, 2005, Ms. McCormack advised me that her office is exploring substituting the long stub ballot card for write-ins to replace the current envelope procedure.

Ms. McCormack further advises me that this exploratory work on use of the long stub ballot card is on-going and will involve discussions with Los Angeles County's ballot card vendor and the vendor ultimately awarded the Los Angeles County contract for enhancement of InkaVote to HAVA compliance. The Los Angeles County Board of Supervisors will consider a recommendation to enhance InkaVote to a precinct level ballot counting system along with improvements for accessibility purposes on April 19, 2005.

At the April 21, 2005 meeting of the Voting Systems and Procedures panel, one of the challenges on the agenda is: the matter of how to handle so-called “grand fathered” voting systems. Among these is the InkaVote system utilized by Los Angeles County.

Regardless of whether the InkaVote system needs to undergo federal qualification testing (and state certification testing) before it can continue to be used in California, I ask you to consider the following comments regarding the write-in aspect of this voting system that has members of my City Council concerned given City and County efforts to assess the feasibility of consolidating the City’s June 2006 run-off election.

1. Our Local History and Efforts to Improve Elections. Long Beach, just like San Francisco and San Diego, has had a recent mayoral election where one of the top two candidates received all of their votes as a write-in. In fact, this is how our current Mayor was re-elected to a third term in 2002.

Until 2002, Long Beach utilized a punch card voting system which facilitated write-ins by having voters write their selection on the inside cover of the secrecy envelope provided to each voter with their ballot. But we felt it was necessary to deal with the limitations and weaknesses of using the secrecy envelope style write-in procedure, and we therefore moved to the OptiMark system for the 2002 election.

Unlike InkaVote, an OptoMark ballot provides a space to enter the name of a write-in.

As such, we support efforts to eliminate the use of secrecy envelopes for the casting of write-in votes as a part of the InkaVote system.

2. Comments Regarding Write-in Procedures.

- Like its previous punch card voting system, Los Angeles County’s InkaVote procedures do not require a space on the ballot for write-in votes. Instead the procedures define write-in ballot in the following manner:

Write-In Ballot: A paper ballot, envelope, or extended length ballot card stub with designated spaces provided for a voter to write-in the title of any office for which write-in votes may be cast and the name or names of candidate(s) and measures. This information may or may not be printed on the ballot, depending on whether or not this is an absentee ballot, at the county elections official's discretion.

A write-in ballot may be in the form of a third, extended length stub, without any serial number, affixed to the ballot card, which the

voter shall fold across the marked (voting) portion of the ballot card after having voted.

A write-in envelope or write-in stub shall be designed to preserve the secrecy of both write-in and marked votes. (InkaVote Procedures, Section 1.2. Definitions, Pg .13.)

- In addition, the procedures are significantly lacking when it comes to assuring that ballots are kept with any secrecy envelopes marked with write-ins. The only thing the procedures state is that

“...if the validity of any voted ballot is questionable because of unauthorized marks on the ballot or because it is a write-in ballot, leave the voted ballot inside the secrecy sleeve. (InkaVote Procedures, Section 3.5. Closing of the Polls, Pg .32.)

But nowhere are there explicit directions for precinct workers or staff to check the secrecy sleeves for write-ins before removing ballots. And given the number of poll workers in Los Angeles County, particularly those serving for the first time, there are bound to be mistakes both in separating envelopes and in informing voters of the correct procedures.

3. Practical Comments There are several concerns with the procedure providing write-in voting on the secrecy envelope.

- First, is a secrecy envelope considered a ballot under California law? If so, shouldn't it comply with all Election Code requirements for a ballot such as serial numbers? If not, then it should not be allowed as a means to cast write-in votes.
- Secondly, since ballots and envelopes are not coupled with a consistent serial number, are commonly separated prior to being cast, there is no assurance that all write-in votes will be properly collected and tabulated.
- In addition, given that the ballots and secrecy envelopes are separate items, and they will eventually be counted separately, there is no guarantee that voters will not (either intentionally or inadvertently) double-vote by casting a vote for both a candidate listed on their ballot and another candidate on their secrecy envelope.
- Finally, is the matter of voter confusion of having to cast a write-in on the envelope and not the actual ballot. Some voters may never even open their secrecy envelope but simply slip their ballot inside when they have finished marking their selections. And many are often reluctant to ask questions. So absent easy access to a pencil to cast a write-in vote, and

clear direction how to do so, many may simply avoid casting any vote, or may incorrectly write it on the ballot itself – which would not be valid.

Given our City's history with write-in voting, our current efforts to consolidate the June 2006 election, and the strong possibility that there may be another write-in campaign from at least one council member in our 2006 municipal elections, this is clearly an issue that needs to be addressed sooner rather than later from the City's point of view.

Should the VSPP make or not make any determination on the use of the secrecy envelopes, such would be taken into account as another factor in the Council's assessment on whether to pursue a consolidated election.

Thank you for your attention to this matter. Should you have any questions, please feel free to call me at: 562.570.6489.

Sincerely,



Larry Herrera
City Clerk

cc. Conny McCormack, Registrar Recorder, Los Angeles County
Bruce McDannold, Staff, VSPP
Tom Modica, City of Long Beach