



COUNTY OF SACRAMENTO VOTER REGISTRATION AND ELECTIONS

We proudly conduct elections with accuracy, integrity and dignity

JILL LAVINE
Registrar of Voters

AL FAWCETT
Administrative Services Officer

September 17, 2003

Honorable Mary M. Schroeder, Chief Judge
and Circuit Judges
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: Southwest Voter Registration Education Project v. Shelley, No. 03-56498

To the Honorable Chief Judge and Circuit Judges:

On July 25, 2003, Lieutenant Governor Cruz Bustamante called for a Statewide Special Election to be held on October 7, 2003. Since that date in July, Sacramento County has completed the following preparations for this election:

- Processed over 23,000 affidavits of registration;
- Ordered 609,300 ballots;
- Prepared, proofed, addressed and mailed 609,622 Sample Official Ballots to every registered voter in the county;
- Mailed 142,922 absentee ballots including 600 military and overseas ballots;
- Received over 25,000 returned voted absentee ballots;
- Secured 604 Polling Places;
- Hired 2,690 poll workers for Election Day;
- Trained 820 poll workers (*as of September 16, 2003*); and,
- Hired 500 election night workers.

Sacramento County estimated that this election would cost \$1.5 million. At the present time, we have already expended approximately \$1 million for the printing and mailing of ballots and Sample Official Ballots. This figure does not include staff time, overhead or indirect costs. The ballots and Sample Officials Ballots were prepared specifically for the October 7, 2003 Statewide Special Election and cannot be used or reused in another election. At least \$1 million of Sacramento County's taxpayer dollars will have been wasted if the October 7, 2003 Statewide Special Election is cancelled.

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To the Honorable Chief Judge and Circuit Judges

Page 2

September 17, 2003

The Court ruling yesterday created a flood of telephone calls from voters confused about what would happen next. Many of these voters had voted an absentee ballot and wanted to know what would happen to their ballot. Voters that had not yet voted wanted to know if they should even bother to vote. Some potential absentee voters who had not yet requested, but needed to vote by absentee, wanted to know if they could or should still request a ballot. Others were calling saying they were tearing up their ballot since the election had been cancelled. Some were so disgusted with the entire election they were vowing never to vote again. The Court ruling canceling the October 7, 2003 Statewide Special Election has already resulted in more voter confusion and antipathy than would ever potentially occur as a result of the continued use of the punch card voting system at issue.

If this election is delayed until March, 2004, it is possible that Sacramento County will have insufficient ballot capacity on our optical scan card to include all 135 candidates for the recall, plus all of the Federal, State and local contests that are scheduled for the March 2, 2004, election. The optical scan system that we plan to use does not allow for multiple cards, so we could potentially need to use a second voting system to accommodate the entire ballot. This would definitely cause voter confusion. We would be asking the voter not only to use a new system, but two new systems.

Voter confusion would also occur because the recall candidates are non-partisan running in a primary election. How would we explain to a Republican voter that he could vote for a Democrat in the recall contest but not for president?

In Sacramento County we have used punch card ballots for approximately 32 years. In that time we have never had a successfully challenged election, nor have the results of an election ever changed as a result of a manual recount. We use the procedures certified by the Secretary of State for determining what constitutes a vote and these procedures have historically protected the integrity of the election process in Sacramento County from the type of confusion witnessed in Florida during the 2000 Presidential Election.

Using our well-tested and reliable procedures, I have complete confidence that our PollStar equipment will record votes accurately for the Statewide Special Election scheduled on October 7, 2003.

My confidence in our punch card voting system is based on Sacramento County's long history using the voting system and studies analyzing the "residual vote" in Sacramento County. After the 2000 Presidential Election, my office conducted an analysis of the residual vote in Sacramento County for the office of President of the United States. The residual voter is the total number of "over-votes" (*i.e. ballots in which the voter selected more than one candidate*) and "under-votes" (*i.e. ballots in which the voter chose no candidate*). The county wide average residual vote was 1.687% of all ballots cast. This percentage has remained constant since 1980.

The Congress of the United States has not banned the use of punch card voting systems. In fact, they gave us money as a buyout incentive while specifically permitting the continued use of punch card voting. I have confidence in the voters' use of punch card technology and the accuracy of votes tabulated by such a voting system.

To the Honorable Chief Judge and Circuit Judges
Page 3
September 17, 2003

In conclusion, I believe that use of the PollStar system in Sacramento County for this Statewide Special Election will result in an accurate tabulation of the votes. Furthermore, any minor problems associated with the use of the PollStar system in Sacramento County for the October 7, 2003 Statewide Special Election would pale in comparison with the potential voter confusion and antipathy that would result should the October 7, 2003 Statewide Special Election be postponed and then combined with the March, 2004 Primary Election.

Respectfully submitted,

Jill LaVine
Registrar of Voters