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HELP AMERICA VOTE ACT
TASK FORCE MEETING
WEDNESDAY, MARCH 19, 2003

Peter Kosinski welcomed the group and announced the theme of today's task force session, which will cover four areas of interest: the requirement for provisional ballots, the complaint process, including a voter's bill of rights, education and training, and the bill's ID provisions. He then opened the pre-session comment period.

Tova Wang from the Century Foundation, which co-sponsored the Carter-Ford Election Reform Commission, stated that she is now working with Robert Abrams and Arthur Freid on the interpretation of this law, with the publication of their report expected in April.

Michael Burgess, with the NY Senior Action Council, asked the group to be sure that older persons are trained in the use of any new voting system. Outreach is important for the continued participation of this significant group of voters.

Aimee Allaud distributed a statement from the League of Women Voters, and asked to have clarified the time table set forth initially, by Peter Kosinski. She stated that she spoke with Senator Dodd's office and learned that there is no deadline for the submission of a plan, therefore she feels there is time to extend meetings prior to the drafting of a plan. Ms. Allaud feels the interests of the committee are best served with more meetings, and continued that she believes the Assembly intends to schedule public hearings. She urged the group to use the League's traditional format of consensus to arrive at a position that truly represents what the group thinks. Ms. Allaud feels minority and majority opinions can be recorded as part of that process. She restated her two main questions - will hearings be scheduled and will there be more meetings?

Mel Tanzman, for Brad Williams, feels hearings will serve to enable more people from all walks of life to be able to hear what the group is doing, and to have a voice in that process.

Assemblyman Keith Wright again urged Peter Kosinski to have the group reflect more diversity in its composition. He advised the group that the Assembly has scheduled two public hearings related to HAVA, and hopes to schedule more. He distributed a notice of

the two sessions, to be held in NYC and Albany. He invited all members of the task force to attend the sessions, to take testimony from speakers.

Senator Nick Spano advised the group that at their previous hearings on election reform, extensive testimony was taken. He urged the chair to work with the schedule as has been set forth, and then pledged to work with the Assembly on future hearings.

With regard to the time frame, Mrs. Kosinski told the group that the law allows for up to three years for implementation. The federal fiscal year drives the availability of funds, with \$ 1.5 billion available in this fiscal year, which ends in September of 2003. He continued that our time frame realizes that to access NY's portion of these dollars, we must have in place, a plan. The statute provides for a 30-day comment period, in addition to a 45-day period in which the plan must be published in the Federal Register. Mr. Kosinski feels the time frame is governed by these provisions. The bill took 18 months to be negotiated, he pointed out, and continued that while the time frames made sense in October of 2001, they no longer made sense in December of 2002, when the bill was enacted, however none of the time frames were changed. Mr. Kosinski's goal is to have a plan to the federal government on time. He fully expects that during the public comment periods, there will be hearings scheduled around the state, so that people can be heard on the task force's issues, as has been the case at these sessions.

Mr. Spano asked him where the group stood, with regard to time frames, and Mr. Kosinski replied that he felt we were on schedule for a plan to published on May 1. Mr. Spano continued that paralysis in the process could jeopardize the receipt of federal funds, as was the case with lost DWI monies. He offered that separate Senate hearings would not be necessary. Mr. Wright reiterated his invitation to the group, to attend the public hearings he announced earlier.

John Ravitz told the group that owing to his experiences as a member of the Assembly, he understands this process well. He recently testified before the NY City Council concerning major budget shortfalls at his Board, and advised the group that neither the City Board, nor the State, could afford to lose out on any available funds, or jeopardize the receipt of funds.

Clifton Perez with NYSLIC told the group he had 17 years of experience as an advocate, and commended the Assembly for scheduling hearings. He suggested the group meet after the hearings, to review testimony. He feels more meetings would be helpful, as he does not feel that enough consensus or decisions have been reached. He does not want to jeopardize the receipt of funds, nor does he want to burden the process, but feels that the disabled community and the senior community need to be heard.

Greg Jones suggested consolidating hearings, to make the most use of a short time period. He feels the lack of an appointed commission at the federal level might push back some of the deadlines, to which Mr. Kosinski replied that the law still requires compliance, and

the delivering of an on-time plan. Mr. Jones agreed with the consensus concept as explained by Ms. Allaud.

