

## **Minutes of April 3, 2009 of the Help America Vote Act (HAVA) Task Force**

A meeting of the Help America Vote Act (HAVA) Task Force on the Amendment of the State Implementation Plan was held on April 3, 2009 at 10:30 am at the offices of the New York State Board of Elections 40 Steuben Street, Albany, New York 12207. Task Force members present were: Steven Carbo, Margaret Fung, Ronald Hayduk, Christopher Hilderbrant, June O'Neill, David Previte, Joan Gibbs (for Esmeralda Simmons), and Brad Williams. Members present via conference call were: Marcus Cederqvist, Tom Ferrarese, Anita Katz, Helen Kiggins, Neal Rosenstein, Sharon Shapiro, Kathleen O'Keefe and David Kogelman (for Senator Joseph Addabbo). Staff present were: Stanley Zalen, Elizabeth Hogan, Anna Svizzero, George Stanton, Paul Collins, Bob Brehm, Patrick Campion and Greg Fiozzo. Guest present were: Joe Paolucci from the Division of Budget and Helen Benlisa from the Catskill Center for Independence.

### **OPENING REMARKS AND OVERVIEW:**

After introductions, Stanley Zalen, the Chief Election Official for New York State welcomed everyone and gave a short synopsis of what the Task Force duties are in regards to the Help America Vote Act of 2002. The Task Force will be providing advice in the development of an amendment to the State Implementation Plan. Amending the plan enables New York State to access additional federal HAVA funds which consist of \$7.5 million for 2008 and \$6.5 million for 2009. These dollars will be available for use in New York State using the same formulas that have been used for the distribution of all other HAVA funds.

### **UPDATING THE STATE PLAN:**

Mr. Carbo thanked the Board of Elections for inviting him and his colleagues to be a part of the Task Force and to thank Mr. Zalen for the change in approach of the Task Force. Mr. Carbo also asked Mr. Zalen to consider ideas that are listed in a letter (which is attached).

Mr. Rosenstein stated that a public comment period should be part of each meeting. Mr. Zalen explained that according to the Election Assistance Commission ((EAC) that there is no requirement in the HAVA law to have a public comment period at each Task Force meeting and public comments are being recorded so therefore they do not need to be a part of each meeting.

Ms. O'Neill asked Mr. Zalen what the next step would be. Mr. Zalen replied that there will be one or two more meetings after which the advice would be taken to finalize the plan.

Ms. Fung commented that she felt public hearings were very important.

**Affidavit Ballot** – Anna Svizzero gave a report on the Provisional/Affidavit Ballot section of the plan.

Ms. O’Neill had a question on the wording of the provisional ballot section as pertains to primary elections.

Mr. Rosenstein commented that the law gives every voter the right to a provisional ballot. Mr. Rosenstein reported that some poll workers call the county boards and the county boards tell them that they cannot give the ballot out.

Mr. Hayduk asked if the envelope of the affidavit ballot could be used as a voter registration form. Anna Svizzero responded that if you are moving yes, but for a new registration no, they need to fill out a voter registration form. Some boards put voter registration forms on the other side of the affidavit ballot envelope.

Ms. O’Keefe and Mr. Kogelman responded that the Legislature has a bill to have provisional ballot envelope be used as a voter registration form.

Commissioner Ferrarese indicated that Monroe County already uses the back of the affidavit ballot envelope as a registration form. Mr. Rosenstein asked if other counties could use Monroe County as a sample. According to Anna Svizzero all counties have been provided with the sample envelope and if the Legislature passes the bill, it would require all counties to use the envelope as a voter registration form.

Ms. O’Keefe and Mr. Kogelman also explained that a bill is pending in the legislature which would make it a law that a person can vote on a provisional ballot if in the correct polling place. If the bill passes, Mr. Hayduk would like the Task Force to adopt stronger language directing county boards to make their voting process and the use the provisional ballot envelop as a means of voter registration.

Ms. O’Neill spoke that it is important to give the poll workers every means possible to make sure that the voter can cast a vote. Poll Worker training is very important.

Mr. Hilderbrant asked if the ballot could be sent to a correct polling place due to the fact that a disabled voter may not be able to get to the correct polling place to complete a provisional ballot. Anna Svizzero responded that that cannot happen due to the fact that different polling places may have a different ballot and also it is part of the Election Law.

**Voting Systems** – Anna Svizzero gave a report on the status of the voting systems.

Mr. Williams spoke about some problems that were reported after the 2008 general election concerning the use of the ballot marking devices (BMD). There needs to be more training for the poll workers especially with the BMD’s.

There was a lengthy discussion on the need to recruit more poll workers. Cost is a big issue not only for training but also to pay the workers.

Ms. Shapiro asked if each polling place had training sheets and a policy and procedure book for the poll workers, that each poll worker needs to know who the inspectors are.

**Statewide Voter Registration List** – George Stanton gave an overview of NYSVoter, the statewide voter registration database.

