

X

From: Sheila Canavan on behalf of [REDACTED]
To: justinlee@utah.gov
Cc: Sherrie Swensen
Subject: Additional Attachment
Date: Friday, June 5, 2020 10:51:59 AM
Attachments: County Attorney's Office Advice to County Clerk re Redaction of Signature Packets.pdf

Dear Mr. Lee,

I failed to send you an important attachment referencing your office. Here it is.

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: SAN JUAN COUNTY CLERK

Address of government office: 117 SOUTH MAIN P.O. Box 338

MONTICELLO UTAH 84535

Description of records sought (records must be described with reasonable specificity):

ALL DOCUMENTS RELATED TO THE CONSENT AND ADVICE
SOLICIT FROM OR RECEIVED FROM THE COUNTY ATTORNEY'S OFFICE
RE: REDUCTION OF THE LOCAL REFERENDUM LAND USE
ORDINANCE SIGNATURE PACKETS. SEE EXHIBIT A

☐ I would like to inspect (view) the records.

☒ I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63-2-203. I authorize costs of up to \$ 25.00

☒ UCA 63-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63-2-203 (4), I am requesting a waiver of copy costs because:

☒ releasing the record primarily benefits the public rather than a person. Please explain:

☐ I am the subject of the record.

☐ I am the authorized representative of the subject of the record.

☐ My legal rights are directly affected by the record and I am impoverished.
(Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

☐ I am the subject of the record.

☐ I am the person who provided the information.

☐ I am authorized to have access by the subject of the record or by the person who submitted the information.
Documentation required by UCA 63-2-202, is attached.

☐ Other. Please explain:

☐ I am requesting expedited response as permitted by UCA 63-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: SHEILA CANAVAN

Mailing Address: [REDACTED]

Daytime telephone number: [REDACTED]

Date: 4/14/20

Signature: [REDACTED]

EXHIBIT A TO GRAMA REQUEST April 14, 2020

(For documents related to the consent and advice sought from or received from the County Attorney's Office re: redaction of the local referendum land use ordinance signature packets)

Please note that the County Administrator asserted in writing to William Love by email dated February 10, 2020 that "After consulting with the county attorney's office, the DOB and addresses were redacted." Please further note that the County Administrator sent an email to Sheila Canavan on February 14, 2020 in which he said "Typically items that were redacted would have been redacted under the consent and advice of our County Attorney's Office."

Please note that the documents may not be withheld as protected records for purpose of U.C.A. §63G-2-305 (17) or (18). The records requested were produced in the regular course of business and were not prepared in anticipation of litigation. Supreme Court of Utah, **SOUTHERN UTAH WILDERNESS ALLIANCE, a Utah nonprofit corporation; and the Wilderness Society, a District of Columbia nonprofit corporation, Plaintiffs and Appellants, v. The AUTOMATED GEOGRAPHIC REFERENCE CENTER, within the DIVISION OF INFORMATION TECHNOLOGY; and the Utah State Records Committee, Defendants and Appellees.**

No. 20060813.

Decided: December 23, 2008

Please further note that the records are not subject to the attorney client privilege. They do not convey confidential information. And in any event, the County waived any attorney-client privilege when the County Administrator placed the advice and consent obtained from the County Attorney's Office at the heart of the redaction. *Doe v Maret et al, Supreme Court of Utah 1999*

Mack McDonald
County Administrator



P.O. Box 9
117 South Main Street #221
Monticello, Utah 84535

Office: (435) 587-3225
Cell: (435) 459-1054
mmcdonald@sanjuancounty.org

On Fri, Feb 14, 2020 at 1:29 PM Laws, Kendall <klaws@sanjuancounty.org> wrote:
Mack:

You may find it interesting to know that Bill Love's latest round of emails to John David about the addresses actually states that he wants them so that he can go and "visit" with the people who signed the petition.... I will forward you an email chain between John David, Justin Lee (LG Office) and my office (email was from Alex but we drafted it together). It may shed some light on this.

Kendall G. Laws
San Juan County Attorney
[REDACTED]

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On Fri, Feb 14, 2020 at 12:04 PM McDonald, Mack <mmcdonald@sanjuancounty.org> wrote:
Just an FYI.

Sincerely,

Mack McDonald
County Administrator



P.O. Box 9
117 South Main Street #221
Monticello, Utah 84535

Office: (435) 587-3225
[REDACTED]
mmcdonald@sanjuancounty.org

----- Forwarded message -----

From: McDonald, Mack <mmcdonald@sanjuancounty.org>
Date: Fri, Feb 14, 2020 at 11:52 AM
Subject: Re: Petition signatures with addresses
To: Sheila Canavan [REDACTED]

I do not know if it will be on the agenda. I have not released a finalized agenda yet. What agenda are referring to seeing?



Nielson, John David <jdnielson@sanjuancounty.org>

GRAMA response

3 messages

Nielson, John David <jdnielson@sanjuancounty.org>

Wed, Feb 26, 2020 at 11:16 AM

To: Kendall Laws <klaws@sanjuancounty.org>, Alex Goble <agoble@sanjuancounty.org>

Would mind reviewing the attached GRAMA response for accuracy and anything else that I might need to correct?

Thanks

--
John David Nielson
San Juan County Clerk/Auditor
[REDACTED]

JD-scan_20200226111350.pdf
524K

Laws, Kendall <klaws@sanjuancounty.org>

Thu, Feb 27, 2020 at 8:03 AM

To: "Nielson, John David" <jdnielson@sanjuancounty.org>

Cc: Alex Goble <agoble@sanjuancounty.org>

Looks good to me.
Kendall G. Laws
San Juan County Attorney
[REDACTED]

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[Quoted text hidden]

Goble, Alex <agoble@sanjuancounty.org>

Tue, Apr 14, 2020 at 3:02 PM

To: John David Nielson <jdnielson@sanjuancounty.org>

Third Record (likely a duplicate of your own).

[Quoted text hidden]



Nielson, John David <jdnielson@sanjuancounty.org>

GRAMA Request

3 messages

Sheila Canavan [REDACTED]



Fri, Feb 14, 2020 at 3:06 PM

To: John David Nielson <jdnielson@sanjuancounty.org>

Cc: Kendall Laws <sjattorney@sanjuancounty.org>

Dear Mr. Nielson,

Attached please find a new GRAMA request for documents per UCA 20A-7-605(6). I am also copying Kendall Laws because I know you referred Bill Love to him re address redactions. The only redactions allowed are of the date of birth and I request that the full information be provided.

2 attachments **GRAMA Request to SJC 02.14.20.pdf**
121K **GRAMA Request to SJC 02.14.20 ATTACHMENT A.doc**
28K

Nielson, John David <jdnielson@sanjuancounty.org>


Thu, Feb 27, 2020 at 8:15 AM

To: Sheila Canavan [REDACTED]

Cc: Kendall Laws <sjattorney@sanjuancounty.org>

Good Morning,

Attached is the county's response to your GRAMA request dated 02/14/2020

 **GRAMA - Sheila Canavan (3).pdf**

[Quoted text hidden]

--
John David Nielson
San Juan County Clerk/Auditor
[REDACTED]

Goble, Alex <agoble@sanjuancounty.org>

Tue, Apr 14, 2020 at 3:03 PM

To: John David Nielson <jdnielson@sanjuancounty.org>

Fourth Record (likely a duplicate of your own).

----- Forwarded message -----

From: sjattorney <sjattorney@sanjuancounty.org>

Date: Fri, Feb 14, 2020, 3:21 PM

Subject: FW: GRAMA Request

To: Alex Goble <Agoble@sanjuancounty.org>

Sent from my Verizon, Samsung Galaxy smartphone
[Quoted text hidden]

2 attachments

<https://mail.google.com/mail/u/0/?ik=40f14a3f15&view=pt&search=all&permthid=thread-f%3A1858551507...>



Clerk/Auditor
John David Nielson
jdn Nielson@sanjuancounty.org

February 27, 2020

Sheila Canavan
[REDACTED]

Re: GRAMA request

Ms Canavan,

Attached with this letter are the documents requested in your GRAMA request submitted on 02/14/2020. The documents included are the names of the individuals who signed the signature packets for the referendum challenging SJC Ordinance 2019-02.

Signatures, Addresses, and DOB have been redacted from the signature packets in accordance with U.C.A. §63G-2-305(51).

If you do not agree with the county's decision regarding this GRAMA request you may appeal, within 30 days of this letter, to the county's GRAMA appeal officer.

Mack McDonald
PO Box 9
Monticello, UT 84535
mmcdonald@sanjuancounty.org

Best,

[REDACTED]
John David Nielson
San Juan County Clerk/Auditor
[REDACTED]

ATTACHMENT A

Records per UCA 20a-7-605(6):

- (6) (a) The county clerk shall provide to an individual, upon request:
-) (i) an image of a signature packet or signature removal statement with the dates of birth redacted; or
 - (ii) instead of providing an image described in Subsection (6)(a)(i), a document or electronic list containing the name and other information, other than the dates of birth, that appear on an image described in this Subsection (6)(a).

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----- Forwarded message -----

From: **Goble, Alex** <agoble@sanjuancounty.org>
Date: Fri, Feb 14, 2020 at 1:13 PM
Subject: Re: Signatures for Referendum in Spanish Valley
To: Nielson, John David <jdnielson@sanjuancounty.org>
Cc: Kendall Laws <klaws@sanjuancounty.org>

John David,

You can provide Justin the following response, and inform him it is the official position of the County Attorney's office.

We continue to treat signatories' home address information as protected information that is not for disclosure. This is supported by 63G-2-305(51) as the only way a voter can participate (as is their constitutional right) under the statute is to provide that information. By providing that information voters are not agreeing to their name and home address being published by or to their angry neighbors who resent them for signing the referendum. Public shaming, especially with social media, is quickly becoming the go-to norm for political disagreements between individuals, and if we have to choose between being sued for protecting privacy versus being sued for divulging information that leads to harassment, reputation damage, or something worse then we should err on the side of protecting privacy. As we learned, because of early issues in the referendum, several employees have signed it, and their home address is deemed private under 63G-2-302(g). Also, under 20A-3-201(5) requires protection of voter's privacy, and as the referendum falls under the same title and applies to voters, the same privacy considerations must be provided for the referendum process as is provided to the voting process. Currently Senate Bill 47 is up for vote at the legislature and specifically restricts the information to be provided to be only a name and voter ID number, nothing else, which indicates that was the legislative intent for this provision. The statute doesn't have a deadline for turning over the information, unlike other statutes such as GRAMA that require responses within a specific period of time. While we worked to be responsive and comply within the GRAMA deadlines, we were under no obligation to do so. Simply put, we could have taken the position that we were going to see how SB 47 played out before supplying any of the information that we did, but that seemed to be a disservice to Mr. Love.