Ms. Allaud told the group that she did not mean to imply that the suggestions she had made should affect or delay the receipt of dollars, but that it was imperative to have more meetings where decisions are made. She continued that she does not understand who will draft the plan, and where the group's input will be reflected in that plan. Mr. Kosinski told the group that the State Board staff will draft the plan, based on all of the group's discussions at these sessions. He noted that the State Board staff is diverse, and that Tom Wilkey, as well, would be intimately involved in the drafting of the plan.

Mr. Perez asked if the plan would be shared with the group before the public comment period, and Mr. Kosinski replied that he expected it would, and continued that he is confident the staff will prepare a comprehensive document. Public hearings could then be scheduled.

Ms. Allaud commended Anna Svizzero of the State Board, for the production of quality minutes, which reflected the group's deliberations, as did Mr. Kosinski.

There being no other comments, Mr. Kosinski continued with the meeting's theme, and began with a review of the identification requirements of the bill. Section A5 concerns itself with the verification of voters, noting that the statute prefers a driver's licence as its' ID of choice, followed by the last 4 digits of one's social security number. If neither of these 2 preferences are available, the state board will assign a unique ID number to a registrant. Mr. Wright asked what definition of unique was to be used, as one's name is not unique. Mr. Kosinski explained that a set of numbers would be made available for assignment, to ensure compliance.

Mr. Kosinski continued with his review, moving to Section B1A, which deals with registrations by mail, and explained that the term 'jurisdiction' means county, for these purposes, which limits the number of persons affected by this provision. Once the state database is operational, and the required comparisons are implemented, the pool of persons affected is diminished even further. Subsection 2 lists the types of valid identification documents one might present, to satisfy this requirement, such as a valid photo ID, utility bill, etc.

Mr. Kosinski continued with Section B, which is the fail-safe aspect of the ID requirements of the bill, and explained that for those voting in person who needed to show ID but have none to present at the time they vote, may cast an affidavit ballot. Mr. Wright asked to have that process explained. Mr. Kosinski explained that we presently have affidavit provision in our state statute, so we had a mechanism in place to deal with such circumstances. Mr. Jones asked if, when these documents were presented in the polling places, were they required to be kept. Mr. Kosinski replied that the law requires that they be presented, not submitted. Mr. Ravitz asked if, in the case of absentee voters, would ID

have to be attached to a ballot. Mr. Kosinski said that was not a preferred option, thus the need for steps to be taken to obtain required ID prior to an election.

Doug Kellner feels the law does not address what happens to an affidavit ballot in such circumstances, however Mr. Kosinski replied that he differs with that statement, as section a4 does state that if state law is met, the affidavit ballot shall be cast and canvassed. Mr. Kellner continued that he feels all ballots are counted together, and suggested that ID be provided with an absentee ballot application, and not the ballot itself, so as to address the problem of inclusions in a ballot envelope of anything other than the ballot itself. Mr. Kosinski offered that state law could be amended, to allow that the inclusion of an ID with a ballot would not invalidate that ballot. Mr. Kosinski added that for absentee voters who needed ID and did not provide it, their ballot remains valid.

Mr. Perez asked if registration by e-mail is to be considered by the State Board. Mr. Kosinski replied that an original signature is essential to the registration process. He continued that the issue has been discussed with DMV personnel, and we are exploring digital and digitized signatures, however he feels this avenue for registration is not likely. Mr. Perez continued that today's technology would allow for the feasibility of this concept, to which Mr. Kosinski replied that discussions are ongoing, as is our research.

Mr. Kosinski continued that the ID requirements do not apply to those who provide a driver's license number, last 4 digits of a social security number, or for whom a match can be made. Also excepted out of this requirement are all forms submitted from NVRA sites, those who register in person, and military voters. Tom Wilkey provided the group with the history of the anti-fraud provision of the bill, stating that the bill intended that each application by mail must represent a real body - a real person.

Mr. Kellner reiterated his position of ensuring that no voter loses their right to vote under this provision. He feels boards and inspectors must understand this aspect of the voting process, and feels that an expansive view of databases is appropriate. The term 'driver's license' should include non-driver ID's as well. He feels searching more databases is helpful to the process. Mr. Kosinski stated that the bill, and we, are looking to match records with DMV, which has matching access with social security records. Any additional databases would also have to have access to social security records, but added that many of these other types of databases would be covered by the exclusion of this provision for NVRA-related applications. Mr. Wilkey added that no one discussing or debating this bill wanted the country's 13,000 jurisdictions to access social security records, which was the basis for selecting DMV to be that avenue, as they already have that access. New York's 1,100 NVRA sites are covered under this provision, as those applicants are not required to present or provide ID, as this is accomplished as part of the intake process at the originating agency/office.

