

# The State of Texas



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Phil Wilson  
Secretary of State

## MEMORANDUM

TO: Ann McGeehan, Director of Elections

FROM: Paul Miles, Staff Attorney, Voting System Examiner

DATE: March 7, 2008

RE: January 17-18, 2008, Examination of the Hart Intercivic Voting System 6.2.1.

On January 17 and 18, 2008, Hart Intercivic ("Hart") presented modifications to its previously certified Hart Voting System ("HVS") for examination. The submitted versions of the voting system had undergone review at an independent testing authority ("ITA") and a copy of the ITA reports along with the NASED certification numbers were included with the application to the Secretary of State. In reliance on the ITA review, the examination focused on the voting systems' compliance with Texas' voting system standards as set out in Section 122.001 of the Texas Election Code.

The day prior to the full examination, the Secretary of State reviewed the HVS software against software previously archived with the National Software Reference Library. The examiners who observed this process noted there were discrepancies between the files and had additional questions for the vendor to determine whether the files in fact completely matched. I will defer to them as to whether their concerns were met. Additionally, a test deck of ballots prepared by the Secretary of State's office was run through the HVS to determine that the system correctly tabulated votes.

At the examination, representatives for the vendor described the system, along with the changes from the HVS as previously-certified in the state of Texas. The examiners questioned the vendor's representatives on the changes, again cast ballots on the eSlate and Ballot Now-produced ballots on the eScan and carried the voted ballots through Tally.

In my opinion, the changes to the HVS as presented were not significant enough to affect its compliance with Texas voting system standards. In large part, the modifications to the system were designed to accommodate jurisdictions other than Texas, such as providing for ballot rotation in states in which it is allowed, and in past years these changes might have been certified administratively rather than in a full voting system examination. Under current examination standards, all changes to a voting system require review both at the federal level, now through the Elections Assistance Commission ("EAC") and at the state level by the Secretary of State.

A point of discussion during the examination was the importance of administrative procedures to add additional layers of security to the security features built into the HVS. A key aspect of

security at the local level and also in meeting the Code's requirement that a voting system operate efficiently is through the vendor's documentation, which enables the local user to implement its security and operate the system properly. To that end, I would note that the documentation provided by Hart for the HVS is the best of the voting systems vendors currently certified in the state. The state has recently adopted voting system procedures and the vendor should be required to incorporate the state's procedures into their documentation for Texas users.

Finally, absent the requirement that a voting system reside on an un-networked PC, the state has not generally certified systems in specific configurations. While I do not think this modification of the HVS should be limited in this manner, I believe the state should move towards doing so and give the vendors notice that in the future certifications will include requirements as to the off the shelf hardware and operating system.

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**eSlate 4.2.13.** The eSlate is Hart's previously certified direct record electronic (DRE) voting system. There were no physical changes to the device nor were there changes to the voter interface.

I recommend certification of eSlate v. 4.2.13.

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**eScan 1.3.14.** The eScan is Hart's previously-certified precinct based ballot scanner. As with the eSlate, there were no physical changes to the device.

I recommend certification of eScan 1.3.14.

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**Ballot Now 3.3.11.** Ballot Now is Hart's paper ballot creation software used to create paper ballots on demand for early voting by mail and for use with the eScan.

I recommend certification of Ballot Now 3.3.11.

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**Rally 2.3.7.**

I recommend certification of Rally 2.3.7.

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**Boss 4.3.13.** Boss is the vendor's ballot creation software, and was modified to incorporate different methods of election for jurisdictions outside the state of Texas. The changes do not impact the Texas package.

I recommend certification of Boss 4.3.13.

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**Tally 4.3.10.** I recommend certification of Tally 4.3.10. I do note that the technical examiners were able to exit Tally and enter access the operating system while Tally running. I understand that they were discussing this matter more fully with Hart. I will certainly defer to their judgment on this issue. However, at the examination, it did not appear that they had the ability to affect Tally itself from the OS.

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**Servo 4.2.10.** Servo is the vendor's post election records management software. There were no significant changes to the system and I recommend certification of Servo 4.2.10.