However, per Mr. Love's own admission he intends to make contact with the signers of the petition. As their home address is the only information he is being denied, that means he intends to go or send others to make contact at their homes. This is exactly the type of behavior that concerns us and could have an incredible chilling effect on people's participation in the democratic process. If he truly wants to have a public discussion with his neighbors, he can organize a community gathering to discuss the issues. People who signed the petition did not agree to unsolicited persons, demanding to know the reason for their vote, appearing at their home door.

On Fri, Feb 14, 2020 at 12:12 PM Nielson, John David <jdnielson@sanjuancounty.org> wrote:
Here is Justin Lee's email to Bill Love's request for intervention.

Here is how I had thought to reply to Justin. What do you think?

Justin,

I have discussed this matter with our county attorney's office and how I should proceed when answering these type of requests surrounding a hotly contested topic within the county. This request is not a formal GRAMA request, but we are treating it as a GRAMA request because that is how similar requests to the Lieutenant Governor's office have been treated. The GRAMA request denial is based on 63G-302(2)(d).

The purpose is not to supercede the recommendation of your office, but to attempt to protect petition signers from being harassed and bullied.

----- Forwarded message -----

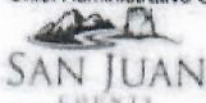
From: **Justin Lee** <justinlee@utah.gov>
Date: Fri, Feb 14, 2020 at 10:16 AM
Subject: Re: Signatures for Referendum in Spanish Valley
To: John David Nielson <jdnielson@sanjuancounty.org>
Cc: McDonald, Mack <mmcdonald@sanjuancounty.org>

From: McDonald, Mack <mcdonald@sanjuancounty.org>
Subject: Fwd: Signatures for Referendum in Spanish Valley
Date: May 12, 2020 at 3:41 PM
To: Sheila Canavan [REDACTED]
Cc: Kendall Laws <klaws@sanjuancounty.org>

I spoke with Kendall, enclosed is the email chain you are referring to in which Kendall sent to me in reference regarding an email discussion with William Love (Bill), John David Nielson, Justin Lee from Alex Goble.

Sincerely,

Mack McDonald
Chief Administrative Officer



P.O. Box 9
117 South Main Street #221
Monticello, Utah 84535

Office: (435) 587-3225

mcdonald@sanjuancounty.org

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----- Forwarded message -----

From: Laws, Kendall <klaws@sanjuancounty.org>
Date: Tue, May 12, 2020 at 2:11 PM
Subject: Fwd: Signatures for Referendum in Spanish Valley
To: McDonald, Mack <mcdonald@sanjuancounty.org>

Kendall G. Laws
San Juan County Attorney
[REDACTED]

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----- Forwarded message -----

From: Laws, Kendall <klaws@sanjuancounty.org>
Date: Fri, Feb 14, 2020 at 1:29 PM
Subject: Fwd: Signatures for Referendum in Spanish Valley
To: McDonald, Mack <mcdonald@sanjuancounty.org>

Kendall G. Laws
San Juan County Attorney
[REDACTED]

Based on on 20A-7-603 I'm not sure I see where the address would not be included. Can you point me to the code that brought you to the decision to not include the addresses?

Thanks,

Justin Lee
Director of Elections
Office of the Lieutenant Governor
State of Utah
801.538.1129
justinlee@utah.gov

On Sun, Feb 9, 2020 at 11:54 AM William Love <[REDACTED]> wrote:

The signatures you sent me of the people signing the petition for the referendum of the Land Use Codes in Spanish Valley did not contain the address. The state only requires that the birth dates be removed. Please resubmit the signatures and addresses.

Bill love

--
John David Nielson
San Juan County Clerk/Auditor
[REDACTED]

--
This email is intended for the named recipient only. This email may be protected by attorney client privilege. If you have received this email in error, please contact the sender immediately, and delete the email.

Michelle Blue

From: David N Sundwall <dnsundwall@gmail.com>
Sent: Thursday, September 27, 2018 7:04 AM
To: Pam Tueller
Cc: Sherrie Swensen; Rashelle Hobbs; Derek Brenchley; Justin Lee (Google Drive)
Subject: Re: 2018 General Election Ballot

Hi Anne,

Please print a copy of the attachments for me. Thank you, David
Sent from my iPhone

On Sep 27, 2018, at 8:37 AM, Pam Tueller <PTueller@slco.org> wrote:

Dear Candidate,

Attached, in accordance with Utah State Election Law 20A-5-405(j)(ii)(A), is a sample ballot for the November 6th General Election. Also included is the notice regarding the logic and accuracy testing scheduled for Friday, October 19th, at 10:00 am. Finally, I have attached a memo explaining the canvassing process and the master ballot position list.

Tabulation for this election will take place at the Salt Lake County Government Center (2001 South State Street), South Building, Room S1-950. Election results will be displayed on the County Clerk's website at www.clerk.slco.org and results will also be transmitted to the State's website. Early Voting and vote-by-mail results will be released shortly after 8:00 pm and a final report for the night will be posted when all returns from vote centers have been received.

If you have any questions or need further information, please contact our office.

Thank you,

<image001.png> **Pam Tueller**
Fiscal Administrator
Salt Lake County Clerk
ptueller@slco.org
385-468-7425
<image002.png> <image003.jpg> [SLCO](http://www.slco.org)
[Clerk Website](http://www.slco.org)

<18 Gen Sample Ballot Letter Candidates.pdf>

<18-19 Master Ballot Position List.pdf>

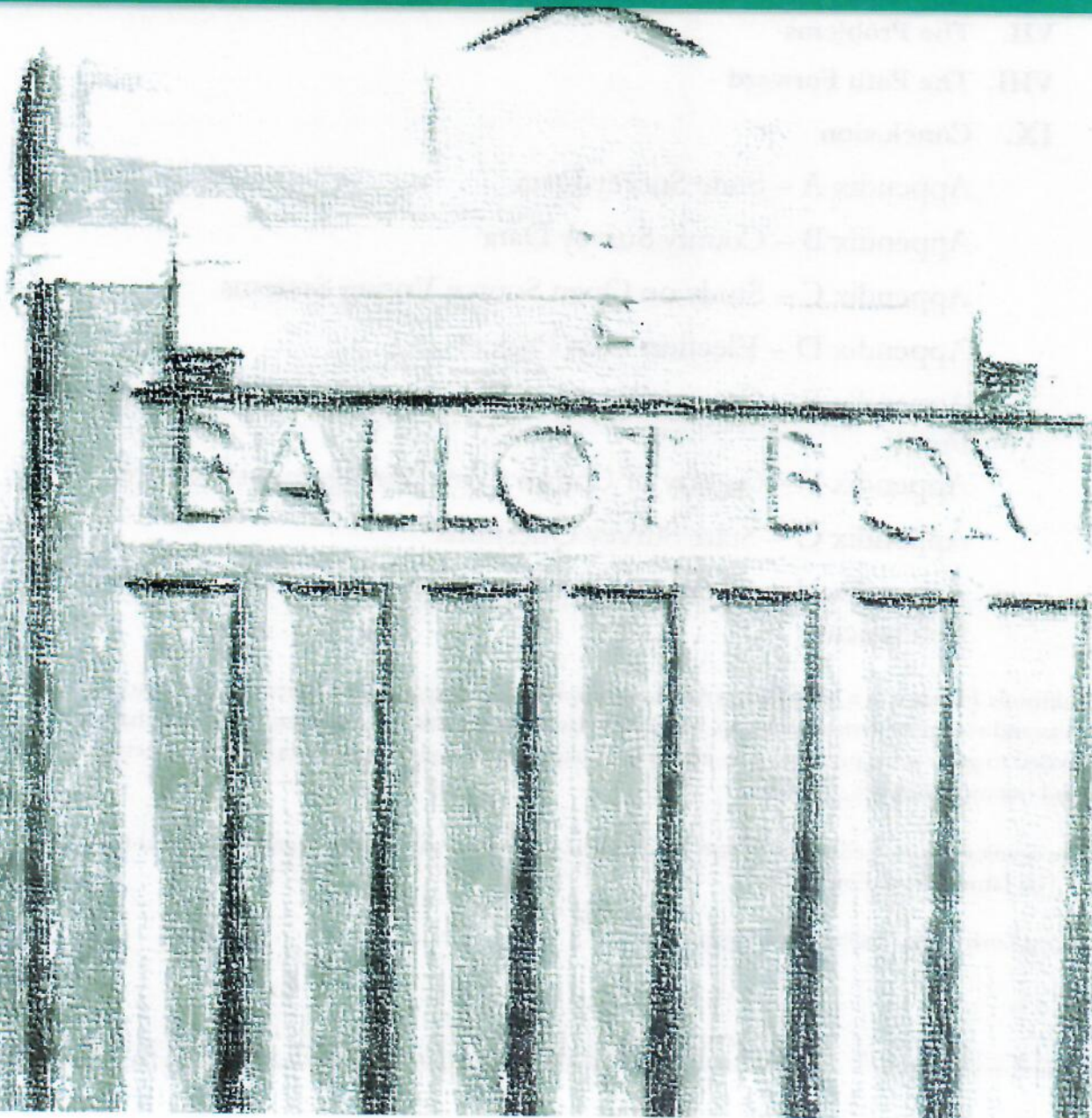
<Ballot Counting and Canvassing General 2018 (FINAL).doc.pdf>

<LAPublicNotice_2018Elections (SS FINAL) (005).pdf>

Investing in California's Democracy: Building a Partnership for Performance

Caitlin Maple, Research Analyst
May 2016

The Election Funding Project is supported by a grant from The James Irvine Foundation.



I. Executive Summary

Elections are an essential function of democracies. As the largest democracy in the nation, California has an obligation to provide and model an election process that is efficient, inclusive and ensures integrity. For California to meet that standard going forward, it will need to modernize the governance and finance aspects of the election process.