Mr. Ravitz asked if forms from a registration drive are considered in-person forms or mail forms. Mr. Kosinski replied that they are not mail forms, thus would not require ID.

Ms. Allaud suggested that the state's database related to today's discussions, and asked when that group will meet again. Mr. Kosinski replied that they expect to meet again in early April. Their discussions are ongoing, and visits are planned to states with databases in place. He assured the group that their discussions on this topic will be reflected in these proceedings.

Mr. Jones asked if ID's presented at NVRA sites are then forwarded to boards of elections. Mr. Kosinski reiterated that this is not the case - no ID from these applicants is required under this bill.

Mr. Tanzman suggested that groups be encouraged to deliver their forms from registration drives to boards, and not mail them, so that ID would not be required for those applicants.

Mr. Kosinski assured the group that the State Board's goal is to diminish the size of the group of voters who will need to show ID at the polls. He continued that not all decisions will be made prior to the production of the plan, nor was that concept anticipated. The plan is a living document, and many issues will continue to be considered after the plan is submitted.

The next aspect of today's session concerns provision ballots. Mr. Kosinski advised the group that this provision exists in our state statute, but that it is known here as an affidavit ballot. The process allows boards to verify information provided on the affidavit, and then determine the validity of such ballots. This provision in the federal bill is found in Section 302. He asked Ms. Svizzero to explain the process to the group, and she advised them that regardless of the reason for one's name failing to appear in a poll book, a voter can opt to cast an affidavit ballot. The notice presently provided to voters explaining that option would be amended to include the resolution of a situation involving ID. She noted that a number of boards have made this notice to voters a document which is handed to voters, and not just posted in polling places. All boards would now adopt this procedure, and the bill's requirement for toll-free access to learn if one's ballot was or was not counted, would be accomplished through the inclusion of the county board's phone number in the notice. She stated that the affidavit envelope would also be amended to reflect language consistent with casting such a ballot for ID reasons. She further stated that contrary to some public opinion, New York was a leader in the field of enfranchising all voters, as many states do not have an affidavit process in their own state law. She has provided other states with copies of our statute and current forms, and has also advised several national groups on New York's process.

Mr. Perez asked how this procedure would be offered to disabled voters in the same manner as to all other voters. Ms. Svizzero replied that all affidavit voters cast paper ballots, thus all voters would access this procedure in the same way. He asked that braille and/or large print notices be provided, and she assured the group that such would be the case in all such instances. Larry Adamczyk told the group that this process works quite

well, and asked about the requirement for a notice and web access and a toll free number, so that a voter can learn of the disposition of their ballot. Ms. Svizzero replied that the county board's number on the notice the voter would actually have in their hand, would accomplish this goal, and while current state law requires that boards notify voters if their affidavit ballot was ruled invalid, board procedures and state law could be amended to provide for a notice to be provided to each affidavit voter, advising them of the disposition of their ballot.

Mr. Kosinski introduced the next of today's themes, which is the complaint process. He advised the group that there is not much latitude with this process, as much of it is defined in the bill. He asked Stanley Zalen, the Enforcement Counsel for the State Board, to review the proposed process. Mr. Zalen distributed a draft procedure, explaining that much of it was provided for in the bill itself. He reviewed the two methods of resolution, one being a determination of the State Board after investigation, and the second being the proposed referral to the State's chief election official in cases where the board fails to act within the time frame specified in the bill. Mr. Zalen told the group that the bill provided that if no violation was discovered, a public determination must be made, however the law was silent on how to proceed if a problem was discovered. He therefore suggested the language in his draft, as a manner in which to address that type of finding.

Mr. Wilkey told the group that this provision addressed the right of private action, meaning the ability to fix something instead of or prior to commencing a law suit, is a preferable way to do business. In this manner, a procedure can be addressed or amended before litigation.

Mr. Jones stated that he would like to see a reimbursement of the costs of a hearing's transcription, and asked that assistance be provided to anyone who wants or needs help in making a complaint. A question was also asked about the need for a notarized complaint, and Mr. Zalen replied that the requirement was part of the federal bill. Mr. Adamczyk explained that from a county board perspective, there are two levels of complaints at issue here. Mr. Kosinski stated that election day phone complaints are made to the county board and state board, and they are dealt with immediately. Election day resolution of election day problems is preferable, and in the voter's interest, but this does not exclude a voter from filing a complaint pursuant to the bill's provisions. Mr. Wilkey agreed with Mr. Kosinski, in that no one expected that boards could not continue to resolve initial voter complaints.

