



Northern
California



October 24, 2023

Via U.S. mail and email (Secretary.Weber@sos.ca.gov)

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

Re: **Requests for action in Shasta County in advance of the November 2023 and March 2024 elections**

Dear Secretary Weber:

We are a group of nonprofit, nonpartisan organizations dedicated to serving the best interests of California voters. As you may know, we have been closely following the actions of the Shasta County Board of Supervisors and related events since the Board's 3-2 vote in late January 2023 to end the County's contract with Dominion Voting Systems. Some of us have addressed the Board directly with our concerns, in writing and/or at public meetings.

We now write to you in your role as California's chief elections officer, whose duties include administering the provisions of the California Elections Code and ensuring "that elections are efficiently conducted and that state election laws are enforced."¹ In furtherance of those duties, we respectfully request that you take the actions set forth below. **Our requests are based on the following grave concerns, which we believe call for urgent, decisive, and sustained response from your office**, not the least because of the rapid approach of a special election in Shasta County on November 7, 2023,² and the presidential primary election on March 5, 2024.

1. **The chair of the Shasta County Board of Supervisors, Patrick Jones, has made various public statements indicating an intention not to follow California Assembly Bill (AB) 969**, which became effective on October 4, 2023, as an urgency statute. Among other things, the new law prohibits a manual vote

¹ California Government Code § 12172.5(a). ([Return to main document](#))

² Because of the timelines for mailing of ballots and opportunities for "early voting" under California law, this election period already has begun. ([Return to main document](#))

count for the semifinal official canvass in Shasta County’s November 2023 and March 2024 elections³ and requires use of a certified voting machine or voting system to tabulate the votes in those elections.⁴ Supervisor Jones has been reported as having said “that the supervisors were still committed to implementing a hand count regardless of what the law says,”⁵ that “the county won’t follow that law [AB 969] and will instead file legal action as needed to continue forward with a hand count,”⁶ and that he believes AB 969 “does not affect Shasta County.”⁷ Supervisor Jones also has been reported as having said that “he plans to attempt to remove the county’s recently purchased ballot scanners,”⁸ which are the pieces of certified equipment that would be used to tabulate votes. Somewhat menacingly, Supervisor Jones has been quoted as predicting that “it’ll get interesting very quickly” if independently elected Shasta County Clerk/Registrar of Voters Cathy Darling Allen interprets AB 969 as “allow[ing] . . . for electronic tabulation,” which he characterized as constituting “a conflict with the majority of the Shasta County Supervisors.”⁹

2. **Even if the County ultimately complies with AB 969, there is a high risk of voter confusion, distrust, and disenfranchisement due to the spread of misinformation and disinformation** by Supervisor Jones and others who are aligned with his views and approach. In addition to the above and similar statements, Supervisor Jones has been quoted as expressing a belief—which is contrary to publicly available evidence—that the County’s contract with Hart InterCivic for its newly acquired ballot-scanners is “fraudulent” and that the tabulation equipment is “unauthorized.”¹⁰ Like Supervisor Jones, Supervisor Kevin Crye has been reported as calling into question whether AB 969 applies to Shasta County.¹¹ The Lex Rex Institute has contributed to the confusion by, among other things, purporting to have designed Shasta County’s new “mechanical hand count [v]oting [s]ystem” and to have been acting at the request

³ California Elections Code § 15270.1(b)(1). ([Return to main document](#))

⁴ California Elections Code § 19207.5(a)(2). ([Return to main document](#))

⁵ Nicholas Kerr, “[Bill limiting ballot hand counting in California becomes law; one county pledges to defy statute](#),” ABC News, Oct. 4, 2023. ([Return to main document](#))

⁶ Annelise Pierce, “[‘This May Be the Case That Changes the Whole Country’: Shasta County Board Chair Hopes to Challenge New California Elections Law](#),” Shasta Scout, Oct. 9, 2023. Supervisor Jones similarly is reported by another media outlet as having “insist[ed] that votes will be counted by hand” and as having “threatened litigation if the state tries to stop the county by invoking the provisions of AB 969.” David Benda, “[Legal battle over tallying votes brews as Shasta County’s November special election looms](#),” Redding Record Searchlight, Oct. 12, 2023. ([Return to main document](#))

⁷ David Benda & Damon Arthur, “[Shasta supervisor vows to ignore new California law forbidding election hand counts](#),” Redding Record Searchlight, Oct. 4, 2023. ([Return to main document](#))

⁸ See the article cited in footnote 5. ([Return to main document](#))

⁹ Mike Mangas & Adam Robinson, “[Shasta County election chaos: Hand-counting ban sparks legal showdown](#),” KRCC, Oct. 5, 2023. ([Return to main document](#))

¹⁰ See the Shasta Scout article cited in footnote 6. ([Return to main document](#))

¹¹ See the Shasta Scout article cited in footnote 6. ([Return to main document](#))

of the Board of Supervisors.¹² This recent torrent of misinformation and disinformation is just the latest in a cascade that began in earnest in Shasta County in January of this year. As can be seen at nearly every Board of Supervisors meeting, it truly threatens the electorate’s ability to discern the truth about how their upcoming elections will be administered and their confidence that their votes will be counted accurately and in accordance with the law.

