Governor DeSantis: VETO CS/HB 1005 – Voting Systems

25 March 2020

Hon. Ron DeSantis
Governor, State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis,

RE: VETO CS/HB 1005 – Voting Systems

Florida has had more than its share of election recount problems in the past. Please don't expose the state to new problems on your watch. CS/HB 1005 is well-intentioned but exposes Florida to new risks of hacking, elections-failure and more embarrassment. It is neither a necessary nor a well-conceived change to *The Florida Election Code*. Please veto the bill and give stakeholders a chance to revisit the issue and make better choices.

CS/HB 1005 seeks to take an uncertified "retabulation" technology, currently only *authorized* by DoS for non-binding post-certification audits and graduate the technology's use to the big leagues – infamous Florida recounts.

This change has been heavily backed by Florida's Supervisors of Elections, their association, the Florida Supervisors of Elections (FSE) and of course by the sole source vendor, Clear Ballot Group.

We appreciate the supervisors' motivation: to speed up the manual recount process. As you experienced in your own election in 2018, Florida is prone to large, burdensome recounts. Florida is the third most populous state and the biggest swing state with a very evenly balanced electorate – thus prone to close elections.

But this bill is not the solution, however much the supervisors would like it to be. It is dangerous.

The problems with this bill:

- **Paper ballots:** This bill does not require that recounts look at the actual paper ballots – the legal ballots of record. Rather it relies on hackable retabulation and digital images.[1] Florida has paper ballots for a reason. They provide the security we've come to understand does not exist with digital data. Computer scientists, cryptographers, and cyber security experts all agree, elections should rely on the paper ballots. [2]

- **Threat to National Security:** This bill increases risks to Florida's election security and therefore also to national security in several ways.
  - The bill makes Florida elections more dependent on hackable digital tabulation without requiring that digital information first be confirmed by a scientific check against the paper.[3] (Sponsors added language saying the paper ballots would be "available" but they failed to *require* a proper, scientific check to the paper ballots. "Availability" of the paper ballots is of little value by itself.)
  - The bill further outsources Florida elections to third party vendors over whom Florida has little or no control. We know such vendors have been hacked in the past and here we contemplate expanding our threat profile to third party vendors when we should be reducing it.[4]

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[1] *See* Bernhard, M., et al., "UnclearBallot: Automated Ballot Image Manipulation," at 15 -16 ("image audits cannot be relied upon to verify that elections are free from computer-based interference. Indeed, the only currently known way to verify an election outcome is with direct examination of physical ballots.") available at https://mbernhard.com/papers/unclearballot.pdf ; *See also* Stark,P., et al., "Machine Retabulation is not Auditing ," (2013) ("Machine retabulation may happen to catch some errors, but it is not really an audit. Machine retabulation relies on the false assumption that two machines can't both be wrong.") available at https://www.stat.berkeley.edu/~stark/Preprints/retabNotAudit13.pdf

[2] *See Securing the Vote, Protecting American Democracy,* National Academies of Science, Engineering and Medicine at 6-7, ("Elections should be conducted with human-readable paper ballots…. Recounts and audits should be conducted by human inspection of the human-readable portion of the paper ballots.") available at (https://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=25120

[3] *Id.* at 9. " States should mandate [a specific type of audit known as] a risk-limiting audits prior to the certification of election results."

[4] Parks, Miles, "Florida Governor Says Russian Hackers Breached 2 Counties In 2016," *NPR*, May 14, 2019, ("Russian hackers breached the systems of two county elections systems in Florida in 2016, Florida Gov. Ron DeSantis said Tuesday") available at https://www.npr.org/2019/05/14/723215498/florida-governor-says-russian-hackers-breached-two-florida-counties-in-2016

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- o This change would erode public trust in our elections. After assuring the public for nearly a decade that we rely on paper ballots, now we say never mind that – we'll rely on these images and more computers, feeding public distrust of elections which destabilizes our democracy in exactly the ways we know the Russians and other foreign adversaries are working to do.[5]

- **Proper certification:** This technology has not obtained proper certification to be part of a voting system. And rather than the bill requiring that, it creates an exception for it, directing the Department of State to promulgate rules, to break its own existing rules.[6]

- **Unnecessary Haste:** Since this bill does not go into effect until 2021, it will not apply to statewide elections until 2022. The effective date already allows for time to move in a more thoughtful way with such a major change to Florida elections. So it makes sense to veto this bill now, and send stakeholders back to craft better solutions to address both speed and security.

   Florida needs stronger audit and recount procedures to secure our elections. Other states are innovating with efficient and highly effective audit provisions that can also speed up recounts. Florida should first bring stakeholders together to look at new ideas, conduct pilots of innovative improvements and ensure solutions are right for Florida. This doesn't have to take an unreasonably long time, but it is an essential step to election security and efficiency that should not be skipped.

Governor DeSantis, we urge you to veto this bill, to first do no harm to Florida's election security, and second to provide an opportunity for stakeholders to come together and make smarter decisions about election innovation for Florida. Much good can come from that more measured approach.

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[5] *See* "Assessing Russian Activities and Intentions in Recent US Elections," Intelligence Community Assessment, at ii, Jan. 6, 2017 ("Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia's goals were to undermine public faith in the US democratic process.") available at https://www.dni.gov/files/documents/ICA_2017_01.pdf

[6] *See* Florida Voting System Standards, at 2-3 2005) ("A voting system consists of a configuration of specific hardware and software components, procedures and expendable supplies; configured into a system which allows votes to be cast and tabulated. No single component of a voting system, such as a precinct tabulation device, meets the definition of a voting system. Sufficient components must be assembled to create a configuration, which will allow the system as a whole to meet all the requirements described for a voting system in this publication.") available at http://dos.myflorida.com/media/693718/dsde101.pdf

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Much harm can come from this hasty leap to try to speed up Florida recounts, while opening up Florida to hacking, insecurity and embarrassment.

Thank you for your consideration and don't hesitate to reach out to any of us if we can answer questions or be part of that more thoughtful approach to Florida's elections innovation.

Very truly yours,

Dan McCrea, Florida Director, Verified Voting

Marian K. Schneider, President, Verified Voting

The following signatories add their names urging the Governor to veto the bill.
Institutional affiliations are provided only for the purpose of identification and do not imply institutional endorsement or approval of this letter.

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