Mr. Jones reiterated his position on the expense aspect of the procedure as drafted, and offered that in cases where a problem was discovered, the complainant's cost could be refunded.

Mr. Kellner asked what our process would be for investigating, and Mr. Zalen replied that it would follow the State's Board's existing procedures for the review of complaints. Mr. Kellner asked if such language could be added to the draft.

Mr. Kosinski introduced the training provisions of the bill, addressed in Section 254, and distributed an outline prepared by Lee Daghlian, the State Board's Press Officer, and Tim Mattice, the State Board's Training Coordinator. Mr. Kosinski indicated that substantial funds would be expended to achieve the three major training goals of the bill and the State Board. First, new voting systems would mean that voting equipment technicians would have to have their training upgraded. He explained that vendors have certain responsibilities here, under present state rules and regs, however we recognize these vendors may be spread thin, considering the fact that all states are looking to address voting system concerns at the same time. The State Board will work with and along side vendors, in this area. The State Board, and our county boards, have greater responsibilities now, and he is confident we can meet those challenges.

Second, he noted that over 60,000 election inspectors would also have to be trained on new procedures and new systems, and that we intend to lend professional expertise to this effort, using HAVA money to do so.

Third, he continued, is the education of the public on any new voting system, which is key to a successful implementation. Mr. Kosinski advised the group that we have been in contact with other states to learn how they managed their implementation of new voting systems. Mr. Wilkey advised the group that speakers will be making presentations at our upcoming conference, on their successful programs for main-streaming new voting systems. He noted that in Georgia, the state reached out to its technical schools, training those students on the new system, and then utilizing those people in training sessions for the public, and also in polling places on election day.

Mr. Kosinski and Mr. Wilkey indicated that a state-wide ad campaign is in the draft proposal, along with hand-outs and mailings. Demonstrations are essential for the public to become at ease with any new system. Some national groups may be a resource for us, and we are looking towards university-based training programs for their professional expertise.

Mr. Adamczyk asked what system Georgia had purchased, and Mr. Wilkey replied that they had purchased a touch-screen machine from Diebold. Mr. Perez suggested that eliminating the full face ballot requirements would mean we could buy cheaper machines. Helen Kiggins replied that while the touch screen machines were cheaper, you needed more of them to serve the voting constituency.

Mr. Jones commended Mr. Kosinski and Mr. Wilkey for including advocates for the disabled in these sessions and in their training proposal.

Mr. Ravitz informed the group that the NYC board had developed a training video for inspectors, but did not have the funds to widely distribute them. This video would now have to be amended, and asked if the state would consider allowing HAVA money for this purpose. Mr. Wilkey offered that we would consider making videos available to all

inspectors.

Mr. Kellner asked if there would be any federal money for interim training or for the state database. Mr. Kosinski replied that budget was the topic for next week's session, and his questions might be better addressed then, as the topic of budget deserves a full meeting. He does, however, expect that if the federal government permits, the state will make those dollars available. Tailoring to meet county needs is key to success, as different dynamics are at play in the state. We need to be clear on the connections we need to make between what counties need and how those needs relate to HAVA.

Ms. Allaud offered that there are community-based groups that may be helpful in the state's training initiatives, and should be incorporated into the training proposal. She suggested that any training should have a testing component to it. Mr. Mattice informed the group that the handout was a skeletal composition, and also, that all successful training programs utilize testing as an integral component. Mr. Wilkey advised the group that the State Board is fortunate to have Mr. Mattice as its' training coordinator. He brings much experience to the table, and has presented training sessions at a number of national election conferences. Mr. Wilkey added that other states have asked to have Mr. Mattice make presentations to their groups, as well.

Mr. Tanzman feels that NYSLIC can offer training expertise, and echoed Ms. Allaud's comments on the inclusion of community-based groups. He feels groups like his can identify accessibility and sensitivity issues. Polling place accessibility has become very interpretative and he feels groups such as his can lend clarity and suggest solutions to problems in this regard. Mr. Jones seconded the comments made by the previous two speakers.

Mr. Adamczyk stated that if no money is available to county boards, it will be very difficult to get local appropriations for these various projects. Mr. Kosinski told the group that we are aware of such needs, and will be addressing all of those concerns. He is hopeful that at next week's session, representatives of the budget department can help identify ways in which these goals might be achieved. He pointed out that dollars are precious at both the state and local level, so receiving HAVA money is key to any success we can hope to achieve.

