

The Public Integrity Project

In deciding the manner in which elections should be conducted there are basic principles that are necessary to follow. Elections should be *transparent, verifiable, accurate, accessible, secure, accountable and ballots secret*. The methods that are being discussed currently are all-mail ballot elections or paper ballots at the precinct. Paper ballots at the precinct can come the closest to meeting all of the above criteria. Mail ballots elections achieve virtually none of these criteria and were voted down by the citizens of Colorado by a 58% to 42% in 2002.

There has been a proposal made by the Secretary of State that certain of the Colorado requirements for certification be eliminated and “patches” allowed to fix the many problems found in the recently completed voting system testing. Given the number of patches that would be necessary, the voting machine software would resemble a coat-of-many-colors. As stated by Sec. Coffman, the Federal testing is inadequate and that is the reason for State testing is necessary. In fact, the Federal testing records of at least one vendor could not be produced by either the vendor or the Independent Testing Authority. The Independent Testing Authority reports upon which the Colorado Department of State relied are either non-existent or badly flawed. Ciber, Inc. has lost its Election Assistance Commission accreditation for lack of record-keeping and inadequate testing. Systest has received a letter of reprimand from the EAC for unethical behavior for working for the Republican Party in the disputed Sarasota County, Florida, congressional contest. In 2006, Systest was reported in the New Mexico press as saying that the ES&S M100 and M650 scanners were accurate and suitable for use. In December of 2007, Systest gave the opposite evaluation in testing for the Ohio Secretary of State. These scanners have been decertified in Colorado.

The vendors have been complaining about the differing standards for certifying voting systems in the various states. Colorado and 34 other states have adopted the 2002 Voluntary Voting System Guidelines into statute. This was done in 2004 in Colorado. There have also been allegations that the Conroy v. Dennis lawsuit made the requirements more stringent. These complaints and allegations simply lack basis in fact. If 35 states have virtually the same requirements, that certainly makes requirements standard in a majority of states. If the vendors were serious about having their equipment comply with Colorado statutes, they could have done so by now. Conroy v. Dennis only requires that the laws that were on the books since 2004 be followed and they clearly were not.

Of the two options being seriously discussed, paper ballots at the precinct with an accessible device for those with disabilities is the best option. In order to keep maintain transparency, accountability and comply with state statute, the paper ballots need to be counted at the precinct so that the results can be posted at the polling place on election night. In order to keep costs down, the ballots can be hand-counted in small batches at the precinct, then taken to the elections offices and counted on central count scanners. The hand-counted results can then be given to press as unofficial results. Any differences

in the counts can be reconciled. Counting in small batches at the precinct level will alleviate bottle-neck problems like those in Denver County in 2006 and 2007. Since the counting occurs after most people leave work, it would be easier to recruit counting judges who would probably volunteer with no financial payment required. Studies done by the Caltech/MIT Voting Technology Project show that neither optical scan or hand-counting meet the .000002% maximum error rate required by HAVA. If two methods of counting are automatically used, we can achieve a more accurate result with a built-in audit. Our elections should be subject to the same strict standards of accounting as well-run businesses.

Hand-counting is currently used by 45% of the jurisdictions in New Hampshire as well as country-wide in Japan, Sweden, Germany, Canada and Switzerland. Hand-counting is currently used in Jackson County, Colorado. In New Hampshire, ballots may have as many as 25 contests and are still hand-counted, and the results available on election night, usually by 11:00 PM.

There has been discussion on the election taskforce headed by Senator Gordon and Representative Balmer about the need to maintain or increase voter confidence. Voter confidence can only be maintained by keeping the Colorado testing process intact and by involving citizens in transparent, accurate and accountable elections.

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