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HELP AMERICA VOTE ACT  
TASK FORCE MEETING  
WEDNESDAY, MARCH 12, 2003

Peter Kosinski convened the meeting, and introduced Senator Nick Spano, Monroe County Clerk Maggie Brooks, and Advocate for the Disabled, Dick Warrender, as all three are Task Force appointees who had been unable to attend previous sessions.

The public comment period commenced with remarks from Mark Dunlea, Chair of the Green Party, who stated that he had hoped the task force would have been more representative of citizen groups. He would like to see voting machines in use in that are of styles and types used elsewhere throughout the country. Systems should enable all types of voters to vote, and he also spoke of the danger of losing party status, as had his party at the last election.

Jeremy Creelan of NYU Law School and the Brennan Center told the group that each week, he intended to present a memo and guidance to the group, on that particular week's theme. He offered that he and his group would be available to the Assembly and Senate, for research purposes, and to provide an independent voice in this process.

Russ Haver, appearing for Neil Rosenstein, serves as legal counsel for NYPIRG, and spoke on the use of the millions intended for updating voting equipment in New York. He called for new technology for the entire state, and hoped for machines that would be the same for the disabled, those with language issues, and all other voters. The system should be versatile enough to meet all of New York's needs.

Ludovic Blain, with DEMOS, asked the group to consider the full range of technology available, to remove New York's full-face ballot requirement, and develop a system with a paper audit trail, which will diminish security concerns. He feels the state's computer system should not disenfranchise felons. Care should be taken to not require persons to jump through hoops to get back on the list of registered voters.

Glenn Magdantay with the Asian Legal Defense Fund, advised the group that he had worked at the congressional level on HAVA, in the area of problems associated with the inability of Asian groups to participate in elections. He feels the NYC board has been good

at meeting its obligations to the Voting Rights Act, and expects that the task force will also comply with HAVA and the Voting Rights Act, as well. He feels the task force has an opportunity to amplify opportunities for other languages, and hopes that voting machines for non-English speaking voters are so enabled.

Alan McConchie representing the NY Instant Run Off Voting Group, urged that voting systems enable cumulative and proportional voting, and random-order voting.

Lisa Gesson, the NY representative of the Eastern Paralyzed Veterans Association, told the group that voting machine technology has a new opportunity to provide more voters with the chance to vote independently and privately. A recent technology fair was held in Manhattan, at which the disabled community had a chance to see and use various types of equipment. A survey was conducted at this session, the results of which should be available at the end of April, which could be considered by the task force.

Ron Deutsch, Co-Chair of the Governing Board of Common Cause, spoke in support of the statements made by Haven. Suggested there be uniform machines and uniform training for those working with machines. He urged the group to make information on its' proceedings more public.

Mike Emperor, with the Green Party of NYC spoke on the loss of ballot status by his party, and the need for the maintenance of their database of members. He found the collection of this data cumbersome, and suggested that a state database would help in this area.

Mr. Kosinski convened the task force session, recognizing Aimee Allaud, who told the group she had distributed a statement, which she then read. She also distributed information on the State Board's website, which she felt was lacking, especially in its failure to provide addresses and phone numbers for task force members. Mr. Kosinski reviewed the information which had been posted to the site, and that he had chosen not to include their address and phone information, unless members were otherwise inclined. The site also provides links to the FEC site, for the law itself, and that the opportunity for e-mail to the task force, through the State Board site was also provided. Ms. Allaud felt the group was prepared to encourage direct communication with members. Mr. Spano and Assembly Member Keith Wright agreed that direct access with members was acceptable, and no dissension was expressed by other members of the group.

Mr. Wright reiterated his position on the need for more diversity in the group. He expressed a desire for public hearings - possibly four, to adequately discuss issues of concern. Additionally, he would like these meetings moved to an alternate site at the Legislative Office Building.

Assembly Member RoAnn Destito seconded the comments of Mr. Wright, and offered that public hearings should be part of the drafting process. She urged consensus on a schedule of public hearings. She indicated that she and Mr. Wright were trying to arrange

for room 711-A at the LOB for the next two sessions. She continued that the topics found in the Assembly's initial letter to Mr. Kosinski should be reviewed by him, for future comment.

