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CONNECT THE DOTS: Politics over Process

The Help America Vote Act: Will it Help or Hinder NY Voters?

In the wake of the Florida Debacle in the 2000 presidential election, Congress passed the Help America Vote Act (HAVA), aimed at improving the voting process by setting new standards for voting machines and providing funds for states to update their systems. In New York State, the implementation process has been undemocratic, wrought with delays, and has become mired in politics as usual in Albany. We need to monitor the implementation process and our lawmakers to ensure that this new legislation is a help, not a hindrance, to New York State's voters.

NY Turns Task Force into Rubber Stamp

Governor George Pataki shocked the public when he didn't allow the Director of the State Board of Elections—a nationally known elections expert who is also a Democrat—to convene the Task Force, mandated by HAVA, and instead designated the Deputy Director, Peter Kosinski, a Republican. Mr. Kosinski stacked the Task Force with Republicans, with very few members from New York City, and didn't designate any members to represent the minority groups who have been historically disadvantaged by voting practices.

Things went from bad to worse when Mr. Kosinski made it clear that the Task Force would not, in fact, write the plan detailing NYS' HAVA implementation—his staff at the Board of Elections would. He refused to schedule any meetings for the Task Force to discuss the draft before its release to the public, although members were allowed to comment privately to Mr. Kosinski.

Voters Left Out of Voting Overhaul

The public was similarly shut out of the process. Not a single public hearing was held before the plan was first drafted, although after complaints were made, Mr. Kosinski allowed a brief public comment period at each Task Force meeting. After the draft was released to the public, only three hearings were scheduled before the Task Force finalized the plan.

Dysfunctional Session Disrupts HAVA

New York met the January 2004 deadline to apply for federal waivers, giving them until 2006 to decide and implement most of the HAVA provisions, including the purchasing of new voting machines and the statewide registration database.

With national debates about the security and verifiability of new voting machines in high gear and after hearing local citizen uproar, **both the New York State Senate and Assembly passed, in the spring of 2004, bills that would require the use of voting machines that produce a voter verifiable paper audit trail.** Despite holding conference committee meetings at which they heard a good deal of citizen and coalition input and comments, they have so far been unable to agree on one significant package. **They still need to finish conferencing and pass one concise package before the bills can become law.**

The Legislature did accomplish a few HAVA related issues—they passed a stop gap bill at the end of the 2004 session on IDs for new voters and the statewide database. The stop gap will sunset in one year, meaning the 2005 session will still be crucial in moving on real HAVA legislation. Issues that will taken up in 2005 include: which machines will best suit the needs of New York's disabled communities; whether to have one statewide voting machine; and how to create and implement the computerized statewide database of registered voters that will be used at all poll sites. Some towns and counties are moving ahead and contracting with Sequoia, a voting machine vendor, to purchase new machines, assuming they will be reimbursed when the state passes legislation.

2005 will be the final showdown on HAVA in the Legislature — whether in back rooms with special interests, or in open and public debate, that addresses the concerns of all New Yorkers.

New York's Position in the National Debate

While most national reports focus on the voting systems in states with close election results for the presidency, problems with New York's voting systems need to be addressed. Over 23,000 calls were logged in to the Common Cause Election Day Helpline from New York , more then any other state. New York's antiquated machines and poorly trained poll workers caused thousands of barriers to voting for New Yorkers trying to cast their votes.

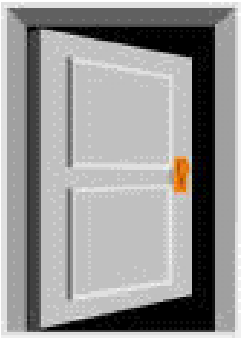
With Major Voting Changes On the Agenda, Vendors and Powerful Lobbyists Step In

Voting machine vendors have wasted no time in hiring well-connected lobbyists to make their cases. Because of the procurement lobbying loophole, it is impossible to track exactly how much is being spent in Albany. Nevertheless, lobby reports filed by potential vendors, show that they are already spending to influence the legislative aspects of HAVA implementation. The lobby dollars tracked here are probably just the tip of the iceberg. New Yorkers deserve to know what is being spent to influence which voting machines they will be voting on for decades to come.

Since 2002 through the fall of 2004, voting machine vendors have spent more than $850,000 lobbying on voting related legislation in Albany, and are poised to spend a million before year's end.

