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BOWEN ON SECRETARY OF STATE'S DECISION TO RE-CERTIFY DIEBOLD MACHINES FOR USE IN CALIFORNIA

By California Political Desk

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Debra Bowen

SACRAMENTO – “How the Secretary can re-certify the Diebold machines when they don’t comply with California law, they violate the standards set by the Election Assistance Commission (EAC) that the Secretary said he intended to follow, and he still doesn’t have the report back from the ITAs that he said he was waiting for is beyond me.”

That’s how Senator Debra Bowen (D-Redondo Beach), the chairwoman of the Senate Elections, Reapportionment, & Constitutional Amendments Committee, reacted to today’s decision by the Secretary of State to re-certify Diebold’s electronic voting machines for the 2006 elections.

“Last December, the Secretary announced with great fanfare that he was sending the Diebold machines back for review by the Independent Testing Authorities (ITAs) because the memory cards those machines rely on hadn’t been reviewed,” continued Bowen. “Now, contrary to what he said two months ago, he’s approving the Diebold machines without waiting for the report from the ITAs. Instead, he’s basing his decision on a supposedly ‘independent state audit’ that no one has seen before today. There’s a March 1 public hearing for four other voting machine vendors before their machines can be certified for use in California, so what was the rush to certify Diebold and side-step a public hearing on this issue?”

Seventeen California counties rely on the Diebold optical scan machines and a number of other counties have bought or are planning to buy the Diebold TSx touch-screen machines to use in the 2006 elections in order to comply with the federal Help America Vote Act (HAVA). The Secretary’s decision is only good for the 2006 elections and comes with a number of conditions.

“In August, the Secretary said any machine approved in California would

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have to comply with all federal standards and regulations, yet the EAC bans machines that contain interpreted code and these Diebold machines rely on that type of code to operate, so he's gone back on that commitment," continued Bowen. "In December, he said he'd wait for a report from the ITAs before acting on the Diebold re-certification request, yet now he's re-certified the Diebold machines without hearing from the ITAs. He says he's acting based on the recommendations of an 'independent state audit' that came out on Tuesday, but the California State Auditor hasn't issued any reports on this issue and hasn't been asked to do a report. Asking a board appointed by the Secretary to make recommendations doesn't constitute an 'independent state audit' in my book.

"The other thing that no one has mentioned is the fact that the Diebold machines don't comply with the state's paper trail law because they don't provide blind or visually impaired voters with a 'read-back' of what the paper trail recorded, they only read back what the machine recorded electronically," noted Bowen. "That's not what the law requires, yet the Secretary has decided to go ahead and approve these machines for use anyway. If the Secretary wants to say he's changing his mind and lowering the safeguards California voters are entitled to have to ensure their votes are accurately counted, that's certainly his decision to make, but saying these Diebold machines comply with state law and with all federal regulations and requirements simply isn't accurate."

Under Elections Code Sections 19250 and 19251, all direct recording electronic (DRE) voting systems have to come with an accessible voter verified paper audit trail (AVVPAT). The AVVPAT must be "provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component." The Diebold TSx doesn't contain that feature, therefore making the AVVPAT that all DREs are required to have as of January 1, 2006, useless for blind or visually-impaired voters.