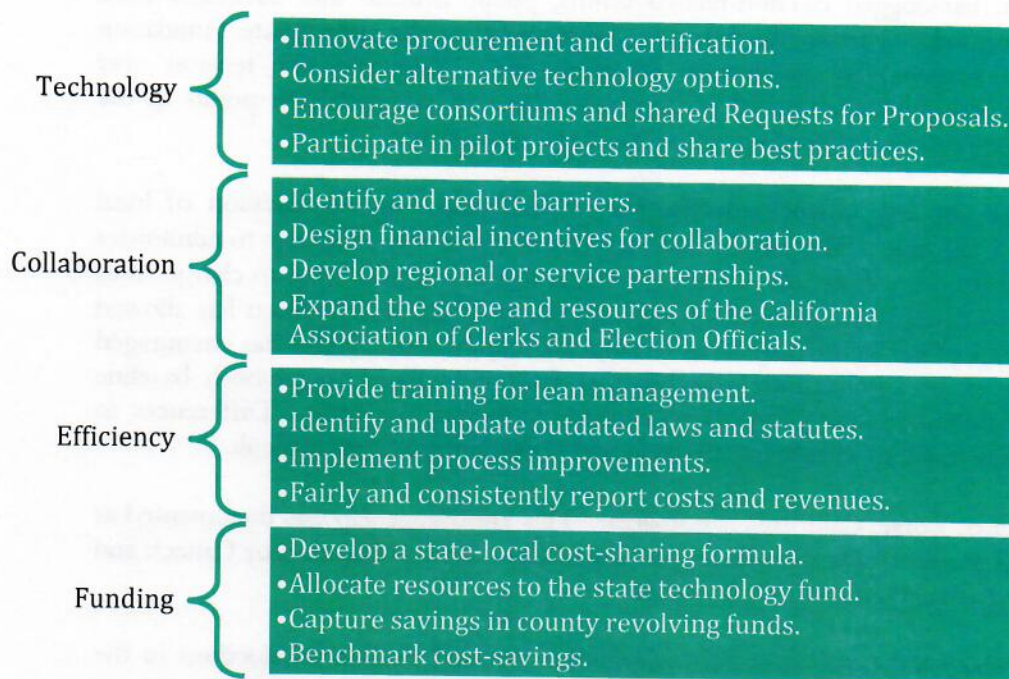
California Forward (CA Fwd) set out to explore options to improve the inadequate state mandate process for reimbursing counties for certain election-related costs. By taking a more holistic approach, this analysis identified the important nexus between the cost of elections, the use of technology and the relationship between the state and the counties, and among the counties.

California will struggle to adequately and reliably fund elections unless they are conducted in modern and efficient ways. In turn, if the state and the counties work together in new ways, they will be able to capture efficiencies to control costs and over time meet the challenges of making the election process accessible and efficient from the voters' perspective. Under this approach, a shared funding model can be developed that provides adequate resources and the right incentives for collaboration and continuous improvement.

Technology is the cornerstone of developing an alternative framework for funding elections because technology will be a major cost driver. Managed well, technology can produce cost savings, and allow resources to be reallocated to innovations that will improve the voter experience and the efficacy of elections. The current technology procurement system was designed primarily to prevent failure and fraud, and to meet minimum standards. To capture the potential for technology to improve the elections process, California will need to revise the certification and procurement processes to allow for more innovation, competition and value.

Two other cost drivers also require attention: the untapped potential for collaboration among counties and continuous process improvement within counties. While there are promising examples of both, more deliberate and concerted efforts would capture cost savings, which can be reinvested in new technology and other system improvements.

These operational improvements provide the foundation for a new, value-based funding model. Rather than the traditional and antagonistic relationship between the state and the counties, the funding model should be fashioned as a partnership in which the state pays for its share of elections that directly support state operations, and finances a technology investment fund that is crafted as an incentive for counties to embrace collaboration and continuous improvement.



II. Introduction

Sixteen years since the *Bush v. Gore* election crisis and fourteen years since Congress passed the Help America Vote Act (HAVA), election administration is once again gaining attention in the United States of America. Amid an impending “voting system crisis” of aging, deteriorating systems and no funding plan to replace them, many unresolved issues are re-emerging about how to pay for new voting systems, as well as the ongoing costs of operating elections. These questions loom even larger for populous states like California, given the tepid interest at the federal level in repeating the \$3 billion investment of HAVA.

In California, these concerns are heightened by the impasse between the state and local governments over reimbursements for state-mandated programs. California’s Constitution requires that the state reimburse counties when they perform certain activities or services. The reimbursement process is complex and cumbersome, and many local governments opt to pay outside entities to navigate it for them.¹ Due to budget constraints, election-related mandates were suspended and counties have not been reimbursed in about six years.

This impasse has further strained the relationship between the state and county governments. With reimbursement unlikely in the near term and approximately \$119

¹ MAXIMUS is a fee-for-service company that is used by a majority of California counties, 300 cities and special districts and 300 school districts to navigate the mandate reimbursement process (<http://www.maximus.com/financial-services/sb-90>).

local jurisdictions for election services, and other sources. It also was important to ascertain the division of fiscal responsibility between state and local governments, as well as between counties and other local governments – essentially, discovering who is responsible for what. This included understanding cost-sharing formulas between government entities as well as the amount of centralization.

Numbers were gathered from state and county budgets as well as from different agencies to try to piece together the funding puzzle. But from the available data sources, it was too difficult to assemble a comprehensive, clear and reliably accurate picture. Inconsistent reporting practices among states, counties and agencies make comparisons nearly impossible. For example, each county has a different method for budgeting and reporting election costs and expenditures with some lacking even a separate item in the budget for elections. Additionally, while the state agency that collects election data has comparable numbers because of a streamlined reporting process, it often lacks the most accurate data in order to make those comparisons.

Still, other states employ different funding and governance models that may inform California's choices. A CA Fwd survey of state election officials sought to develop a macro-level understanding of funding options, while identifying innovative or distinct aspects that might inform discussions in California. While it may not be practical to make direct comparisons because of scale and governance differences, this information can guide policymakers and others to tailor solutions to the needs of California's large and diverse counties.

CA Fwd's survey of the states revealed significant variation in the way elections are administered. Some states centralize operations, others have little state involvement in the process; most states fall somewhere in between with a hybrid of state and local responsibilities for operations and funding. CA Fwd also engaged the National Conference of State Legislatures (NCSL) to gather qualitative information on the type of funding relationships between states and local governments.

Information gathered from the national survey was used to inform a survey of California's counties regarding their funding models, relationships with the state and other local governments, and efforts to control costs and improve performance. CA Fwd used the information gathered through the surveys of the states and counties to inform regional discussions with election officials and other interested parties in California to further understand issues and identify potential recommendations.

The election data, survey feedback and input from election officials, county representatives, advocacy organizations, state agencies and other stakeholders have all been incorporated into this report to provide a basic understanding of how elections are funded in California.

A concurrent and complementary Election Cost Study, also funded by The James Irvine Foundation, is being conducted by the California Association of Clerks and Election Officials. The study is evaluating elections-related expenditures of counties

B. Literature Review

The literature review identified a couple of valuable sources. Electionline.org's 2002 *Election Reform Briefing: Working Together? State and Local Election Coordination* provided for the first time a general overview of how election administration operates in all 50 states, including a broad sense of how elections are funded, training of officials and staff, and the status of voting systems. The report also included "snapshots" of each state, which gave an understanding of each state's model. These snapshots were used to inform the Election Funding Project's surveys. CA Fwd was encouraged to try to update this report, as described below.

Additionally, Professor Sarah Hill's 2014 research *Election Administration Finance in California Counties*, reviewed election expenditures from 1992 and 2008. Her findings indicated that the largest factors in the cost of elections are economies of scale, the maintenance and procurement of voting equipment, and the cost of production of election administration. This research explains generally what drives the costs of elections, and where improvements can be made to increase cost-savings and efficiency.

CA Fwd's project also gained insight from publications by the Caltech/MIT Voting Technology Project (VTP), which was formed in 2000 following the presidential election and the controversies over election administration. Their goal has been to "prevent a recurrence of the problems that threatened the 2000 presidential election" (VTP, 2001). In its 2001 report *What Is, What Could Be*, the Voting Technology Project discussed the historical context and the layout of voting technology and election administration in the nation, along with recommendations for improvement. A decade later, when the project's 2012 *Voting Technology Report* was published, several recommendations still had not been implemented.

Voting Technology Project Unfulfilled Recommendations

Voting Technology Report (2001)

- Make the county's or state's registration database accessible at each polling place.
- Provide polling places with the list of dropped voters and the reason why they were dropped.
- Make source code for all vote recording and vote counting processes open source and make source code for the user interface proprietary.
- Make recording software openly auditable in the same mode that it is used to conduct the counts.
- Design equipment that logs all events (votes, maintenance, etc.) that occur on the machine.
- The federal government, working with state and local governments, needs to develop standard methods of accounting for election expenses and standard reports that are made publicly available.
- The federal government needs to maintain a publicly available database of election expenditures.

Voting Technology Report (2012)

- A new business model led by states and localities, with harmonized standards and requirements.
- Streamlining the provisional balloting process in many states and the creation of common best practices and voluntary standards across states.
- Continued standardization of voter registration databases, so that they can be polled across states.
- Development of applications that gauge how long voters are waiting in line to vote, so that wait times can be better managed and reported to the public.
- Continued, and expanded, support for the research functions of the Election Assistance Commission.
- Development of an Electoral Extension Service, headquartered in each state's land-grant colleges, to disseminate new ideas about managing elections.

In 2002, Congress passed the Help America Vote Act, which decertified antiquated voting systems, allotted \$3.5 billion in federal funds for states to replace systems, and created mandatory minimum standards for accessibility, voter identification, voter registration and other important elements of elections. In 2016, California will become the last state to develop a HAVA-compliant database.

In California, the issue of minimum standards had its own context. As a large and diverse state, California has a tradition of local control, which has at times fomented tension between state and local governments about the authority of local government and how financial responsibilities should be shared for state and local programs.

This tension evolved over time and a few specific milestones define this history. Prior to the early 1970s, counties and local jurisdictions in California used property tax revenue to pay for the cost of elections and there was little financial help from the state. In 1972, the Legislature began to hear complaints from taxpayers about rising property taxes, and responded with legislation to limit property tax rates. Senate Bill 90 also set up a claims process for counties to be reimbursed for additional costs imposed by new state programs. This process allowed the state to require certain actions of all counties, such as providing access for disabled voters or permitting no-excuse absentee voting, as long as the state reimbursed counties for the cost. The process was generally acceptable to counties as long as they were able to rely on property tax revenue for general operations and the state reimbursed for new mandates.

