



Signature Report

January 15, 2009

Motion 12564

Proposed No. 2007-0402.2

Sponsors Constantine, Patterson, Phillips
and Gossett

1 A MOTION reaffirming the council's decision to hold all-
2 mail elections beginning in 2008 after certain identified
3 conditions have been met, establishing the council's
4 preference to conduct all-mail elections using the current
5 ballot tabulation equipment and software, authorizing the
6 executive to continue working with vendors on proposals
7 for the purchase of new ballot tabulation equipment and
8 software, and providing that the county's 2008 state
9 legislative agenda should include a request to revise state
10 law to allow individual counties to adopt by ordinance
11 customized procedures for conducting post-election audits.

12
13 WHEREAS, Ordinance 15523, approved on June 29, 2006, authorized vote-by-
14 mail elections in 2007 or 2008 after certain conditions had been met, and

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

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

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

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

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

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

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

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

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

37 D. Recognizing the important findings of the California "top-to-bottom" review
38 of voting systems, the elections section shall incorporate third party security experts in
39 the testing of any new equipment and software. The third party security experts and their

40 scope of work shall be determined by mutual agreement between the executive and the
41 council and include experts in computer security and an elections professional
42 experienced in the administration of elections. The review shall include examination of
43 the source code of any software product being considered for purchase. The third-party
44 experts shall recommend appropriate measures to be taken to mitigate any security flaws
45 that are discovered through the review. Within 10 calendar days after completion of the
46 security testing by third party experts, a report of the results prepared by the third party
47 experts shall be simultaneously provided to the executive, the council, the citizens'
48 elections oversight committee, the public and the media.

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

54 F. No payment shall be due to any vendors until the successful completion, as
55 determined by King County, of the testing required by this motion. Any purchase of new
56 ballot tabulation equipment and software shall be contingent on such equipment and
57 software being certified, installed, and tested as required in this motion in time for King
58 County to begin conducting elections entirely by mail before the primary election of
59 2008. Any contract of purchase shall allow King County to return the equipment and
60 software to the vendor without penalty if this contingency is not met. The executive will
61 deliver to the council, no later than August 31, 2007, the specific criteria it intends to use
62 to determine whether the testing required by this motion has been successful.

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

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

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

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

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

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

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

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

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

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

99 1. Conduct all-mail elections in 2008;

100 2. Acquire, rigorously test and use new ballot tabulation equipment and
101 software;

102 3. Resolve and test solutions for limitations of the county's current elections
103 equipment and software, including the two-gigabyte database limitation; and

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

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

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

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

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

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

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

122 M. The county legislative agenda for 2008 should include a request that
123 Washington state law be revised to permit individual counties to adopt by ordinance
124 customized procedures for conducting routine, random, post-election audits of election
125 results, allowing procedures that are at least as thorough and statistically valid in assuring
126 the accuracy of election results as the procedures prescribed by state law for other
127 counties. Given the findings of the California "top-to-bottom" review, the council intends
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129 to request that the state legislature address this issue at the earliest available opportunity
130 so that changes can take effect in early 2008.

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Motion 12564 was introduced on 7/23/2007 and passed as amended by the Metropolitan King County Council on 7/30/2007, by the following vote:

Yes: 5 - Mr. Gossett, Ms. Patterson, Mr. Ferguson, Mr. Phillips and Mr. Constantine

No: 2 - Ms. Lambert and Mr. von Reichbauer

Excused: 2 - Mr. Dunn and Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None