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**DEPARTMENT OF JUSTICE**



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February 27, 2023

*Via Email:*

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Board Chair Patrick Jones  
County of Shasta Board of Supervisors  
1450 Court Street, Suite 308B  
Redding, CA 96001-1673

RE: Shasta County Board of Supervisors January 24, 2023 Vote Terminating County Contract with Dominion Voting Systems, Inc.

Dear Chair Jones:

This office represents the California Secretary of State concerning the Secretary's obligation to enforce the California Elections Code. The Secretary of State is California's chief elections officer, with a mandatory duty to administer all provisions of the Elections Code. (Gov. Code, § 12172.5, subd. (a).) Among these duties are ensuring that elections are efficiently conducted and that the State's election laws are followed. (*Ibid.*)

The Secretary of State has been advised that the Shasta County Board of Supervisors has authorized the cancellation of the County's current contract with Dominion Voting Systems after the March 7, 2023 election. As the Board contemplates its next steps, we wanted to ensure that it is aware of its obligations with respect to conducting elections.

The federal Voting Rights Act and the California Constitution guarantee eligible voters' right to vote. (52 U.S.C. § 10301, et seq.; Cal. Const., art. II, § 2.) The voting rights of persons with disabilities are protected under the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12131, et seq.), and the Help America Vote Act of 2002 (HAVA). (42 U.S.C. §§ 15301, et seq.) The ADA applies to elections and guarantees the right of persons with disabilities to vote "privately and independently." (*California Council of the Blind v. County of Alameda* (2013) 985 F.Supp.2d 1299, 1238.) HAVA requires that each voting system used in a federal election (including primary elections) "shall be accessible for individuals with disabilities . . . in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters." (42 U.S.C. § 15481(a)(3)(A).) And under HAVA, any voting system must use "at least one direct recording electronic voting system or

other voting system equipped for individuals with disabilities at each polling place.” (42 U.S.C. § 15482(a)(3)(B).)

California counties fulfill their duty to protect the right to vote by, among other measures, using electronic voting systems. Absent an electronic voting system, a county will not be able to fulfill the accessibility requirements of federal and state law. (See, e.g., *California Council of the Blind v. County of Alameda*, *supra*, 985 F.Supp.2d at pp. 1237-1240, citing 28 C.F.R. § 35.160(b)(2) [“[I]n order to be effective, auxiliary aids and services must be provided . . . in such a way as to protect the privacy and independence of the individual with a disability”].) Similar to HAVA, California law requires each polling place to have at least one “accessible voting system” certified or conditionally approved by the Secretary of State to provide access for voters with disabilities. (Elec. Code, § 19242, subd. (b), referencing 52 U.S.C. §§ 20901, et seq.; see also *American Assn. of People with Disabilities v. Shelly* (C.D. Cal. 2004) 324 F.Supp.2d 1120, 1128.) Additionally, California law requires that a certified remote accessible vote-by-mail system be made available to voters, including voters with disabilities, and military and overseas voters. (See Elec. Code, § 3016.7.)

County elections officials also have a myriad of canvassing and reporting obligations under the Elections Code that will be difficult to fulfill in the absence of an electronic voting system. Immediately upon the close of polls on election day, county elections officials must begin a semifinal official canvass of the vote which continues until all precincts are accounted for. (Elec. Code, §§ 15003, 15150.) The official canvass—a multi-step process involving the inspection, reconciliation, and counting of votes—must begin no later than the Thursday following the election. (*Id.*, §§ 15300, et seq.) The county elections officials must complete the official canvass no later than the 30th day after the election, and submit a certified statement of the results of the election to the Secretary of State by the thirty-first day after the election. (*Id.*, § 15372.) The required statement of results from county elections officials is very detailed—it must include the number of total votes cast and vote totals for each candidate or measure for every precinct, including overvotes and undervotes. (See *id.*, §§ 15372-15374.) These processes all implicate how elections officials count and verify votes, and require that a chain of custody be established. Certified electronic voting systems facilitate all of these Elections Code obligations. The Secretary questions whether a county can complete these processes—all of which have strict deadlines and are critical to establishing the accuracy and integrity of elections—without using an approved electronic voting system.

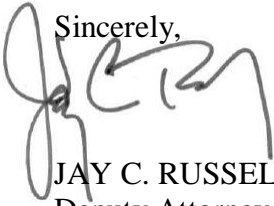
Whatever certified voting system Shasta County considers, it must pay close attention to statutory (and practical) deadlines as part of its implementation planning. That process, which includes procurement of the voting system itself and related materials—including ballots and ballot paper—and staff and poll worker training on the system, can be time-consuming.

If Shasta County has definitively terminated its contract with Dominion Voting Systems, Inc., it should proceed swiftly and efficiently to enter a contract with a certified electronic voting

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system vendor well in advance of the March 2024 statewide primary election or any intervening election. Failing to do so will, as discussed above, likely render Shasta County in violation of numerous federal and state laws.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,  
  
JAY C. RUSSELL  
Deputy Attorney General

For    ROB BONTA  
         Attorney General

cc:    Shasta County Clerk/Registrar of Voters  
      Cathy Darling Allen