Voters in 1978, increasingly frustrated by rising property taxes, passed Proposition 13, which reduced and capped property tax rates. While the state stepped in to “bail out” some local government operations, the proposition increased tensions among state and local government agencies and counties became more dependent on state reimbursements. The friction increased even more with the passage of Proposition 1A in 2004, which allowed the state to “suspend” reimbursements for mandated programs. In theory, counties are no longer required to fulfill the duties of those mandates, however counties still do because it would be cost prohibitive not to, detrimental to the needs of voters, or both.

Election administration also is a growing public concern as voter turnout declines, costs increase, budgets are perennially tight and voting systems approach the end of their useful lives. The Legislature has responded with changes to voter registration such as the New Motor Voter Act of 2015, which registers voters more easily through the Department of Motor Vehicles, as well as proposed legislation, Senate Bill 450, to allow counties to adopt the Colorado “vote center” model and reduce costs by reducing the number of polling places required. In April of 2016, Governor Jerry Brown signed AB 120, giving the Secretary of State and counties an additional \$16.3 million to pay for increased election costs due to an expected higher voter turnout. There is increasing recognition that the fundamentals of election administration, including sustainable and adequate funding, must be addressed.

Group A: Centralized

4 percent of responding states shared the following characteristics:

- Election responsibilities are held primarily by state government
- Uniform voting systems
- Reimbursements are made by the state to local governments (or if state incurs costs up front, by local governments to the state)



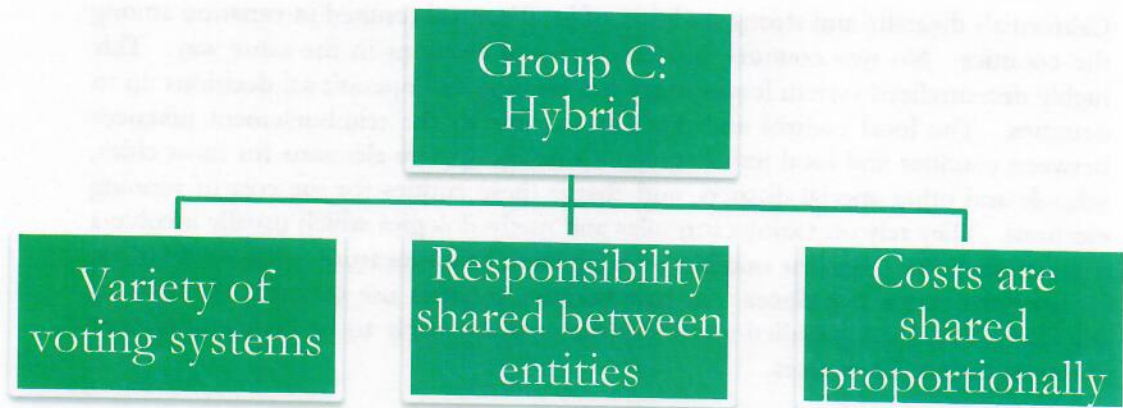
Examples:

- New Mexico – The state funds voting systems, supplies and ballots. This is done in part by a Voting System Revolving Fund.
- Georgia – The state funds the Center for Election Systems through Kennesaw State University, which builds ballots and collects data. Voting systems were initially purchased by the state.
- Maryland – The state selects and funds voting systems, counties reimburse for a pro-rata share of 50 percent of the total cost.

Group C: Hybrid

70 percent of responding states shared the following characteristics:

- Divide election responsibilities and costs among state and local governments, as well as local governments and other jurisdictions
- Varying responsibility of selecting and purchasing voting equipment
- Entities are charged for their “fair share” of election costs



Examples:

- Colorado – The state reimburses for even-year elections at \$0.90 per active voter in counties with less than 10,000 voters, and \$0.80 per active voter in counties with more than 10,000 voters.
- Louisiana – The state pays 75 percent of election costs, while the remaining 25 percent is divided by a pro-rata share between local jurisdictions. The state pays the costs up front and is reimbursed by localities.
- Arizona – The State reimburses counties at a flat rate of \$1.25 per registered voter.
- Minnesota – Entities are charged by the amount of space they take on the ballot using the formula: (total costs) X (percentage of voters in jurisdiction) X (percentage of total column inches on ballot).

One of the most discussed sentiments from the survey and regional convenings was the desire for the state to directly take some financial responsibility for the general operations of elections, such as voter outreach and purchasing voting equipment.

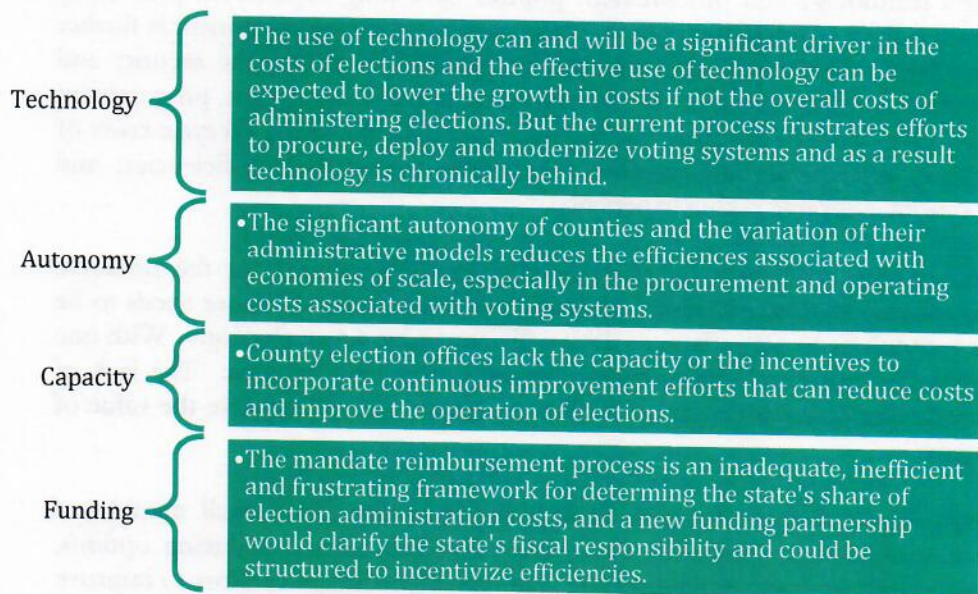
County officials and staff also frequently cited a variety of state requirements that prevented efficient operations or improvements. Among them: inflexibility of some aspects of voting system certification and procurement processes, lack of uniformity and consistency among administrative processes and varying interpretation of laws among counties preventing modernization.

The counties also identified some barriers to collaboration among counties, including the wide variation of voting systems and election practices.

Overwhelmingly, county officials identified a lack of reimbursement for special elections of state and federal offices as a significant and unpredictable financial burden, and the need to wait for the outcome of SB 450 before deciding to make any system changes.

VII. The Problems

In assessing the issues raised to identify funding options, four large financial drivers or variables emerged:



with vendors. While this may save up-front costs, it can cost counties more over the long-term.

This is a significant problem that could get worse – or a time-limited opportunity to take a different approach: More than three out of four counties responding to CA Fwd’s survey reported needing to replace voting equipment within three to four years. Without viable options and ways to finance the systems, many counties may find themselves locked into expensive leasing contracts for sub-optimal systems.

Autonomy of Counties Reduces Efficiency

California’s tradition of local control has been an effective way to deal with the diversity and complexity of California’s regions, particularly as some have grown into major urban centers while others remain rural, resource-based economies.

California has 23 counties with fewer than 100,000 residents and nine counties with more than one million residents. But the tradition of local control also has complicated the delivery of services and the coordination of regional activities. For many Californians, the quality of public services is determined by the quality of local services. And this can have profound consequences to the democratic principles of equality under the law. While some have raised concerns about the variations among county-based election practices, this project was focused on the factors that can contribute to efficient and effective lessons as a prerequisite for a financially sustainable elections system. In that regard, the autonomy of the counties contributes to the following issues:

1. **Variety of practices.** The wide diversity of practices makes it difficult to assess regional or statewide challenges and develop effective responses. Every county operates elections in a slightly different way, using different formulas for cost allocation, reporting expenditures and revenues differently, and often using different equipment than neighboring counties. As a result, it is difficult to assess efficiencies – or even to benchmark costs across the counties. It is difficult to determine a formula with statewide applicability for reimbursing election costs – either by client local governments or the state.
2. **Culture of independence.** The autonomy also encourages a culture of “going it alone”, rather than one of collaboration to capture savings from economies of scale. When asked about collaboration in the survey and in regional discussions, county officials acknowledged that collaborative efforts were few and far between. While some of this was culture and habit, some of it was driven by the wide variety of voting systems, which is a consequence of near total local autonomy. One notable exception was partnering on voter outreach when counties share a media market and a second was a new shared mechanism for reaching out-of-country voters. Both collaborative efforts yielded more cost-effective solutions than if the counties operated on their own.

Counties Lack Capacity and Incentives for Improvement

Every county elections office has incurred budget cuts, and seen their budgets constrained by costs growing faster than revenues. Many county officials have figured out how to operate elections under waves of fiscal pressures – how to spend less money or to at least hold the line. As a result, they try to do the least harm possible when they have to cut budgets. “New money”, meanwhile, usually comes with a new task.

But enduring budget cuts is different than proactively improving how business gets done to increase efficiency and the quality of operations. At least three factors contribute to this condition:

1. **Prescriptive statutes limit flexibility.** From the perspective of the counties, much of their operations are defined in statute – sometimes in great detail. While the counties have significant autonomy in some aspects of their operations, prescriptive statutes contribute to a mindset that they are told how to do their job and don't always have authority to make improvements.
2. **Tradition inhibits change.** Similarly, election officials often feel that they are locked in by tradition – what elected officials, candidates and voters are used to doing. Any changes that might be visible to the public or stakeholders could trigger a negative reaction about an interaction with government that voters consider sacrosanct.
3. **Limited ability to measure success.** Few counties – in election administration and other operations – have the capacity for rigorous or data-informed continuous improvement. The county survey revealed only 18 percent of responding counties have a strategic plan for funding elections and only 32 percent have performance metrics to measure success.