Mr. Wright feels that although the Assembly had provided for the recording of today's session, the State Board should assume the cost of future transcriptions.

Mr. Spano agreed with the idea of moving meetings to the LOB, but is concerned about a cumbersome process burdening the mission of the group. NY is far ahead of other states in this process. He feels the Senate and Assembly, in its initial hearings on election reforms, and the Governor's Task Force had equal success, though some of their issues duplicated those of the initial sessions. He continued that the group's overall goal is to upgrade the election process, and feels the group is well on its' way.

Mr. Kosinski stated that the time frame in which the group must complete its work is key to receiving dedicated federal funds, and that more sessions may affect this issue.

Dennis Boyd, for Brad Williams, agrees with need for diversity on the group, and the location of meetings. He agrees with previous discussions on disabilities and language topics.

Mr. Kosinski continued with the topic for this week's session - voting system standards. He reminded the group that voting machines were in the adjoining room, for all to view. NY has two electronic machines currently certified, but that would need to be upgraded to meet new federal standards, with items such as an audio feature. Mr. Kosinski responded to a question about the certification process, explaining that federal certification was required before equipment could be used or sold in NY, and that NY's portion of the certification process dealt with NY-specific issues not addressed at the federal level, such as the need for a cross-endorsement capability. He further explained that access for the disabled was provided for on current machines, but not to the extent provided for in HAVA, especially with regard for visually impaired persons.

Dick Warender asked if the goal is for one machine for the entire state. Mr. Kosinski replied that we will certify any system meeting the new standards. He advised the group that approximately 30 electronic machines are in use in the state at the present time.

Mr. Kosinski proceeded to review the voting system standards portion of the legislation, Section 301, by item, indicating that a number of the requirements are in place in NY at the present time, such as the ability to review your ballot in private before casting it, and in giving voters an opportunity to change their ballot before casting it. Mr. Wright suggested that there is no clear definition of the term 'verify', and suggested it might mean a paper document of some sort.

Section iii requires that an overvote be identified, and that the opportunity to correct it, is

provided. Section B is an accommodation for states using all paper/all mail voting systems. Section C concerns the privacy of voter and the confidentiality of their ballot, which speaks to the voter receipt concept , which compromises the confidentiality requirement mentioned earlier.

Dennis Boyd suggested that the random number presently assigned to voters could be assigned to their receipt, but the issue of undervotes is not addressed. NYSILC would like to see the full-face requirement eliminated, which will allow for less expensive machines, leaving more dollars left to be spent on other things, like voter education, poll worker training, etc.

Mr. Kosinski explained the full-face issue to the group, and stated that it is a legislative issue, for both houses to debate and address. Only one other state has a full-face requirement - Delaware.

John Haggerty stated that current systems were certified in the late 80's, and although the technology was new to us, it is not new technology. He further explained that the Governor's Task Force had the opportunity to demo a variety of voting systems. Mr. Kosinski added that touch screen systems were also here, for the group to view.

Ms. Allaud spoke on the accessibility of machines, and offered the need for an expanded definition of disabilities, to include limited literacy issues, seniors, dyslexia, etc. Machines should take this expanded definition into consideration.

Larry Adamczyk asked if a full-face touch screen was available. Mr. Kosinski replied that there was one here for the group to see, but that it was a prototype only, and had not yet been certified,

Mr. Kosinski continued with Section 2, which concerns the need for an audit capacity in voting systems. The bill says that 'audit trail' deals with results at the end of election night. Ms. Destito asked about the intent of this section, and Doug Kellner stated that the language in this section is poor. He insists a voter-verifiable audit trail be provided, and he proceeded to explain his concept of this topic - a voter makes selections, and a paper ballot is printed, to be viewed under a glass shield. A voter can verify their ballot and cast it, or opt to change it. Ballots changed would be somehow marked VOID, and the voter was free to make new selections. When a voter pressed the CAST VOTE feature, the paper ballot would be sliced off and it would drop into a locked box. In NYC, to detect problems with electronic machines, the firm SRI was hired to review source code, which was lengthy and detailed work. Their charge was to find Trojan horses, back doors etc. The venture was costly, and they only managed to review 10% of the source code, however no problems were detected. Mr. Kellner feels election administrators need to know their voting system has not been compromised. He feels the system is prone to hostile errors, as it is programmed centrally, thus it is easy to compromise. The source code is too difficult to audit, thus it too enables hostile errors. He continued that non-hostile problems

are those deemed to be mechanical, and that votes should not be counted in secret by computers.

