

Constitutional Issue Barring Approval of Funding Under VMB 6/2/2015 Agenda Item V

The California Constitution, Article XVI(16), Section. 1, governs the issuance of bonds and makes clear that they may only be issued for, and the money raised may only be spent on, a specific purpose specified in a bond act approved by a vote of the people. *The Constitution makes no provision for a “purpose to be named later.”*

The first sentence of that Article and Section reads: “SECTION 1. **The Legislature shall not, in any manner create any debt or debts, liability or liabilities**, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000), . . . **unless the same shall be authorized by law for some single object or work to be distinctly specified therein** . . . ; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature **and** until, at a general election or at a direct primary, it **shall have been submitted to the people and shall have received a majority** of all the votes cast for and against it at such election; **and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created.**” [emphasis added]

Proposition 41 of 2002, a bond act, authorized the issuance of bonds to help fund the purchase of election equipment certified by the Secretary of State. It says, “Fund moneys shall only be used to purchase systems certified by the Secretary of State” It also **purported to authorize the Legislature to change the specific object specified in the act** by 2/3 vote of each house as follows: “19234.5. The Legislature may amend [parts of this bond act] by a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this article.” **But this part of Prop. 41 is unconstitutional and void** (because of Cal. Const. Art. XVI(16), Sec. 1, as discussed above).

Senate Bill 360 (Padilla), Chapter 602 of the Statutes of 2013, **purported to change the specific object of Prop. 41** to allow counties to use funds from the bond act for some “[r]esearch and development of a new voting system that has not been certified or conditionally approved by the Secretary of State.”

Then-Senator Padilla, now the Secretary of State, **carried SB 360 at the behest of the Los Angeles County Registrar Recorder/County Clerk (the County Registrar).**

The County Registrar is now seeking to cash in on his unconstitutional bill by obtaining funding authorization for a research and development project from Prop. 41’s Voting Modernization Board. The Board has broad discretion to reject any application it deems inappropriate. The members of the Board must not violate their oaths to serve the State Constitution by going along with this obviously unconstitutional scheme.