As described above, ***technology has the potential to make elections more efficient and more reliable. To capture some of those savings, counties will need to work together*** with at least some other counties – either because of regional proximity, size, or both.

The ability of counties to routinely assess their business practices using lean management² or some other management tool is critical to implementing data-informed continuous improvement. A concerted effort to create a culture of continuous improvement would help individual counties – and enable a sharing of best practices and lessons learned among counties to accelerate the savings.

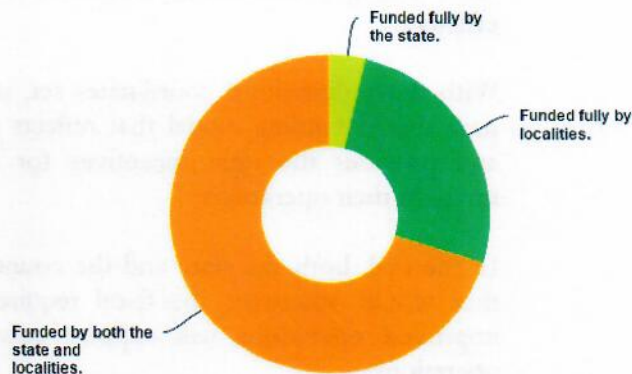
² Lean management is an approach to running an organization that supports the concept of continuous improvement; a long-term approach to work that systematically seeks to achieve small, incremental changes in processes to improve efficiency and quality.

with the relationship between state and local government. This study suggests a two-part approach for addressing the mandates problem in our state: lawmakers must first improve the system and the relationships, and then modify the specifics of the mandates process as needed.” (Cruz, 2005)

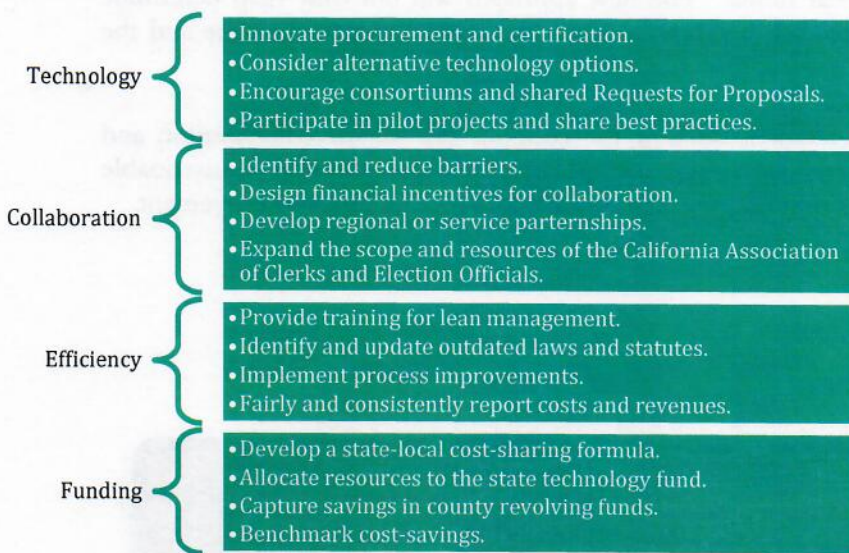
It has become increasingly clear that a new funding model for elections is critical to improving the state-local relationship and the right funding model could support improvements to the administration of elections. The state has recognized its responsibility for bearing some costs of operating elections through the mandate process. This is also the case across the nation as 70 percent of states responding to CA Fwd’s survey shared some costs between state and local governments. *To ensure the integrity and viability of the future of the electoral process, it is time the state reassesses its role in funding elections and learns from other states to determine a fair share of costs.*

Are elections state-funded, locally-funded, or a combination of the two?

Answered: 27 Skipped: 0



VIII. The Path Forward



Pathway to Modernization

This analysis identified three variables that can have significant impact on the costs of elections – the use of technology, collaboration among counties, and the business practices within counties. If California builds capacity and develops incentives to positively influence those three variables, the state and its partners – the counties –

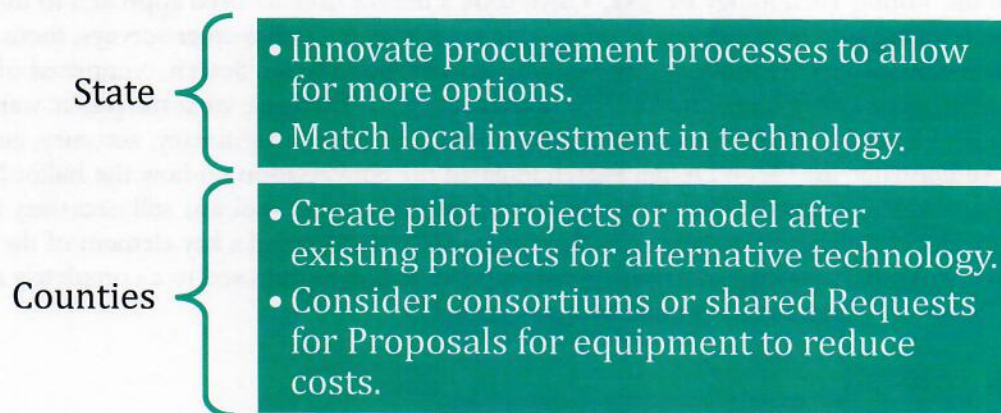
One of the most critical issues for election administration is developing a new approach to the procurement, funding and deployment of the next generation of voting system technology.

While this analysis did not explore those options, it is important for policymakers to understand that there are more options than there were a decade ago, and at least one alternative approach could address many of the long standing concerns about the current technologies, vendors and procurement practices.

A number of local governments – including Los Angeles and San Francisco counties – are looking to publicly owned open source voting technology as a cost-effective alternative to previous options and vendors.

The San Francisco Local Agency Formation Commission, in its *Study on Open Source Voting Systems*, concluded that the three companies currently offering certified systems in California provide limited options to counties. It found that open source technology may have the ability to be more transparent and the potential for cost-savings. It also found that developing software in-house may be expensive and time-consuming, there may be limiting factors in current election law, and the cost of knowledgeable staffing may be an issue.

Open Source voting system software comes in different types, including a range of options that allow for control over the availability of information; an overview of these may be found in Appendix C.



There also are different options to consider when developing open source systems, including a consortium model that would split the cost of development among participants, contracting with an outside developer, or building in-house. Consortiums and shared Request for Proposals (RFPs) among counties may be considerations for more cost-effective collaborations that take advantage of economies of scale.

While open source technology is one innovative approach to consider, the state and counties should explore a variety of technology and procurement options that may

Meaningful Collaboration

Current Position

- Little collaboration among counties
- Lack of consistency in equipment, formulas and law interpretation

Path Forward

- Counties dynamically work together and share best practices
- Cost-effective approaches that take advantage of economies of scale

In addition to a new approach to technology, election operations can be more efficient and effective if counties find more ways to meaningfully collaborate.

The largest county in California has nearly 5 million registered voters, and the smallest has fewer than 800 – reason enough to provide counties with significant flexibility in the administration of elections. Local control is important to making sure diverse regions can meet their unique needs, such as the purchase and maintenance of voting systems that make sense for their geographies. But CA Fwd also found unrealized opportunities where collaboration among counties – and even with the state – would generate costs savings or system improvements.

For example, multi-county partnerships could be structured to capture economies of scale based on geographic proximity or common service requirements:

- **Regional Partnerships** could be formed among counties based upon geographic proximity for purchasing equipment and supplies at a reduced cost.
- **Service Collaboratives** could be formed by counties based upon shared needs. For example, counties with similar language requirements could jointly purchase ballots at a reduced cost.

The California Association of Clerks and Election Officials (CACEO) is one potential platform that if expanded and given adequate resources could help to develop these collaborative opportunities.

The state has an interest in counties developing these collaboratives as a means for saving money and developing new business practices that could improve elections administration. The state could encourage these collaborations by identifying

ways that not only reduce fiscal pressures, but that also can reduce errors and increase the simplicity of operations.

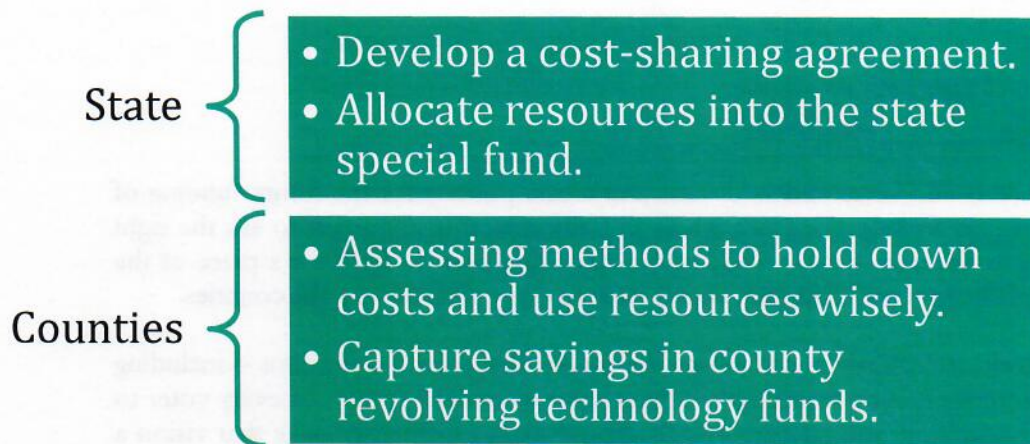
The lean management system is already implemented in Contra Costa County, where significant cost-savings were realized. The savings were passed on to local jurisdictions, as well as to the county general fund. By looking at the processes in place and determining which elements could be improved, Contra Costa was able to reduce vote-by-mail counting time by 800 percent, reduce overtime by 800 percent, decrease the temporary employee cost by 400 percent and make ballots less expensive overall. These cost savings allowed for more effective resource allocation, which in turn resulted in more savings. Additionally, the county election official reported that changes in timing increased the quality of work, resulted in less stress and more accuracy. An overview of the county's system changes can be found in Appendix F.

As with technology procurement and inter-county collaboration, the state has an interest in encouraging counties to build this capacity to control costs and to improve the reliability of election administration. The state could help organize trainings, document innovations and share them among counties, and feed those lessons into multi-county collaborations. The counties, working through CACEO could do the same, or do it in partnership with the Secretary of State.

The state also could provide a financial incentive for process improvement. For example, the state could establish a special fund and match the savings realized by counties to jointly finance technology improvements.