- **Diebold Election Systems, Inc.** has paid the lobbying firm of Greenberg Traurig, LLP **$275,000** since 2003 for their lobbying efforts.
- **Sequoia Voting Systems, Inc.** spent **$265,771** since 2003 on lobbying by the firms O'Dwyer & Bernstien and Buley Public Affairs, LLC.
- **Election Systems & Software, Inc.** has spent **$159,319** on lobbying since 2002, hiring the well-connected firms Buley Public Affairs, LLC and Davidoff & Malito, LLP.
- **Danaher Controls, Inc.** has spent **$58,500** since 2003, hiring the lobbying firm, the Parkside Group.
- **Liberty Election Systems, LLC** has paid $**48,635** to the firms Capitol Group, LLC and Featherstonhaugh, Wiley, Clyne & Cordo, LLP since 2003.
- **Accupoll** has paid Powers & Company, LLC **$42,283** for lobbying on voting issues since 2004.

Revolving Door and Insider Access



The list of powerful lobbyists hired by voting vendors includes: Bill Powers, former Chairman of the NYS Republican Party who is representing Accupoll; Jeff Buley of Buley Public affairs, who was counsel to the New York State Republican Party in the 2004 election; and several prominent lobbyists who come from the democratic side of the aisle.

The Case for Lobby Reform in New York State

In New York State, lobbyists are not required to register or report when they lobby for state contracts. Legislation to require reporting this lobbying failed in the legislature in 2003, despite pledges from Senate Majority Leader Bruno, Assembly Speaker Sheldon Silver and Gov. Pataki that it would be a priority last session.

Under HAVA, contracts will be awarded to voting machine vendors and companies to create a statewide voter registration database.

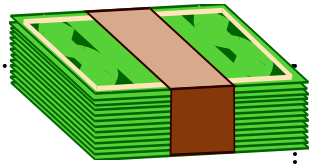
Unfortunately, because of the current lobbying loophole, there is no way to track how much these companies are spending in Albany to influence the decision making process. These are decisions that need to be made carefully, with public input, and they should not be decided by one company's ability to outspend another.

Do I Hear Bells?

While New York State ponders what voting machine vendor to choose, Chairman and CEO of Diebold Inc., Walden O'Dell, rang the closing bell at the New York Stock Exchange on August 27, 2003. O'Dell also stated he is committed to "helping Ohio deliver its electoral votes to the President next year." (N.Y. Times 12/2/03) His political spending and position as a Pioneer fundraiser for the Bush reelection campaign caused national debate about the influence of special and private interests in our electoral system.

Lawmakers vs. Voters: Whose Best Interest

One of the biggest hurdles to reaping HAVA's full benefits is New York's "full-face ballot" requirement, which forbids the use of any voting machines that do not display every election and every candidate simultaneously. Unfortunately, this format makes it difficult or even impossible for many language minorities and people with disabilities to vote, and any voter could be confused by its visual complexity. Lawmakers could step in and reverse the full-face ballot requirement. Why don't they? Possibly because they believe that the one-column-per-party format of the current ballot encourages voters to vote straight down the party line, although studies have been released that debunk this myth.



MONEY IN POLITICS

- Diebold Election Systems, owned by Diebold Incorporated, is one of the leading voting machine vendors in the country. The company has been the focus of a national debate about the role partisan politics should play in the voting machine selection process. Walden O'Dell, Chairman, President and CEO of Diebold Inc., was a Pioneer for President Bush's reelection campaign, and has hosted a fundraiser with Vice President Cheney that netted $500,000. (Atlanta Journal Constitution 12/6/03) Diebold Inc. and Mr. O'Dell gave $100,965 in soft money to the Republican Party during the 2002 election cycle on the national level. (Common Cause) Diebold Inc.'s executives and employees have given over $60,000 in campaign contributions at the federal level since 1999, all but $4,775 were donated to Republican candidates and committees. (CRP)
- Accenture which describes itself as a global management consulting firm, has hired Patricia Lynch Associates and Hiffa Ostroff Associates to the tune of $198,000 since 2003. While they don't cite voting issues on their lobby reports, they are the company that has been reported to be preparing databases for voter rolls in Florida and Pennsylvania.

This fact sheet was created in July 2003 and updated in Decemeber 2004 as part of a series called CONNECT THE DOTS, which aims to show how money in politics impacts on issues New Yorkers care about. To learn more about Common Cause/NY's CONNECT THE DOTS coalition, call 1-800-300-8707. This project was made possible by support from the Robert Sterling Clark Foundation.