



August 25, 2006

Vote-Pad, Inc.
PO Box 65050
Port Ludlow, WA 98365

Dero Forslund
County Clerk, Recorder, Assessor
PO Box 1215
Weaverville, CA 96093-1215

Freddie Oakley
Recorder, County Clerk & Registrar of Voters
P.O. Box 1820
Woodland, CA 95776

Dear Applicants:

After extensive review of the Vote-PAD voting device, in conjunction with the Hart eScan and Diebold OS systems, the Secretary of State has determined that certification and approval for use of the device in California is not appropriate at this time. As presented, the current version of Vote-PAD does not accurately or reliably record and verify votes.

On its face, the Vote-PAD presents a low cost, low maintenance, low-tech option for compliance with the accessibility requirements of the Help America Vote Act (HAVA). However, after conducting two days of **extensive testing** of the system's accuracy, reliability and accessibility, of which each of you took part, it was very clear that some voters who are blind would be disenfranchised if this system were approved for use in California. Voters who were visually disabled experienced a significantly higher error rate than other voters and were, thus, less likely to have their vote accurately recorded.

Overall, voters who were blind experienced an error rate of 20% voting with the Vote-PAD in the test, while voters who had no dexterity or visual issues cast error-free ballots and voters with dexterity disabilities experienced an overall error rate of approximately 5%.

Currently, only one other state, Wisconsin, has approved the Vote-PAD for use in elections. Notably, the Wisconsin certification limits use of the Vote-PAD to those jurisdictions that hand-count paper ballots for all of their voting. Moreover, the certification is limited to jurisdictions that have a voting population (versus registered voters) of less than 7,500 people.

Consistent with standard testing practice, we worked to include typical voting scenarios, including votes cast for write-in candidates. Taking into consideration your concerns with the number of write-in candidates per ballot in our testing process, we separated out for write-in contests and non-write-in contests, and the error rate for voters who were blind on non-write-in contests did improve slightly from 20% to 14%. However, the error rate for casting write-in votes for voters who were blind increased from 20% to over 50%, underscoring how unreliable the Vote-PAD system is for write-in votes. Further, voters with dexterity impairments experienced an error rate of 29% in casting write-in votes. More than half of these were attributed to illegible candidate names.

You also took issue with the directions given by the monitor(s) to skip contests and then, later, to back up and vote those contests.

The fact is that there is nothing in the system that prevents this behavior and it is consistent with typical voter behavior. Therefore, we felt it was appropriate to test the system for this behavior, just as we test all other voting systems, to insure that votes are not lost if voters behave in this manner. However, again taking your claim into consideration, the error rates for the contests voted at the beginning of the ballot, before the monitors directed any of the participants to back up and vote a previously skipped contest, were separately calculated and compared with the error rates for the rest of the ballot after the first directions were issued to the voter to back up and vote. We found, in fact, that the overall error rate for voting was 16.7% prior to the directions to skip a contest and, actually, improved to 9.5% on the remainder of the ballot, once the directions to back up and vote a contest had started. For voters who were blind, the error rate of 27.5% at the beginning of the ballot improved to 18.5% *after* the instructions to skip a contest had begun. Based on this empirical data, it appears that your concerns in this regard are not well founded.

Another very serious concern we have with this system is that voters who are blind cannot independently verify that the correct ballot has been inserted into the Vote-PAD booklet. They also cannot independently verify that their ballot has been inserted correctly into the Vote-PAD booklet and is properly aligned so that the voter who is blind cannot verify that they are voting within the correct voting target. By the very nature of the Vote-PAD design, it is possible to inadvertently or intentionally disenfranchise a voter who is blind by inserting the incorrect ballot into the Vote-PAD booklet or misaligning the ballot within the Vote-PAD.

Similarly, a voter can be disenfranchised if a ballot is not properly inserted into the Vote-PAD booklet so that the template holes align properly with the target positions on the ballot. While the vendor states that there are special "alignment" holes in the Vote-PAD booklet for such verification, their efficacy in practice is doubtful since some errors in the test appeared to have been caused by ballot misalignment.

Additionally, the verification wand does not provide a reliable mechanism for voters who are blind to reliably verify their vote choices were accurately recorded on the ballot. During our testing, not one participant who was blind was able to successfully identify how an entire pre-marked ballot had been voted using the verification wand. While objections have been raised over this portion of the testing because participants were asked to review a ballot they had not voted, the purpose of the verification wand is to find unanticipated marks as well as to confirm the intended marks on the ballot.

Any of these issues alone are sufficient to deny approval for the proposed Vote-PAD systems. HAVA promises that all voters, including voters with disabilities, will have the opportunity to vote privately, independently and have their vote accurately recorded. As long time advocates for accurate tabulation of all elections, I know you agree with these principles. The problems identified above make the proposed Vote-PAD systems unacceptable for use in California.

As indicated previously, the Secretary of State's Office is interested in providing voters and elections officials with as many appropriate and viable options for meeting state and federal voting system standards as possible. You should be aware, therefore, that this decision regarding Vote-PAD as currently designed does not preclude submission of an application for testing and consideration of a redesigned or modified Vote-PAD that resolves the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce McPherson". The signature is fluid and cursive, with a large initial "B" and "M".

BRUCE McPHERSON
Secretary of State