The new state-county funding formula should be informed by cost analysis being prepared by the *Election Cost Project* (Appendix D). A uniform way of tracking costs also could inform collaborations among counties to find efficiencies, and help counties benchmark their own process improvement efforts.



The second opportunity is for the state to create a special fund for purchasing technology. The fund could match county investments, and be structured as an incentive for counties to achieve efficiencies – and to fund their own procurement accounts with the savings. For instance, the state could capitalize the fund over a two-year basis with \$100 million per year, providing \$200 million total.

Prior to determining a funding mechanism and source for the state’s participation in elections, an important first step is to determine the activities that are of state interest and that should be funded by the state on an ongoing basis.

Establish a special fund for elections modeled after an existing proposal. In a 2014 report by the Legislative Analyst’s Office (LAO) titled *The 2014-15 Budget: Pilot Program to Improve Property Tax Administration*, the LAO recommended a pilot project with modifications to 1) ensure each county has the same fiscal incentive to participate, 2) provide participating counties greater funding certainty, 3) promote representative and consistently measured results, and 4) potentially increase near-term state savings. This proposal for property tax administration represents a feasible model for funding elections that is structured as an incentive for continuous improvement.

Washington State, for example, has addressed the need for long-term funding for voting systems, while allowing counties to choose and require little additional state effort. According to statute and regulations in Washington, all responsible jurisdictions – including the state – are included in cost allocation for elections including indirect costs and equipment depreciation fees. In anticipation of ongoing maintenance and replacement costs, depreciation fees are placed into a revolving fund at the county level dedicated to voting equipment expenses. More information on this can be found in Appendix E.

Appendix A - State Survey Data

A. Responsibility Sharing

Discovering which entities take on what aspects of election administration was important in establishing what frameworks exist between state and local governments. Survey responses indicate the vast majority of states that responded have shared fiscal responsibility, with 19 out of 27 (70 percent) of states describing election administration as being funded both by state and local governments. Additionally, 7 out of 27 (26 percent) states identified election administration as being fully locally-funded, while only New Mexico identified their system as being fully state-funded.

This joint division of fiscal responsibility was once the case in California; however, since the suspension of state election mandate reimbursements for counties, the system is better described as primarily locally-funded. The state does provide a statewide voter registration database and some outreach, however almost all other aspects of election administration are funded at the local level.

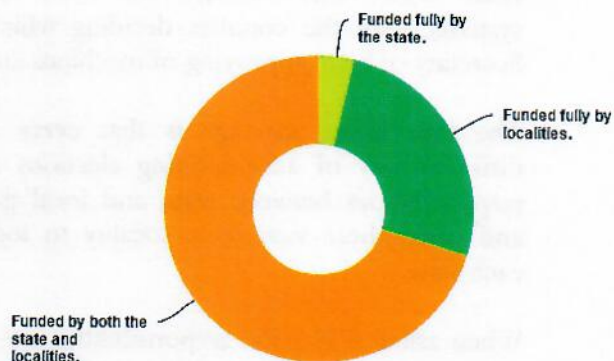
In addition to identifying who pays for what, CA Fwd sought to determine how election services and activities were divided among state and local governments. The breakdown is in the chart to the right.

Responsibility for specific election services and activities vary widely from state to state. A majority share outreach activities and leave staffing and ballot printing to the local level. The only aspect that is consistent among states is that approval of voting equipment is a state-level responsibility.

For the responsibilities designated as shared, the survey asked how these were divided among the state and local governments. There are rarely formal divisions of responsibility between entities, which leaves a patchwork based on state and local statutes, codes and laws. Generally speaking, staffing for state offices is a state responsibility while staffing for localities is a local responsibility. Training materials are often provided by the state for local governments, but are not always made mandatory. Voter outreach seems to be shared fairly evenly between the state and localities, as well as producing materials and information for voters.

Are elections state-funded, locally-funded, or a combination of the two?

Answered: 27 Skipped: 0



Which election services are considered state, local, or shared responsibilities?

Answered: 24 Skipped: 3



percentage of eligible or active voters, amount of space on the ballot, number of measures or candidates, type of mandate or activity and occasionally one-time expenditures. This shows the widespread variation throughout the nation, no one state that responded to the survey had the same method for administering or funding elections as another.

North Dakota illustrates how complex cost-sharing can be when describing voting system funding and training: "The cost of the voting machines is paid for by the state. The cost for programming the machines is paid for by the counties. The cost for maintaining the machines is split between the state and the counties. Any cost for programming that is for the centralization of data is paid for by the state. All software systems used by the entire state is paid for and maintained by the state. The cost for statewide and regional election training is paid for by the state." This does not even include other aspects of election administration.

A common form of cost-sharing among responding states involves local governments paying for most election expenses up front and then seeking reimbursement in some form from the state. In Hawaii, counties incur the costs of elections up front and then receive applicable reimbursements which are made at either 100 percent, 50 percent, or a prorated amount of the cost of administering the election. These reimbursements are based upon the population and how many registered voters are in each county. The state pays for half of the cost of voting systems and the remaining half is distributed among the counties based on number of registered voters. The state purchases supplies up front and charges counties for their share of the cost. This is also true of Alabama where the state reimburses counties for half of election costs when there is a combination of federal and/or state measures along with local measures, and all of costs when there are no local measures on the ballot. Typically, reimbursements from states to counties require a process of submitting documentation of costs and claims for reimbursement.

The reimbursement process is different in Colorado for a variety of reasons, one being that counties are reimbursed automatically without having to send in a claim. The state pays the full cost of odd-year statewide elections with no county candidates or ballot measures. For other elections, the state reimburses the county based on the number of active voters in that election immediately after the polls close. More specific formulas will be discussed in the next section.

Another unique system for cost-sharing is in Georgia, where there is a uniform statewide touch screen voting system purchased by the state that must be used by all 159 counties in the same way. The state funds the Center for Election Systems through Kennesaw State University, which builds ballots and collects data for counties at no cost. Each county in Georgia is responsible for budgeting most of the variable costs associated with an election. This includes the cost of employing poll workers, printing of paper ballots, and other similar costs. These budgets are submitted to a county commission annually and funded by the county. The costs associated with ballot building and preparing the electors list for the electronic poll books are absorbed by the Center for Election Systems and are considered a fixed annual cost. These costs are incurred by the state and not passed on to the counties.

or candidate on the ballot, local jurisdictions pay all election costs. The state pays the costs up front, then seeks reimbursement from localities under the cost-sharing formula (75 percent/25 percent). Local jurisdictions pay their share to the state rather than to the localities because the state advances election costs.

Arizona uses a flat rate model similar to that of Colorado. Originally, the law was amended in 2012 requiring the state to reimburse counties for the full cost of special elections and presidential primaries, however that law was overturned and now the state reimburses counties at \$1.25 per registered voter.

In addition to having different formulas for sharing costs between the state and local governments, there are also a variety of ways costs are divided among counties and local jurisdictions within counties. States were asked if counties charge jurisdictions for the cost of administering elections, and if so, how this was done. Many responded that methodologies and formulas vary from county to county, and were not able to provide more than a high-level understanding. Typical formulas include counties charging jurisdictions based on a percentage of the number of measures or candidates on the ballot, by the number of registered or active voters, or by a percentage of direct costs.

Once again, the complexity involved in election administration is apparent in Wyoming's response, "For special district elections conducted in conjunction with other elections, the special district may be required to pay only those expenses reasonably attributable or allocable to the district's participation in the election. Municipal elections not held concurrently with statewide elections - municipality bears the expense of the election; special municipal elections - poll lists, paid by the municipality, are obtained from the county clerk. Cost of school or community college district elections: cost of election or equitably proportioned shares of concurrent election as determined by county clerk shall be paid by the appropriate board from the funds of the school district or community college district."

Most states that responded did not have formal formulas, and of the states that did there was a lack of consistency among localities in using the formula. One unique formula that emerged from the survey can be thought of as a "ballot real estate" model. In Minnesota, counties can charge local jurisdictions using a cost allocation formula: (total election costs) X (percentage of voters in jurisdiction) X (percentage of jurisdiction's total column inches on ballot). Counties measure the amount of ballot space a jurisdiction's candidates or measures take up on the ballot and multiply that by the percentage of voters and total election cost in order to determine what local jurisdictions should pay for the cost of election services.

D. Collaboration

CA Fwd was particularly interested in discovering examples of collaboration between state and local governments. Existing collaborative models may be a foundation for effective, efficient and sustainable funding models in California. Overall, 46 percent of responding states indicated an example of collaboration between entities exists.

challenges stand in the way of making improvements to the current system. Comments indicated lack of funding for elections was one of the biggest challenges to achieving adequate, reliable and fair election administration. Several states noted that more funding overall was needed, as well as the desire for entities involved to pay their “fair share” rather than having costs borne by counties. When asked about potential solutions, these included reliable funding for voting systems and maintenance, training, voter registration and mandates. Some states discussed the desire for ongoing federal funding, while others noted reduced budgetary restrictions would allow for more flexibility. Some expressed a desire to find alternative methods for funding voting systems in light of the deterioration of systems across the nation, including dedicated voting system funds, low-interest loans, leasing through vendors and more centralization of state financing systems.

Aside from insufficient funding, other obstacles stand in the way of states adequately, reliably and equitably administering elections. These include determining the actual cost of elections, inconsistent data collection and reporting, counties’ lack of willingness to work together, the hindrance of statute and law, and the need for legislative action for change to be implemented.

F. Data Collection

Data collection and reporting are essential to understanding the actual cost of administering elections. Often states do not require counties to keep track of these costs in a meaningful way, leaving an unclear concept of what election administration is costing counties and taxpayers. Some states have implemented systems that address this issue. Colorado has the interactive ACE database which has detailed numbers and statistics on election costs in the state, including infographics. The ACE database allows one to see the overall costs of elections, cost per voter, and cost by geographical location. This detailed data collection and mapping allows the public and government to understand trends, such as the increased costs for small, rural counties to conduct elections compared to the relatively low costs of large, urban counties. This database requires a streamlined budget reporting process allowing for comparability across counties.

Another example is the detailed Wisconsin Election Data Collection System. According to their website, “The Wisconsin Election Data Collection System (WEDCS) is an online database for municipal clerks to report election statistics within 30 days of each statewide election, or within 45 days of a general election. Statistics include the number of voters, voter registrations, types of voting equipment used, and election costs.” In 2008, Wisconsin was one of five states that were awarded grants by the U.S. Election Assistance Commission. The state received two million dollars aimed to improve Wisconsin’s ability to collect usable data at the local level.

