

SB 370

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CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

September 1, 2005

*The Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol
Sacramento, CA 95814*

Dear Governor Schwarzenegger:

The California Association of Clerks and Election Officials (CACEO) Elections Legislative Committee wishes to express its fervent opposition to SB 370, Senator Bowen's bill regarding using the accessible voter verifiable paper audit trail (AVVPAT) to perform the 1% manual tally, and if requested, for a full recount. This bill has been enrolled and now awaits your signature.

Using the AVVPAT for a 1% manual tally, or for a full recount, is extremely problematic for the following reasons:

- In early voting sites and election day voting sites with multiple precincts, voters are not restricted to using a Direct Recording Electronic (DRE) unit specific to the voter's precinct. As a result, determining which ballot images on the AVVPAT represent votes from a specific precinct would be onerous and time consuming, if not impossible, depending on the information available on the AVVPAT.*
- Provisional ballot images appear on the AVVPAT without an identification number, and prior to the determination of eligibility by the election official in the official canvass. Some provisional ballots should not be included in the tally, due to the ineligibility of the voter to cast a ballot. The AVVPAT tally will not match the final electronic tally of the vote. Therefore, the AVVPAT is of questionable use in the 1% manual tally, and creates a serious problem in the full recount scenario since eligible ballots are indistinguishable from the ineligible ballots due to the inability to identify which records represent the eligible and/or ineligible images.*
- The AVVPAT is printed in the language selected by the voter when casting his or her ballot. Translation of the AVVPAT for the purpose of performing the 1% manual tally will be difficult and time consuming.*
- The AVVPAT printers will undoubtedly have mechanical problems (jamming, illegible print, etc.) at some point, compromising the ability to perform either a 1% manual tally or a full recount.*
- The AVVPAT units have not yet been tested in an actual election in California. Without this real time experience, no one yet knows what the issues will be, and therefore attempting to address the issues in advance is unwise.*

The 1% manual tally was specifically designed to verify the accuracy of electronic ballot counting. This form of verification could be easily applied to early electronic ballot counting and has been reliable in determining the accuracy of the tabulation of the votes. However, the procedure applied to previous technology is neither easy nor accurate when applied to verification of DRE ballot tabulation using the AVVPAT. We do believe that a separate, independent verification of DRE accuracy is necessary, but remain convinced that we must address the continuing evolution of technology by finding new methods of validating the accuracy of the equipment used to cast or tabulate votes.

The Honorable Arnold Schwarzenegger
Governor of the State of California
Re: SB 370

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The AVVPAT is a form of verification that is useful only when the voter is present. If the AVVPAT does not match how the voter voted using the DRE, the voter has the opportunity to reject the ballot and begin again. If it is discovered that the DRE is faulty, the DRE can be removed from service. Using the AVVPAT for this purpose, the purpose for which it was created, is a logical method of verifying the accuracy of the electronic equipment. Using the AVVPAT to perform a 1% manual tally or full recount is neither practical nor accurate for the reasons outlined previously. Printing the internal audit trail for these purposes does nothing to verify the accuracy of the electronically captured vote, because the possibility exists that the internal audit trail and AVVPAT could be programmed to print different results. Therefore, a new method of random verification must be applied.

The Parallel Monitoring Program implemented by the Secretary of State provided a method of randomly verifying the accuracy of voting equipment in DRE counties. This program was implemented using no county staff, and verified that the DRE's performed with 100% accuracy. Continuing and perhaps even expanding this program for DRE equipments, in lieu of performing the 1% manual tally, would provide a higher level of accuracy verification than would be possible by attempting to verify the results by comparing the votes on the AVVPAT.

Senator Bowen's SB 370 becomes somewhat confusing in regard to a full recount of the votes. E.C. Section 15627 is proposed to be amended to state that "either the paper record copies or the voter verified paper audit trail of the electronically recorded vote are counted manually, as selected by the voter who requests the recount." This clearly sets out a differentiation between the paper record copies and the voter verified paper audit trail. However, in the proposed amendments to E.C. 19253, the bill strikes "paper record copy," and inserts "voter verified paper audit trail" as the paper audit record used for both the 1% manual tally and a full recount. We have stated our issues with performing both the 1% manual tally and a recount using the AVVPAT, but this discrepancy within the bill would further complicate matters.

The CACEO Elections Legislative Committee respectfully requests that you veto SB 370. If you have any questions in this regard, please do not hesitate to contact me at (707) 565-6814.

Very truly yours,



Janice Atkinson,
Correspondence Secretary
Elections Legislative Committee
California Association of
Clerks and Election Officials