



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
OFFICE OF VOTING SYSTEMS TECHNOLOGY ASSESSMENT  
1500 11th Street | Sacramento, CA 95814 | Tel (916) 653-7244 | [www.sos.ca.gov](http://www.sos.ca.gov)

April 22, 2011

Mr. Brian Hancock  
Director of Voting System Testing & Certification  
U.S. Elections Assistance Commission  
1201 New York Ave, NW, Ste. 300  
Washington, DC 20005

Dear Mr. Hancock:

As you are aware, the California Legislature passed and the Governor signed into law Senate Bill 1404 (SB 1404). This measure requires voting system vendors with California approved voting systems to notify the Secretary of State in writing of any defect, fault or failure of the hardware, software, or firmware of the voting system or part of the voting system known to the vendor. SB 1404 requires the Secretary of State to provide this information to the U.S Elections Assistance Commission (EAC) or its successor entity, providing a reasonably complete description. Therefore, in compliance with SB 1404, the Secretary of State's Office of Voting System Technology Assessment (OVSTA) is submitting the entire list of problem report records that the Secretary of State has received from each of the voting system vendors with a California approved voting system. These records include all problems known to the vendors on or before January 1, 2011, and reported to the Secretary of State. Attached to this letter are the problem report records in Excel format for you to post to the EAC's Voting Systems Clearinghouse webpage.

OVSTA would like to emphasize that each record being submitted to the EAC is presented as the voting system vendor submitted it to the Secretary of State, unaltered and unedited, except where the voting system vendor has elected to submit an amendment. OVSTA has only added one field entitled "Comments to EAC," permitting OVSTA to comment on matters it noted during review of each vendor's records. Many of the defects, faults, and failures were previously known to OVSTA, some having been discovered during the Secretary of State's Top-to-Bottom Review of Voting Systems in 2007. Any inaccuracies or missing documentation in the problem report records should be reported directly to the voting system vendor. Should a voting system vendor wish to update or amend its reports, SB 1404 requires the voting system vendor to send these changes or additions to the California Secretary of State.

As the problem record reports being submitted will be posted on the EAC's Voting Systems Clearinghouse webpage, the reports will undoubtedly have a national impact. Therefore, the Secretary of State instructed vendors to include

in their reports any problem affecting a California approved voting system or part thereof, whether the functionality is utilized in California or not. The records for those problems note that the defect, fault, or failure will not affect California jurisdictions or that the functionality being reported is not utilized in California. Including these records is intended to benefit not only the California jurisdictions using the voting system, but all voters, elections officials and policy makers throughout the nation.

The Secretary of State would ask that you keep in mind the following points when reviewing the problem records:

- SB 1404 states that the voting system vendor must submit any defect, fault, or failure of hardware, software or firmware. There may be multiple problem records concerning a single problem if the problem is present in multiple versions of the hardware, software, or firmware involved.
- Due to the decision of the U.S. Department of Justice to require ES&S to divest itself of most rights in the Premier Election Solutions GEMS version 1.18.24, both voting system vendors, Dominion Voting and Election Systems and Software (“ES&S”) who are now entitled to service this voting system are required to submit problem record reports for the system. Therefore, duplicative reports on the system, one from each vendor, should be expected. However, the “Problem Description” and “Mitigation Description” submitted by the two vendors may differ.
- Some records are marked as “Amended/Updated.” As this is a new process and the first of its kind, after originally receiving the initial submission of voting system problem reports from the vendors, on January 8, 2011, OVSTA reviewed each of the individual records and those that were complete were and marked as “Accepted.” Those that were not accepted were sent back to the voting system vendor, permitting the vendor to amend the record, prior to submission to the EAC. After the vendor amended and resubmitted those records, they were marked as “Amended/Updated.”
- The “Comments to EAC” field for a number of records states that referencing another document is not a sufficient mitigation; the vendor must describe the procedure within the referenced document that mitigates the problem. OVSTA has allowed one exception, however, in the case of system “hardening” procedures. This exception is allowable due to the nature of hardening procedures. Many jurisdictions vary in how they set up, configure and harden their voting systems. OVSTA did not want a jurisdiction, reviewing a problem record report, to follow the prescribed hardening procedure, without verifying that it was permitted by their jurisdiction and compatible with their system’s configuration. Additionally, publicly listing the exact configuration setup and hardening description can pose a security risk.

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Secretary of State Bowen wishes to thank the EAC Voting System Testing and Certification Program for its work to improve the security, accuracy, reliability and accessibility of our voting systems. Your acceptance of and participation in making the voting system problem record reports widely accessible to elections officials and the public plays a vital role in the improvement of voting system security, accuracy, reliability and accessibility across the nation. If you would like to discuss any of these issues further, please feel free to contact me directly at (916) 653-7244.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lowell Finley". The signature is written in black ink and is positioned above the typed name.

Lowell Finley,  
Chief Counsel  
Office of the Secretary of State

cc: Jeannie Layson, Director of Communications and Congressional Affairs,  
U.S. Election Assistance Commission