Another data collection tool being used by multiple states is called the Election Registration Information Center (ERIC), a nonprofit organization with 18 state members and the District of Columbia. ERIC collects and disseminates state data

produces uniform ballots. Maintenance, vote counting and ballot printing are included in the contract with the vendor.

Appendix B - County Survey Data

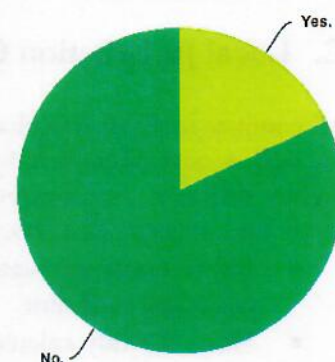
A. Strategic Planning

California county election officials were asked whether there was a strategic plan in place to adequately fund election administration. Responses revealed that approximately 18 percent of responding counties reported having a strategic plan, while 82 percent did not. Of the counties that did have a plan, some examples were provided:

- Inyo County created an Elections Innovation Fund which had accumulated about \$80,000 to replace voting systems.
- San Luis Obispo County discussed process improvements such as comparing actual costs against budgeting and competitive bids for supplies.
- Orange County has a budget planning process with a five-year strategic plan.
- Marin County uses strategic budgeting based on previous elections.
- San Diego County uses a General Management System (GMS) which includes strategic planning for county operations.
- Los Angeles County has a departmental strategic plan and addresses election administration through their budgeting process.

Has your county developed a strategic plan to adequately fund election administration? If so, please explain.

Answered: 28 Skipped: 5



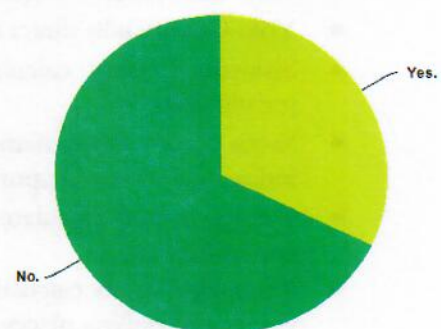
B. Performance Metrics

County election officials were also asked whether performance metrics were in place to assess the success of election administration in their county. Approximately 32 percent of respondents reported having performance metrics; however, these metrics vary:

- Napa County assesses based on voter turnout.
- Sacramento County measures the number of accessible polling places and poll workers in training.
- San Luis Obispo assesses based on the cost per registered voter, cost per vote-by-mail voter, voter turnout, polling place look up hits online and vote-by-mail look up hits online.
- Orange County measures based on percentage of goals met or exceeded.

Has your county adopted performance metrics for election administration? If yes, please identify what criteria is used to measure performance.

Answered: 28 Skipped: 5



- San Diego County uses a weighted average formula for special local elections based on actual costs.
- Los Angeles County calculates costs based upon the number of registered voters, precincts, vote-by-mail requests, ballot groups, sample ballot pages, voter recorder pages and candidates through pre-determined calculation formulas.
- Alpine County calculates costs based upon weighted rate and time.
- Nevada County charges \$1.25 per registered voter in special districts and direct costs to school districts.

D. Policy and Funding Challenges

Election officials were asked which policy and funding challenges they face in administering elections in their county. About 84 percent reported that state mandates and laws as well as a lack of state funding and support are challenges. Approximately 52 percent indicated that a lack of local funding was an issue, and 48 percent pointed to federal funding and support as well as state regulations as challenges.

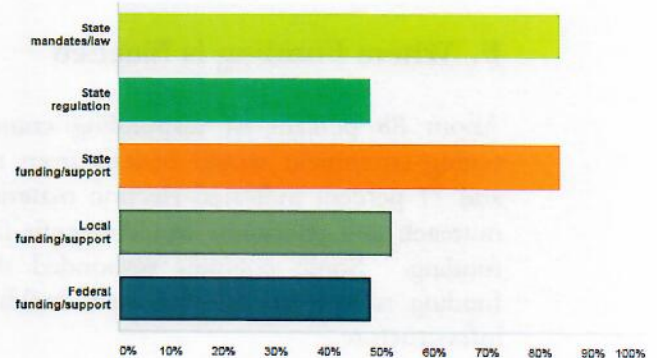
Some counties provided feedback on specific examples of policy and funding challenges. Many expressed the need for state reimbursement for special elections in particular as well as the need for funding for voting system replacement. Others suggested that new laws and regulations should include funding for implementation. A few expressed concern that the electoral process is becoming increasingly at risk as it continues to be underfunded.

Election officials were also asked which practices were already in place that other counties can benefit from; the following examples were highlighted:

- Sacramento County's board of supervisors fee schedule and budgeting.
- Nevada County's flat fee for special districts and school districts.
- Kern County's automation and process changes which have reduced costs over six years.
- Yolo County's collegial relationship with the board of supervisors.
- Riverside County uses nonprofit postage to reduce costs.
- Los Angeles County's shared Requests for Proposals, purchasing agreements and multi-jurisdictional competitive grants.

Identify policy and funding challenges to election administration in your county. Please provide examples where possible.

Answered: 25 Skipped: 8

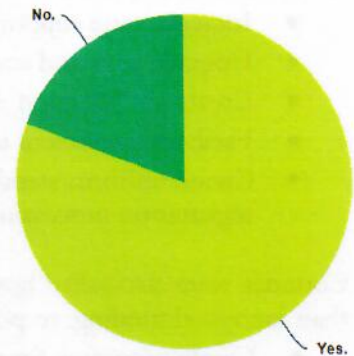


H. Alternative Funding

81 percent of counties surveyed indicated an interest in exploring alternative funding methods for elections. When asked to rank the importance of certain qualities, counties indicated the reliability and adequacy were most important in a prospective funding model. Among the options listed, block grants, categorical grants, matching funds, bonds, competitive grants and revolving funds were of interest. Low-interest loans were not highly rated as options

Is your county interested in exploring alternative methods to fund election administration?

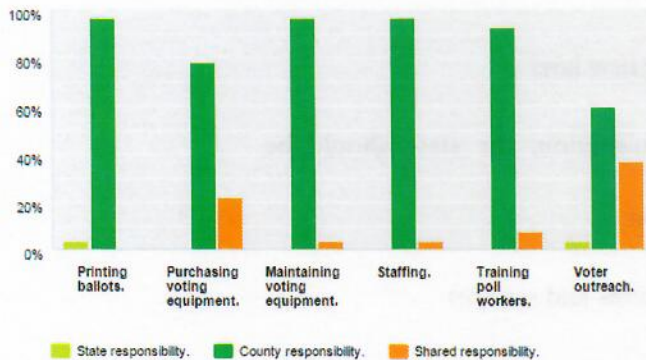
Answered: 26 Skipped: 7



I. What Is vs. What Should Be

When administering state-related elections, which election services **ARE** state, county, or shared responsibilities?

Answered: 27 Skipped: 6



When administering state-related, which election services **SHOULD** be state, county or shared responsibilities?

Answered: 27 Skipped: 6



Most responsibilities are decided and carried out at the local level. When asked how these responsibilities should be divided among entities, counties indicated a more equitable division of labor. Many counties indicated voting equipment should be a shared cost and that all parties involved should all pay a share.

J. State Assistance

Counties were asked how the state could be of assistance beyond funding to make election administration more efficient and effective. Responses to this varied among the counties:

- Streamline processes to purchase voting equipment
- Provide flexibility in selecting polling places and drop boxes
- Pass legislation to remove vote-by-mail voters from polling place formulas
- Allow counties the option of implementing all vote-by-mail elections

- Demographic differences
- Planning and coordination
- Communication
- Differences in purchasing policies
- Differences in law interpretation
- Lack of uniformity in voting systems and voter registration practices
- Differences in vision and opinion

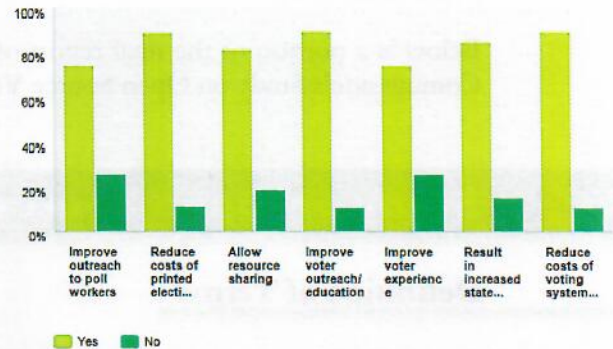
Despite these difficulties in successful collaboration, there is significant interest in doing so if the benefits are clear. About 88 percent of responding counties indicated there should be more collaboration among counties in election administration.

L. Alternative Funding Framework

Overwhelmingly, counties felt California should adopt an alternative funding framework for elections with 96 percent agreeing or somewhat agreeing.

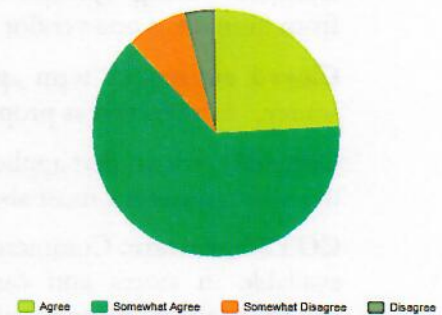
Would your county be interested in forming partnerships or collaborations with other counties if doing so would:

Answered: 27 Skipped: 6



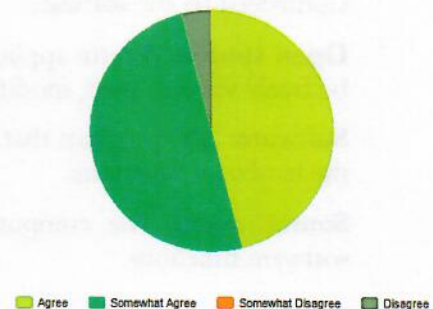
Do you agree with the statement, "There should more collaboration between counties when providing election services and procuring election equipment"?

Answered: 25 Skipped: 8



Do you agree with the statement, "California should adopt a different framework for state-county election funding"?

Answered: 26 Skipped: 7



information on open source voting systems and current projects taking place in other counties. Additionally, remaining questions and concerns regarding the development of an open source voting system are discussed.