Mr. Boyd asked if there was any proof of such hostile activity. Mr. Kellner said NO but that they could not be sure. Mr. Boyd asked if the ballot-under-glass feature as described, could be reviewed by a blind person. Mr. Kellner stated that it was not likely. Mr. Kellner continued that hostile governments could also compromise our process, that it was costly to hack such a system, but that anything is possible.

Ms. Destito re-stated that the audit trail - ballot - would be in a locked box. Mr. Kellner feels that the paper is the actual ballot, and that Brazil uses such a system. Ms. Destito feels that a back-up is necessary, and Mr. Wright agreed with her. Mr. Adamczyk asked if the machines in the next room were HAVA certified, to which Mr. Kosinski replied no, due to the audio capabilities now required by the Act.

Ms. Destito elaborated on her concern for back-up and audit, as in her county, numbers on election night were different from those on documents. Mr. Kosinski advised the group that it is important to distinguish between people errors and system errors, as in the case Ms. Destito cited. It is unrealistic to assume new machines will solve those issues. He also explained that in NY we have a required recanvass, which ensures that such problems are detected and corrected.

Tom Wilkey explained some of the history of this component of the bill, and distributed a handout, in response to Mr. Kellner's assertions.

Clifton Perez with NYSILC asked about the voter verification by those with visual impairments in Mr. Kellner's proposal. Mr. Kellner offered that the number of blind voters was relatively small, thus manageable. Mr. Perez took exception to Mr. Kellner's comments and offered that if those with visual impairments could not verify their ballot, the goals of this bill have not been achieved. He feels there must be a better way to accommodate every voter.

Mr. Warrender offered that the cost of machines we do get, and their ongoing costs, were a concern, based on what he has seen, during his recent stays in Florida. Mr. Perez stated that he has learned that in many cases in Florida, the problems were due to a failure to turn on certain features in the system, which is a people problem.

Mr. Kosinski continued with the review of the bill, and distributed a copy of the federal standards.

Mr. Boyd suggested that 3 people from his group be added to the group responsible for certifying equipment. Mr. Kellner agreed with his comments. Todd Vaarwerk supports NYSILC's comments. Anna Svizzero, of the State Board, informed the group that a separate certification program in each state was unrealistic. She continued that numerous

groups were at the table, each with a voice in creating the federal standards, so that there would be uniformity throughout the country. Mr. Kosinski added that uniformity was the goal, and anything other than that is contrary to the intent of the bill.

Maggie Brooks asked if the existing equipment was grandfathered, and Mr. Kosinski replied that this was not the case - all systems must be upgraded.

Mr. Perez would like to see accessible machines in place by 2004, and suggested that the state should not be held hostage by a single system vendor. Mr. Boyd also wants to see an '04 implementation date for these machines - either a machine at each site or all machines be made accessible.

Mr. Kosinski explained that this topic, among others, has been raised at the staff level. One machine with multiple ballots could achieve this goal. The type of machine approved will drive the manner in which this issue is dealt. Jim Dillon asked how the purchase will be done - on state contract, for example. Mr. Kosinski assured the group that this issue would be addressed.

Mr. Kosinski continued with his review of the bill, going over sections on language requirements and error rates, and pointing out that the section dealing with defining what constitutes a vote is already addressed in NY's statute. The last component of this section of the bill defines a voting system, and his review of the bill was concluded.

Ms. Destito suggested that the ability for more languages is desirable, on voting machines, beyond those required by the Voting Rights Act. She then asked Mr. Dillon if he had completed his compilation of state databases. He replied that the list was a lengthy one, and that he had not received a number of replies to his inquiry.