3. **Despite the best efforts of Ms. Darling Allen and her staff in the Shasta County elections office, time and resources that they ideally would be spending on planning to deploy a new voting system, including new accessible voting machines, are being diverted, endangering the smooth administration of the upcoming elections and thus the rights of voters, including voters with disabilities.** The diversion of crucial time and resources is resulting from having to address—directly or indirectly—everything described above. It also has resulted from Supervisor Jones’s recent pursuit of a proposed ordinance “Establishing an Elections Oversight and Advisory Committee” that would “create oversight or advise over all elections related activities in Shasta County” in a manner that Shasta County Counsel had concluded was “legally insufficient and unenforceable.”¹³

In order to address these concerns, which we trust you share, we request that you exercise your authority as California’s chief elections officer to take the following actions:

1. **Remind Supervisors Jones and Crye** that Shasta County is required to follow federal and state laws, including newly enacted AB 969, in conducting elections.
2. **Arrange for staff from your office to conduct in-person monitoring** of the November 2023 and March 2024 elections in Shasta County, including vote tabulation, for compliance with state election laws.

¹² The title of the Lex Rex Institute’s 37-page “plan,” which is [posted online](#) and which apparently was presented to the Shasta County Board of Supervisors in or around mid-September 2023, is “[The Mechanical Hand Count Voting System in the County of Shasta](#).” The September 20, 2023, [transmittal letter](#) from Alexander H. Haberbusch, Esq., asserts that the plan was “prepared especially for and at the direction of Shasta County, its elected Board of Supervisors . . . , its electorate, and concerned members of the Shasta County community.” Notwithstanding these assertions, we are not aware of any formal relationship between Mr. Haberbusch (or the Lex Rex Institute) and Shasta County as a governmental entity, nor are we aware of any direction Mr. Haberbusch has received from an official act of the Board of Supervisors or from any other Shasta County official with the authority to retain him. ([Return to main document](#))

¹³ See item R2 on the [Board's October 3, 2023, meeting agenda](#), as well as the corresponding “Staff Report” and proposed ordinance. As of the October 17, 2023, Board meeting, Supervisor Jones appeared to have abandoned his original proposed ordinance in favor of one “Establishing the Duties and Responsibilities of the Citizens Election Advisory Committee” that had been established the previous month, but he then announced that discussion of the [new proposed ordinance](#) would be held over to a future Board meeting. ([Return to main document](#))

3. **Provide any assistance requested by Ms. Darling Allen** in discharging her duties to the extent that she is faced with interference by other county officials or staff, individuals acting at their direction or on their behalf, and/or others.¹⁴

4. **Supplement and support the Shasta County elections office’s voter education efforts** leading up to the November 2023 election and both of the 2024 presidential elections to help ensure the dissemination of accurate information and to engage Shasta County residents in the democratic process.¹⁵ In light of these events, we firmly believe messaging is needed, at minimum, on the following topics:
 - Voting methods
 - In person
 - Hand-marked paper ballot
 - Use of an accessible ballot-marking device, including the features of and instructions for using the County’s new Hart voting machines
 - By mail (or ballot drop box)
 - Hand-marked paper ballot
 - Use of the remote accessible vote-by-mail (RAVBM) system, including the technological requirements and instructions for using Democracy Live’s RAVBM system, which is new to the County
 - How vote tabulation works
 - Computerized vote tabulation
 - Post-election audits
 - What AB 969 both requires and prohibits
 - Assurances about the safety and security of computerized voting systems, including description of the state certification process
 - Opportunities for and rules governing election observation

Thank you for carefully considering the concerns we have expressed, our requests, and the tremendous benefits your intervention could have, not only for the citizens of Shasta County but for all of the people who are watching these events unfold. We welcome

¹⁴ Pursuant to California Government Code section 12172.5(b), if you conclude that state election laws are not being enforced, you may assist a county elections officer in discharging that officer’s duties. ([Return to main document](#))

¹⁵ Such efforts would help fulfill aspects of your [2022-2027 Strategic Plan](#), including the strategic initiative of “Strengthening California’s Voting Environment” (page 12) and the following activities: “[p]rovide useful educational and non-partisan information that voters can rely [on] in making their electoral decisions” (page 14), “[e]ngage and [e]ducate Californians in the democratic process” (page 14), and “[a]ddress and implement improvements to voting systems and voter access so that all Californians have a smooth experience participating in [e]lections” (page 16). There also would be efficiencies in your office’s ability to (re)use some of the same or similar messaging in other counties. ([Return to main document](#))

contact from you or your staff if you have any questions or if there are ways we can support your efforts, including by assisting with the drafting and/or dissemination of the aforementioned voter education information.

Sincerely,

Brittany Stonesifer, Voting Rights Staff Attorney, ACLU Foundation of Northern California

Jonathan Mehta Stein, Executive Director, California Common Cause

Kim Alexander, President & Founder, California Voter Foundation

Fred Nisen, Managing Attorney, Voting Rights Practice Group,

Disability Rights California

Stephanie Doute, Executive Director, League of Women Voters of California

Pamela Smith, President & CEO, Verified Voting

cc: The Honorable Gavin Newsom, California Governor
The Honorable Rob Bonta, California Attorney General
The Honorable Gail Pellerin, California Assemblymember, District 28; Chair of the Assembly Committee on Elections; and author of AB 969
The Honorable Kevin Crye, Shasta County Supervisor
The Honorable Tim Garman, Shasta County Supervisor
The Honorable Patrick Jones, Shasta County Supervisor and Board Chair
The Honorable Chris Kelstrom, Shasta County Supervisor
The Honorable Mary Rickert, Shasta County Supervisor
The Honorable Cathy Darling Allen, Shasta County Clerk/Registrar of Voters