

STATE OF COLORADO  
Department of State  
1700 Broadway, Suite 550  
Denver, CO 80290



Jena M. Griswold  
Secretary of State

Judd Choate  
Elections Director

March 18, 2022

The Hon. Gary Moyer, Chair  
The Hon. Ty Gates  
The Hon. Jeff Rector  
Board of County Commissioners for the County of Rio Blanco  
Rio Blanco County Courthouse  
555 Main Street, 3rd Floor  
Meeker, CO 81641  
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RE: Federal and State Election Law Requirements for Use of Voting  
Systems

Dear Commissioners:

The Secretary of State's Office has become aware that the Rio Blanco Board of County Commissioners (BOCC) seeks to end the use of state-certified voting system equipment for Rio Blanco County elections. On Tuesday March 15, 2022, the BOCC voted to amend the county's budget to remove a \$14,000 line-item for the county's 2022-23 license agreement with its current voting system vendor. This will effectively terminate use of the voting system as of October 1, 2022. It is our understanding that this preliminary decision is not final, and the budget revision will eventually go to a public hearing.

The Colorado Secretary of State's Office urges Rio Blanco County to consider federal and state law implications when making its final decision. To the extent the Commission's decision presages an intent to not use any voting system equipment for the coming 2022 General Election, the county will be out of compliance with federal and state law.

Specifically, Rio Blanco will be out of compliance with federal law if it fails to provide an electronic voting option in the 2022 General Election. The Help America Vote Act, Sections 301(1) & (3), and state law implementing these provisions, specify that jurisdictions conducting elections that include a race for a federal office must offer an accessible voting option that "provides the same opportunity for access and participation" through the use "of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place." See HAVA, Section 301(3)(A) & (C). If the BOCC approves the supplemental budget removing funding of its current system without replacing it with another certified electronic voting system, the Rio Blanco County Clerk will

violate HAVA's accessible voting option requirement during the 2022 General Election.

These federal mandates are mirrored in state law. Title 1 specifies at Section 1-5-102.9 (3) (g), (h), C.R.S., the following:

Each voter service and polling center must provide . . .

(g) Facilities and equipment that are compliant with the federal Americans with Disabilities Act of 1990. 42 USC sec. 1201 et seq. as amended;

(h) Direct record electronic voting machines or other voting systems accessible to electors with disabilities as provided in part 7 of article 5 of this title . . .

That reference to Section 1-5-705, C.R.S., establishes that "Each voting system must include at least one . . . accessible voter interface device installed at each polling location. . . ."

The County can remain in compliance with state and federal law by either maintaining its current voting system contract or purchasing another certified system for use in the 2022 General Election. In addition to Dominion Voting Systems, Clear Ballot is certified to for use in Colorado. Clear Ballot is used in two Colorado counties – Douglas and Garfield. While both have substantially larger populations, it is instructive that Garfield County paid \$147,000 to acquire the Clear Ballot system in 2017. The annual license and support fees are approximately \$25,000. Moreover, Rio Blanco County should factor in the additional costs to contract for the onsite support team needed for such an expedited timeframe.

In short, if Rio Blanco County cuts off funding of its current voting system, it will violate federal and state law unless it contracts with another certified vendor – and the only other certified vendor is Clear Ballot. It is not permissible for a county to go without a federally-required accessible voting option.

Sincerely,



Judd Choate  
Elections Director



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cc: Boots M. Campbell, Clerk & Recorder  
Donald Steerman, Esq., County Attorney