Ms. Svizzero distributed copies of the State Board's legislative proposals which address voting system ownership and election management, explaining the need for passage in order for counties to adequately plan for changes and implement new systems. Mr. Wright stated that it was his intent to introduce the county ownership component of the proposals.

The session was recessed, for lunch, and was reconvened with the distribution of a handout which compared the requirements of the bill, the federal standards and NY's rules and regulations, followed by these comments:

Ms. Allaud raised the issue of English as a second language, and also offered that a maintenance of effort is important. Mr. Kosinski pointed out that the maintenance of effort issue has already been addressed in the federal bill.

John Ravitz asked if machines could be modified to allow for on-board storage of election materials without requiring re-certification. Both Mr. Wilkey and Mr. Kosinski did not see

this as an issue.

Mr. Perez asked if the transcription of today's session could be added to the website. He asked if our site is accessible. Mr. Kosinski was certain that it was, but wanted to check with George Stanton of the State Board, to be sure.

Jillian Matundan with Citizens Union NY, offered that in the interest of the time frame the group has set forth, and to involve more of the public, minutes and transcriptions be made available on the website. Mr. Kosinski stated that they would be added.

Ms. Gesson stated that hearings are essential, to allow people from all over, to be heard. She is concerned about the process and accountability, asking how comments will be taken in to consideration. Mr. Kosinski stated that all comments are considered both in these sessions and in all the in-house sessions he conducts. Mr. Adamczyk assured her that all comments have value. She continued that this process needed to be transparent, to which Mr. Kosinski replied that he feels we have made considerable efforts to date, to do so. Mr. Ravitz offered that it is obvious that this is an open process and is even more so, now that the group's members have given Mr. Kosinski the OK to add addresses and phone numbers to the website. Lisa continued that she is not offering criticism, but trying to that we all want the goals of the bill to be achieved.

Terrence Tolbert, for Mr. Wright, asked for a public hearing schedule to be created, however Mr. Kosinski suggested that it would be difficult to schedule hearings without a plan. Mr. Tolbert feels that hearings should occur before and after the plan, in order to be more inclusive, and asked if any conclusions had been reached at the voter database meeting. Mr. Kosinski advised the group that no real answers had been established, but that considerable conversation was had on what is required by the bill and how county boards can achieve those goals. The session was very productive, but no decisions had been reached.

Mr. Haggerty suggested that people send comments in writing to Mr. Kosinski, whether one attends these sessions or not. He found this process most helpful while serving on the Governor's Task Force.

Ludovic Blain with DEMOS applauded the group for doing what should have been done already. He feels there are basic standards for democracy and transparency and inclusiveness can only happen if sessions are held throughout the state. The public comment sessions at these meetings are not a substitute for public hearings. He asked on what date one could expect the website to be updated, and Mr. Kosinski offered that by Friday, the site would be updated. Ludo agreed with TT's desire for at least one set of hearings, if not two, stating that participation is the key to the success of this process and to achieving the bill's goals.

Mr. Kosinski informed the group that the production of a document is not the end of the

process, but is a beginning. It allows the state to access the federal dollars to buy machines and do other initial things required by the bill. The document is a working document and related discussions will continue.

Mr. Stanton returned to the meeting, and Mr. Kosinski asked him about the accessibility of the State Board's website. He stated that the site was available in a text format, as is required, for those who need to access data in that manner.

Mr. Wilkey told the group that no one in Washington, nor among his colleagues, imagined a state plan as anything other than a living document.

Mr. Magdantay offered that HAVA says a plan is not a static document, and suggested that advocates are only saying change his necessary and essential to full participation by all voters.

Mr. Vaarwerk offered that public hearings are a way to include more voices, as not everyone can travel great distances to attend these sessions, as he does. He asked about the role the task force will play in implementation, and continued with a metaphor, stating feels that just as the ADA requirements are a floor and not a ceiling, the same is true for this group and HAVA. He wants to deal in a collaborative way, to get to the logical conclusion of these processes.

Mr. Perez suggested that it is for just that reason, the 2004 implementation date for machines is important. It is key to whatever success the group hopes to achieve.

2:45, session was adjourned