While there is no complete open source voting system in place anywhere in the country, two counties are in the process of developing their own voting system that may become open source systems: Los Angeles County, California, and Travis County, Texas. Additionally, there are various organizations that have been in existence for years now, dedicated to the development of open source voting system technology. These agencies provide invaluable information on how to approach the development of an open source voting system, and which areas require more time and effort.

Based on research surrounding current open source voting system projects, along with extensive interviews with various election and computer software experts, officials from Los Angeles and Travis County, the California Secretary of State's office, and San Francisco Department of Elections office, LAFCo was able to conclude the following:

- In studying current proprietary systems, LAFCo learned there are only three proprietary companies that have certified systems to choose from in California, providing extremely limited options to counties.
- Several ongoing voting system projects can be adopted, and provide an opportunity for the CCSF to expedite the development of an open source voting system, if the CCSF chooses to develop their own voting system.
- In the past, security flaws have been discovered in machines from proprietary companies, resulting in the Secretary of State's decertification of these systems until they made improvements. While no one can reasonably claim that open source would be more secure than proprietary systems, advocates are firm in expressing open source and disclosed source software and technology is neither more or less secure than closed source or proprietary software.
- Proponents claim the adoption of an open source voting system provides a possibility of saving money and creating more innovative voting systems. For example, existing proprietary voting systems do not currently provide all desired ranked choice voting functionality; our current system with Dominion only allows the public to rank their top three candidates, instead of allowing them to rank all of the candidates. The adoption of an open source voting system provides an opportunity to improve the way ranked choice voting takes place in the CCSF.
- Transparency and security are key components in open source voting system proposals. Advocates claim an open source voting system would be more transparent than a proprietary system, and the transparent nature of open source systems increases security; signs of insecure code could be spotted by security or tech-savvy members of the public.

maintenance and license fees per year has gone from \$3.45 million a year to \$2.19 million per year.

Until now, the CCSF has had at least one election every year. However, recent changes indicate that no election is scheduled in 2017, and every four years thereafter. The DOE's contract with Dominion expires on January 1, 2017; therefore no payments are currently scheduled with the company after that date. Since this is the first time the CCSF will have a non-election year, the details surrounding what funds (if any) the DOE would need to spend—whether they work with a proprietary system or open source voting system—are unknown at this time.

Ballot tabulation:

Currently, ballots that are submitted by mail and in-person are marked the same way; voters mark their vote on a paper ballot by completing the arrow to indicate their choice in each category. For in-person voting at polling places, non-provisional voters feed their marked ballot into a precinct-based scanner called the Insight purchased from Sequoia (which was acquired by Dominion in 2010). The Insight scans and tabulates ballots as they are inserted.

Vote-by-Mail (VBM) ballots are either mailed to the DOE or dropped off in person. These ballots are verified and then scanned by Dominion's Optech 400-C central count optical scan machine. The scanner was originally produced by Sequoia and ES&S systems.

Concerns about current system:

Proponents of open source voting systems raise several concerns regarding the proprietary nature of this voting system:

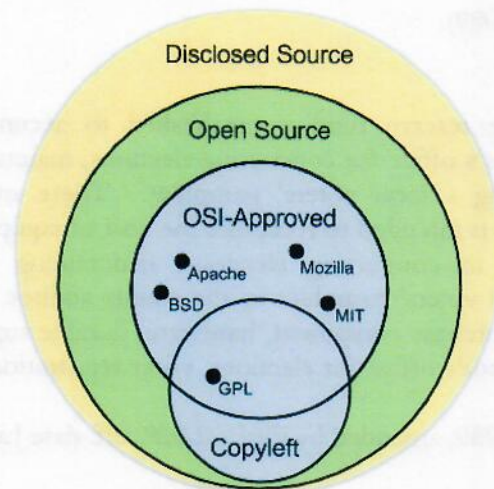
- 1) Transparency. The source code, which determines how the voting system machines are run, is unknown to the public. There is no way to confirm that the system is free of serious security vulnerabilities. Additionally, the type of election reports that are available and their data format is limited to what the vendor has decided to implement.
- 2) Innovation. There are only three companies that produce certified voting systems in California: Dominion, ES&S, and Hart Intercivic. Proponents of open source voting systems argue that this lack of options creates little to no competition, and as a result the voting systems in place are outdated. Counties are "locked in" to contracts with these systems and cannot make any changes to the software unless the proprietary company decides to make those changes.
- 3) Obsolescence. Furthermore, several computer experts expressed their concerns that the current system in place will "term out" in 5 years, meaning the software and hardware components will become obsolete, as the parts are so old they are no longer in production. This would result in the county having to purchase brand new machines, or look for spare parts in other parts of the globe. For-profit companies selling proprietary software do not have an incentive to make their products last.

- 6) Inflexibility. With the current system or any proprietary voting system, if San Francisco desires even a small change to its system, San Francisco would have to go through its vendor. In particular, San Francisco would need permission from the vendor and would not be able to “shop” the costs around. With an open source system, San Francisco would be able to make changes without such approval and could benefit from more options (though any change would require recertification).

B. Proposed open source voting system

Supervisor Scott Wiener authored Resolution No. 460-14, which urges the CCSF to “work with other jurisdictions and organizations to create new voting systems using open source software; and to study the feasibility of the City and County of San Francisco developing and using a new voting system, either whole or in part, through a collaborative model like the Los Angeles County Voting Systems Assessment Project.”⁵ The resolution was subsequently adopted by the Board of Supervisors on December 9, 2014 and approved by the Clerk of the Board on December 10, 2014.

Open source can fall into different types or categories as the chart below demonstrates. The most well-known are the OSI-approved licenses, which are approved by the Open Source Initiative (OSI) group. Some more well-known examples of OSI-approved licenses are listed in the chart, but there are many more. A copyleft license means that if somebody makes changes to the open source software, then those changes must also remain open source for all. Without copyleft, someone could make changes and put additional restrictions, like making it closed or disclosed source. While not necessarily open source, a disclosed source system achieves some similar attributes of an open source system such as availability of the public to review the system, but it keeps the ability to use or modify the system with the person or group who developed it.



4.73.030 Fund operation.

The funds collected by the county auditor's office for the purposes described in SCC 4.73.020 shall be deposited in the elections equipment cumulative reserve fund. Any unspent monies shall be carried over within the fund from year to year. The ending fund balance and anticipated revenues shall be budgeted annually in conjunction with the county budget process prior to any expenditure from the fund.

(Added Ord. 02-029, eff. date July 10, 2002)

4.73.040 Fund resources.

RCW 29.07.030, 29.13.045, 29.13.047 and 29.81A.070 authorize the county auditor to recapture the prorated cost of conducting elections, maintaining voter registration files and producing a local voter's pamphlet. The billing process for recapturing these costs allows for an overhead charge to be placed on all direct costs associated with conducting elections, maintaining voter registration files and producing a local voters' pamphlet for other governments. The monies representing this overhead charge shall be deposited in the elections equipment cumulative reserve fund for the purposes described in SCC 4.73.020.

(Added Ord. 89-140, November 13, 1989; amended by Ord. 02-029, eff. date July 10, 2002).

4.73.050 Fund manager.

The county auditor or his designee shall be charged with the responsibilities described in SCC 4.05.050.

(Added Ord. 89-140, November 13, 1989; amended by Ord. 02-029, eff. date July 10, 2002).

4.05.050 Responsibilities of fund manager.

Fund managers shall be responsible for: assuring that expenditures do not exceed appropriations as formally adopted by the county council, positive cash flow is maintained, contractual obligations do not exceed budgeted appropriations or actual revenues for a fiscal year and maintenance of sufficient documentation in order to justify requests for long or short term financing of ongoing operations or capital acquisition related to a fund.

(Added Ord. 86-025, April 2, 1986).

Appendix F - County of Contra Costa Management Practices

In an interview with an election official from the County of Contra Costa, the lean management practices used were outlined. On a broad level, officials began by asking "why". By understanding why processes were occurring in a certain way, Contra Costa was able to determine how to redesign practices in more efficient and effective ways. Some of the questions asked include:

- Why does it cost this much to run an election?

Q8: For the shared responsibilities, how are they divided among the state and localities?

Q9: Do localities collaborate in election administration to reduce costs and/or increase effectiveness (such as sharing resources, or partnering to purchase from vendors)? If so, please provide an example of this collaboration.

Q10: Do election officials share election-related responsibilities with other officials, departments, boards or commissions? If so, please specify which entities share election-related responsibilities.

Q11: If special elections are used to fill vacancies, are these elections funded differently than other elections?

Q12: Does the state draw upon the general fund or a special fund for election services? (If special fund, is it funded by a tax or fee?) If the state does not provide assistance for local elections, what source of funding do local agencies use to support election services?

Q13: To what extent do you agree with the following statement? "There is general agreement between the state and localities that the current funding model is adequate, reliable, and fair."

Q14: What would make the way election administration is funded in STATE, more adequate?

Q15: What would make the way election administration is funded in STATE, more reliable?

Q16: What would make the way election administration is funded in STATE, more fair?

Q17: What are the obstacles or challenges that stand in the way of making those improvements?

Q18: Please provide any additional information you think is valuable in understanding how election administration funding functions in your state, and that was not addressed above.

Q19: May we contact you in the future for clarification or more detail regarding this survey?

Q20: Contact Information:

Appendix H - County Survey Questions

Q1: Please provide your contact information.

Q17: When administering state-related elections, which election services ARE state, county, or shared responsibilities?

Q18: When administering state-related, which election services SHOULD be state, county or shared responsibilities?

Q19: How important should state assistance or funding in the following areas:

Q20: What can the state do to assist your county in becoming more effective and efficient in election administration?

Q21: Other than providing funding, how else can the state and/or federal government assist in the procurement of voting systems?

Q22: Has your county collaborated with another county or counties to provide the following election services:

Q23: What are the challenges in collaborating with another county or counties?

Q24: Would your county be interested in forming partnerships or collaborations with other counties if doing so would:

Q25: Which of the following entities have you worked with in the past to assist in election responsibilities?

Q26: Do you agree with the statement, "California should adopt a different framework for state-county election funding?"

Q27: Do you agree with the statement, "There should more collaboration between counties when providing election services and procuring election equipment?"

Q28: Please provide any additional information not addressed above.

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- Caltech/MIT Voting Technology Project. "Voting: What Is, What Could Be." (2001): 1-95. Web.
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