



RETIRED PUBLIC EMPLOYEES' ASSOCIATION OF CALIFORNIA

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The Honorable Dr. Shirley N. Weber
California Secretary of State
1500 11th Street
Sacramento, CA 95814

Dear Madam Secretary of State,

RPEA represents the interests of over 24,000 dues paying retirees within the CalPERS system, and attempts to advocate for the interests of *all* CalPERS retirees.

RPEA is gravely concerned about the upcoming CalPERS Board election. RPEA believes that CalPERS' unwillingness to follow the rules that govern every other public election in the State of California, as well as its attempts to conduct a California election out-of-state, violate both the law and certainly common sense.

The paper ballots for this election are being printed and counted in Washington state. Further, CalPERS administration has designed a system that requires voters to mail ballots back to Everett, Washington. The printing, receiving, and scanning of ballots all can and should be done in California.

And while the public is invited to watch the scanning process if they can afford to fly and stay in Everett, conducting the process in Northern Washington (almost 800 miles from CalPERS headquarters) simply makes no sense. Past CalPERS Board elections were held and counted in California where interested parties could freely observe the process. This year, if you go to Washington, you will see people bring ballot envelopes to the twenty-five or so openers, watch other people pick up the ballots and carry them over to the scanners to be scanned. The scanned ballots become electronic files but are not counted.

After the scanning process is completed in Washington, an "electronic tabulation process" will be held at the Embassy Suites Stagecoach Room, 100 Capitol Mall, Sacramento, CA 95814. According to CalPERS "The time for the public viewing will be announced promptly following the completion of the paper ballot process."

However, the public will only be able to see the back of the laptop computer as three thumb drives are inserted, and a program combines the three files to produce the vote count. There is no indication that the state has reviewed the merging program. This system can tell how many votes were in each file. However, it cannot tell you how many votes a candidate got through each channel. In other words, there neither a way to actually observe the count itself, nor verify the count.

Additionally, CalPERS is encouraging members to vote over the internet or by phone. Each method creates its own electronic file which also violates the California Election Code section that bans internet voting, use of wireless communications or multiple vote systems for the same office. RPEA believes this is a problem in today's world of unscrupulous groups who could hack the system. Americans have seen internet hacking by various people with agendas. The last board election saw a phony letter by California Treasurer Fiona Ma which attacked a critic of CalPERS who was running for the retiree position on the board. Opponents to this candidate spent nearly half a million dollars to defeat this candidate.

With virtually no oversight, a process moved primarily out-of-state, a voting system that is combining numerous methods for voting, and no way of verifying the count, these same shady groups that attempted to influence the last election – or others – could do grave damage to both the process and the results, undermining confidence in CalPERS at a time when CalPERS needs to be rebuilding people's confidence in it.

CalPERS elections must be certified by the Secretary of State. In the last CalPERS election, while the Secretary of State did certify the results, he did so with the caveat that such certification was not an endorsement of the voting system used.

When it comes to something as important as the integrity of elections, the Secretary of State should not have to use an asterisk when certifying the election to disclaim endorsement that the voting system used was appropriate.

While CalPERS routinely takes the position that when it comes to issues like elections conduct and Board governance, the law of California does not apply, we believe CalPERS should indeed be held to the standard of all other public elections in California. For example, under California Election Code section 19206, a voting system shall comply with the following:

- a) No part of the voting system shall be connected to the Internet at any time.
- b) No part of the voting system shall electronically receive or transmit election data through an exterior communication network, including the public telephone system, if the communication originates from or terminates at a polling place, satellite location, or counting center.
- c) No part of the voting system shall receive or transmit wireless communications or wireless data transfers.

According to California Election Code section 19209:

- a) If more than one voting system is used to count ballots, the names of candidates shall, insofar as possible, be placed on the primary voting system.
- b) If more than one voting system or a combination of a voting system and paper ballots is used to count ballots, a single ballot measure or the candidates for a single office may not be split between voting systems or between a voting system and paper ballots.

CalPERS is a government agency which claims it is allowed to decide which parts of state law apply and which do not.

RPEA is asking the Secretary of State to intervene and once again bring back un-hackable, re-countable paper ballots. We recognize that technology is advancing to the point where there may be soon ways to conduct elections electronically in ways that are verifiable and essentially un-hackable. When that

happens, perhaps the law can and should be amended to reflect that. But for now, we simply ask that CalPERS not be permitted to flout both the Election Code and all common sense when it comes to the conduct of a statewide election involving nearly half-a-trillion in public trust funds.

CalPERS is the largest public pension fund in the United States. It is intended to serve the interests of over 2 million members in the retirement system and more than 1.5 million members and their families in its health program. It has an annual budget in excess of \$1.6 billion, and manages nearly \$450 billion in assets. Yet its elections are handled out-of-state, shrouded in secrecy, shielded from oversight, and conducted inefficiently.

Sincerely,



Rosemary Knox
President



Al Darby
Vice President



Randall Cheek
Director of Legislation