Mr. Kosinski distributed a draft voter's bill of rights, as prepared by Todd Valentine, the State Board's Special Counsel. The concept of the bill of rights, as provided for in the bill, is to address, for voters, what they can expect in their polling place. With regard to HAVA complaints, Mr. Kosinski reiterated the State Board's position, in that such complaints are provided for, but that expeditious handling at the county level of initial complaints, is desirable and in the voter's best interests. Mr. Kosinski and Ms. Svizzero indicated that this bill of rights and other similar documents would be available in poster-size and in braille. He welcomed suggestions on this draft.

Mr. Kosinski reminded the group of next week's budget theme, and opened the meeting to task force member comments. Mr. Perez urged the state become more proactive in determining polling place accessibility, noting that changes are needed with sites and machines alike. Mr. Kosinski concurred, and added that we are aware of the problems with sites, noting however that it is difficult for county boards to find sites, and for municipalities to find them as well, in those cases where they are designated at the city and town level. The State Board is sensitive to this issue, and we have been working towards addressing it, as well. Mr. Tanzman offered that self-reporting on accessibility is not a good way to ensure accessibility. His group and others like it, can be a resource for those evaluations.

Mr. Perez asked if there would be a decision on more meetings today, including any to occur after the public hearings. Mr. Kosinski replied that there would be one more meeting next week. The State Board staff would put out a document, and he hopes the public hearings will provide information that will be shared. He does not want to delay the process he has outlined.

Mr. Kellner would like the draft to be presented to the task force before it is made public, for the group to then meet to discuss it, and for this decision to be made today. Ms. Allaud concurs, as do Mr. Tanzman, Mr. Jones and Mr. Perez. Mr. Kosinski committed to April 30 for the document to be completed, noting that time is necessary to write the document. Delays could potentially affect the time lines of the project.

Ms. Allaud suggested that State Board staff could come up with dates, so the group could know what to expect in the weeks after next week's meeting. Mr. Kosinski said the end of April is still the target, and is reluctant to squeeze a product out too quickly. Mr. Kellner stated that Mr. Kosinski should be just as reluctant to put a document out before the group sees it. Mr. Kosinski assured the group that we would work to get the plan to the group before it is distributed to the public, but to commit to a time table is not fair to the staff.

Mr. Kosinski distributed a piece prepared by Robert Montjoy at Auburn University which he feels might be beneficial for the group to review. He again told the group that all comments at upcoming hearings would be considered, and anyone with specific questions or wanting to meet with him or with staff members, was welcome to call.

He then opened the session to comments from the public.

Jeremy Creelan with the Brennan Center asked if these comments would be part of the transcription, then commented that with regard to the alternate resolution proposed in the complaint process, he has a problem with the chief election official being that entity. He also has a problem with the complainant being required to bear the cost of expenses, and will have his group challenge this provision in court. With regard to the ID provision, he wants other databases to be tapped, to reduce the size of the group of voters required to show ID. He feels the types of ID's which can be presented should be expanded, indicating that in his memo he has identified 30 such items. He suggested that forms

completed at registration drives, whether mailed in or delivered, be exempt from the ID provisions. He also suggested that a registration form be incorporated with the affidavit envelope. Ms. Svizzero replied that this is already the case in a number of boards, and statute presently requires that a form be sent with the advisory notice on the disposition of an affidavit ballot.

Jerry Koenig, formerly with the Assembly Election Law Committee, offered that in database matching issues, nuances such as those with varied names can present problems, and a method of dealing with those types of problems should be considered.

Neal Rosenstein of NYPIRG suggested the group visit the issues raised by the speaker for the Brennan Center. He added that he was amused with the discussion of the time frame, and feels the group needs to have time to evaluate the plan. He would like to see more meetings and public hearings. He feels a rushed document will lead to a faulted plan and poor implementation. He stated that he would be making the same comments regardless of who was chairing these sessions.

Rachel Leon with Common Cause supports all the written comments presented to date. She told the group that she recently taught a class of 17-year-olds, and was worried about what the ID provisions would do to this group of young voters. She urged the group to take their responsibilities to the task force seriously, and felt that a meeting to review and discuss the plan is essential.

Jillian Matundan seconded the comments made by Ms. Leon

meeting adjourned at 2:10 pm