Mr. Carbo asked how the system deals with changes especially when a felon is no longer on parole. It was explained that when an individual is convicted and sentenced to a felony, his or her voter registration is canceled. The person would need to reregister as a new voter once the maximum sentence of imprisonment has expired, or they have been discharged from parole.

Ms. O’Neill asked if all counties are using the NYSVoter system and if there was there in issue with the web based link on Election Day. George Stanton reported that all counties are using the system and there wasn’t any problem on our end on Election Day. Mr. Cederqvist responded that New York City hasn’t had a problem since 2004.

**Improving Voter Access** - Bob Brehm gave a report on voter education, poll worker training and poll site accessibility.

There was a lengthy discussion on poll worker recruitment. Ms. O’Neill is concerned that there is nothing in the plan concerning poll worker recruitment, especially to get college students to work. Perhaps through PSA recruitment efforts or by providing extra credit or community service.

Paul Collins mentioned that it is hard to get college students since state law requires that the inspector needs to be a resident or registered in that county.

There was talk of closing school for Election Day. Ms O’Keefe mentioned that the Legislature has a bill that would close schools on Election Day. Since it has to do with Education Law, it is also part of the Education Law. Ms. O’Keefe reported that the Education Committee is supporting this bill. If the student was under 18 years old, then it becomes a Labor Law issue due to the number of hours worked.

Mr. Williams would like to see people with disabilities be involved with training poll workers, especially for the BMD’s,

Mr. Hilderbrant suggested going through job seeking agencies to enlist poll workers. Another idea was to have the poll worker work a partial day instead of a full day which would be beneficial to students and the disabled community.

Mr. Zalen has a problem with the lack of continuity with a split shift. Mr. Zalen also asked Ms. O’Keefe about the Minnesota law that Mr. Rosenstein referred to which has businesses giving

the day off to employees who want to work as inspectors, if she felt it was a good idea Ms. O'Keefe mentioned that it would probably be more of a Labor Law issue and not Election Law.

Mr. Hayduk asked what criteria the state board uses to approve or disapprove the county training plan. Bob Brehm responded that it is a grant program to help to improve their services at the county board level; we don't require a county to give us their full plan but that it has to be covered under HAVA.

Mr. Rosenstein suggested maybe using city, county and state workers as poll workers and giving them comp time. Mr. Cederqvist responded that there is a huge pool of city workers that are off on election day and that there is some issue with their contract, and that New York City is pursuing this issue.

Mr. Carbo spoke about the poll worker training/voter education section in the plan and did not see any reference to different languages, felon voting rights, etc. Mr. Brehm responded that the development of a specific plan is up to the counties. On the voter education website, the training is available in all languages required in the state. Mr. Carbo feels that the information on felon rights needs to be more thorough to educate the public on the voting rights of felons.

Ms. O'Keefe spoke about a bill in the Legislature that deals with voter education. It would require a judge to inform someone entering a plea for a felon that they will lose their right to vote and get their rights back after they have served parole, along with the educating the Corrections Department, County Boards, etc.

Marcus Cederqvist has had budget cuts and adding another language is very expensive. Margaret Fung commented that there is a lot of misunderstanding with the public as to the availability of different languages.

Steven Carbo explained that the importance of educating the inspector's filters down to them educating the public and it is most important that the public needs to be educated about this.

June O'Neill asked Kathleen O'Keefe if the bill covers an 18 year old working at the polls that it would not count as an absence. Kathleen felt it was a very good point and would look into it. Kathleen thinks that the age is only mentioned in the election part, but will look at the education part of it. A 17 year old can be pre-registered, but not able to vote.

June O'Neill also asked a question about the training system being a uniformed system. Bob Brehm responded that it is uniform for counties using the same type of voting system.. June O'Neill also feels that the poll workers should be educated as to the rights of the poll watchers.

Stanley Zalen asked Kathleen if it is true that the board does not receive notification until after the judge sentences the person to a sentence of imprisonment. Therefore there wouldn't be any danger of being deprived the right to vote.

**Administrative Complaint Procedure** – Elizabeth Hogan gave an overview of the administrative complaint procedure.

Steve Carbo asked if the complaint form was on the Board's website. Liz Hogan explained that the forms are not on our website. The Board is trying to keep this complaint procedure separate from the enforcement complaints that the agency also receives. Steve Carbo also asked if the complaint procedure also covers sections of Title 3, especially alternative languages. Liz Hogan said yes, that if the complaint had to do with issues that other units of the agency covered, that that unit would become an important part of the complaint process.

The next meeting will start with the issues of the memos that the Board has received. It was suggested that if there are issues to e-mail them to the HAVA e-mail address and they will be shared with the task force. Also, as the staff makes the changes to the plan, Donna will send them out to the Task Force members also.

The next meeting will be held on April 14th from 10:30 – 2:30 pm.

