



or 2008 after certain conditions had been met, and

WHEREAS, a new elections facility has been acquired and is being improved to meet the needs of elections operations, and

WHEREAS, a director of records, elections and licensing services has been appointed by the executive and confirmed by the council, and

WHEREAS, a plan for regional voting centers and ballot drop boxes will soon be transmitted to the council for approval, and

WHEREAS, the executive transmitted to the council recommendations for the purchase of new ballot tabulation equipment and software, and

WHEREAS, it is not yet certain that new ballot tabulation equipment and software can be certified or successfully installed and tested in time for the 2008 elections;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

A. All-mail elections should begin in 2008 as authorized by Ordinance 15523.

B. The council hereby establishes its intent to conduct all-mail elections in 2008, starting as early as the April 2008 election, and its preference to use the current equipment and software, augmented as necessary with additional equipment of the same type, additional staffing, security measures, and other resources.

C. Notwithstanding the policy statement in subsection B of this motion, and recognizing that the current elections equipment and software will soon need to be replaced, the executive is authorized to continue working with vendors on proposals for the acquisition of new ballot tabulation equipment and software, ensuring high standards for security, accuracy, and transparency, and meeting all the conditions of this motion.

D. Recognizing the important findings of the California "top-to-bottom" review of voting systems, the elections section shall incorporate third party security experts in the testing of any new equipment and software. The third party security experts and their scope of work shall be determined by mutual agreement between the executive and the council and include experts in computer security and an elections professional experienced in

the administration of elections. The review shall include examination of the source code of any software product being considered for purchase. The third-party experts shall recommend appropriate measures to be taken to mitigate any security flaws that are discovered through the review. Within 10 calendar days after completion of the security testing by third party experts, a report of the results prepared by the third party experts shall be simultaneously provided to the executive, the council, the citizens' elections oversight committee, the public and the media.

E. Testing shall also be done by the elections section under conditions similar to an actual countywide election, including the use of large numbers of mail ballots that have characteristics common to those received from citizens during an election such as folds, tears and spindling. To the extent consistent with election security, testing shall be done under circumstances that allow the council, the public, and the media to observe.

F. No payment shall be due to any vendors until the successful completion, as determined by King County, of the testing required by this motion. Any purchase of new ballot tabulation equipment and software shall be contingent on such equipment and software being certified, installed, and tested as required in this motion in time for King County to begin conducting elections entirely by mail before the primary election of 2008. Any contract of purchase shall allow King County to return the equipment and software to the vendor without penalty if this contingency is not met. The executive will deliver to the council, no later than August 31, 2007, the specific criteria it intends to use to determine whether the testing required by this motion has been successful.

G. The council hereby establishes its preference for disclosed-source software because of its transparency and security potential. If closed-source or proprietary software is acquired by the county, a source code escrow agreement with the vendor, consistent with county code and Washington State law, is required. Further, this agreement with the vendor shall include terms at least as protective of the public interest as the terms required for source code escrow agreements for the software contained in certified voting systems in the state of California.

H. Recognizing that the acquisition and implementation of new ballot tabulation equipment and software for the 2008 elections may prove impossible or inadvisable, the executive shall, regardless of progress on certification, testing and implementation of new tabulation equipment and software:

1. Do everything possible to mitigate the limitations of the current elections equipment and software and to prepare the current system for countywide vote-by-mail elections beginning before the 2008 primary. This includes identifying and successfully testing ways to compensate for the two-gigabyte limitation of the database. The elections section shall consult with the Office of the Secretary of State on mitigation steps to be taken in the event that the current system is used in 2008 including, but not limited to, the following steps already recommended by the Office of the Secretary of State:

a. Define alternative ways to split the elections database such as sorting ballots and then tabulating them on separate computers or alternatively tabulating ballots on one computer until its capacity is reached and then tabulating the remaining ballots on a second computer.

b. Use standard features of the current equipment to integrate the separate reports from each database and to construct combined reports.

c. Define procedures for printing reports from the separate databases and using these separate reports to verify the accuracy of the combined work.

d. Work with the Secretary of State to audit the database splitting and reporting procedures including the generation of combined reports.

2. Make recommendations regarding physical security, security training of staff, and contingency planning, taking into account the findings of the security experts chosen by mutual agreement between the executive and the council.

3. Take all necessary steps to secure the county's current elections equipment against the types of security problems identified in the recent California "top-to-bottom" review.

I. The council requests that the executive identify, as soon as possible, any additional resources required

to:

1. Conduct all-mail elections in 2008;
2. Acquire, rigorously test and use new ballot tabulation equipment and software;
3. Resolve and test solutions for limitations of the county's current elections equipment and software,

including the two-gigabyte database limitation; and

4. Provide physical security, security training of staff, and contingency planning.

J. By December 31, 2007, the executive shall report to the council on:

1. The feasibility of implementing the council's preferred course of action as stated in subsection B of this motion, to conduct all-mail elections in 2008 using current equipment, augmented with additional equipment, security measures, staff and resources. If the executive finds the council's preferred alternative infeasible, the report shall detail the reasons for this conclusion;

2. The status of certification, testing and acquisition of new ballot tabulation equipment and software, including the steps taken and planned for ensuring high security standards, accuracy, transparency and staff training; and

3. Processes, documentation and procedures for mitigating the limitations of current elections equipment, software and security protocols.

K. The council recognizes that it may be necessary to amend past legislation in order for the executive to carry out the policy direction established in this motion.

L. For all elections, in order to ensure the accuracy and integrity of machine scanning and tabulation of ballots, the county shall implement the most rigorous, verifiable hand-tabulation audit procedures allowed by state law.

M. The county legislative agenda for 2008 should include a request that Washington state law be revised to permit individual counties to adopt by ordinance customized procedures for conducting routine, random, post-election audits of election results, allowing procedures that are at least as thorough and

statistically valid in assuring the accuracy of election results as the procedures prescribed by state law for other counties. Given the findings of the California "top-to-bottom" review, the council intends

to request that the state legislature address this issue at the earliest available opportunity so that changes can take effect in early 2008.