



Secretary of State
DEBRA BOWEN
State of California

March 2, 2009

Ms. Gineen Beach, Chairwoman
Election Assistance Commission
1225 New York Avenue NW, Suite 1100
Washington, DC 20005

Dear Chairwoman Beach:

The enclosed report describes the results of my office's review of Humboldt County, California's experience with the Diebold/Premier GEMS version 1.18.19 voting system in the November 4, 2008, General Election. Two issues are addressed in the report: Omission of 197 tallied ballots from official election results (which were later corrected) as a result of an error in the GEMS software, and deficiencies in the GEMS audit logs discovered while investigating the software error issue. Pursuant to Help America Vote Act (HAVA) Section 202(1), I would like to ask the Election Assistance Commission (EAC) to post the report at the Voting System Reports Clearinghouse on the Commission's website.

One of the report's findings is that the voting system vendor knew of the software error in GEMS version 1.18.19 and its potential to corrupt election results four years before the election in which its effects came to light in Humboldt County. The vendor failed during those years to give notice of the defect to the National Association of State Election Directors (NASED), the EAC or the California Secretary of State's office, even though the vendor knew that any county using GEMS version 1.18.19 in a central count mode was at risk of having its election results corrupted by the software error.

This report will be presented at a public hearing on March 17, 2009, at 10:00 a.m. in the auditorium of the Secretary of State's office in Sacramento, California. Following the presentation of the report, representatives of Premier Election Solutions and any member of the public will be allowed to provide testimony. During the hearing, there will be a discussion of the potential withdrawal of approval for use of GEMS version 1.18.19 in California.

On January 21, 2009, I wrote to you with the hope that the EAC would consider requiring that, for every voting system certified by the EAC, the voting system vendor report any and all flaws and problems with the system to the EAC and to the elections officials in the states where the system is used when such flaws are discovered.

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I want to make you aware that I am sponsoring Senate Bill 541, which was introduced in the California Legislature by State Senator Fran Pavley last Friday, to enact such a requirement in California. Should the measure become law, the EAC, voters and elections officials in every other state will reap the benefits of California's work. However, I would still encourage the EAC to adopt a similar policy so that California and its voters may benefit from the discovery of voting system-related problems in other states that are reported to the EAC.

Once again, I want to thank you, your fellow commissioners and your staff for your work to improve the security, accuracy, reliability and accessibility of our voting systems. If you would like to discuss these issues further, please feel free to contact me at (916) 653-7244.

Sincerely,

A handwritten signature in black ink that reads "Debra Bowen". The signature is written in a cursive, flowing style.

Debra Bowen
Secretary of State

DB:lf:elg:rm

Enclosure

cc: Ms. Gracia Hillman, Vice Chairwoman
Ms. Donetta Davidson, Commissioner
Mr. Tom Wilkey, Executive Director