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**THE LEAGUE
OF WOMEN VOTERS**
of New York State

**Testimony before the New York State Assembly Standing Committee on Election
Law and the New York State Assembly Subcommittee on
Election Day Operations and Voter Disenfranchisement
Thursday, December 1, 2011
Assembly Hearing Room, 250 Broadway,
Room 1923, 19th floor, New York City**

Subject: Administration of Elections in New York State in compliance with the federal Help America Vote Act

Purpose: To examine the impact of the enacted SFY 2011-2012 State Budget on New York State's implementation of the Help America Vote Act on the State Board of Elections and local boards of elections

Good Morning, Chairpersons Cusick and Kavanagh and members of the designated committees. Thank you for the opportunity to speak at this hearing.

My name is Aimee Allaud, and I am the League of Women Voters of New York State's Elections Specialist. With me is the League of Women Voters of New York City's Elections Specialist, Kate Doran. She will address New York City specific issues with respect to the new voting system and closing procedures.

The League is a multi-issue, nonpartisan political organization working to promote political responsibility through the informed and active participation of citizens in government. Our 50 local Leagues throughout the state allow us to monitor the activities of the local boards of elections as we work collaboratively with them to provide accurate information on the voting process to citizens in New York.

As you have noted in the Hearing Notice, "the transition to full HAVA compliance has been costly, both in the purchase of new voting systems and in the human resources necessary to train poll workers and educate the public about the new voting systems. This hearing is intended to examine these issues in light of the resources allocated in the

enacted SFY 2011-12 State Budget for HAVA implementation and to identify any legislation or other resources that may be needed to promote the efficient administration of elections.”

The League annually submits testimony to the Joint Fiscal Committees on the proposed budget for the State Board of Elections. The League’s 2011 budget testimony acknowledged that although full implementation of HAVA had occurred with the replacement of lever voting machines by optical scan voting machines in the 2010 elections, the NYS Board of Elections continues to have oversight and monitoring responsibilities of the local boards of elections regarding HAVA implementation. The local boards rely on the New York State Board of Elections as the lead agency which advises and guides them on the administration of elections and compliance with HAVA, especially in these initial years of the introduction of the new voting equipment. New York’s federal appropriation of \$220 million has been almost fully expended to meet the requirements of replacing voting machines, creation of the voter registration database, upgrading of poll sites for accessibility, and voter education and poll worker training. In addition to existing functions, the State Board of Elections will soon have a new federal mandate, the Military and Overseas Voter Empowerment Act (MOVE) to implement. The agency has legal counsel who provide advice to the local boards, many of whom do not employ counsel. Many local boards of elections are also small operations lacking the diverse technical skills necessary in the computer age. The State Board plays a critical role in assisting them with their daily operations.

However, the agency has experienced a decrease of \$614,000 (-10 percent) in the current SFY budget from its 2010-11 budget at the same time that it has increased responsibilities in the area of campaign finance disclosure and enforcement as well as certification of the ballot, the petitioning process, election operations and compliance with federal mandates (NVRA, HAVA, and MOVE). Remaining HAVA appropriations to the counties can be used to fulfill some of the HAVA mandates while increasing local board capacity as we propose in our testimony.

Article VII budget language proposed eliminating requirements for pre-and post-election newspaper publication of certain election-related information, such as the text of proposed ballot questions and constitutional amendments and the results of general elections. It suggests that such information be posted on the website of the appropriate board of elections. Moving to a web-based system of providing election information should be a goal for all local boards of elections and the State Board can be pro-active in providing assistance to the local boards in this area.

The League conducted an online voter survey for the 2010 General Election and reported the results of that survey in our *2010 Election Survey Report, December 13, 2010*, www.lwvny.org. It identified four areas of concern for voters based on the experiences of 1072 voters in 47 counties in the state. The report recommends 1) increasing voter education on the voting process, 2) revising the paper ballot to maximize usability, 3) improving privacy in using the paper ballot and in the polling place, and 4) increasing training for elections personnel.

We want to focus today on how some of those issues can be addressed by the State Board of Elections and the Legislature:

Increasing Voter Education on the Voting Process and Increasing Training for Elections Personnel

The State Board's 2010 Annual Report describes that:

- *Work with the Office of General Services (OGS) continued, as the agency developed a State HAVA Operational Expenses (SHOEBOX) Program. The Program is intended to allow reimbursement to County Boards utilizing the balance of HAVA funds available to them, by way of specific types of allowable purchases, once the county has completed their transition to optical scan voting technology. It is anticipated that this program may be launched in 2011.*

At the October 27, 2011 meeting of the NYS Board of Elections, Commissioners approved a Resolution creating the SHOEBOX Program. Some of the non-equipment allowable expenses described in the Application Pack and Instructions for Reimbursement of Submission of HAVA Operations Expenses by Boards of Elections (attached to this testimony) are:

- Voting system and ballot marking device training for election day workers and board of elections officials staff,
- Training supplies, including computers, projectors, brochures, and handbooks,
- Materials to be used in educating voters on voting procedures, voting rights, and voting technology,
- Professional training costs associated with educational programs for election inspectors, poll site coordinators, voting system technicians and/or custodians and such other staff as the Commissioners of Elections may deem necessary to the successful implementation and ongoing use of new voting systems.
- Other expenses which *may be* reimbursable are: media advertising, audio and visual materials, website design/updates, voter outreach mailing expenses.

The SHOEBOS Program expires March 31, 2014 or when there are no HAVA funds remaining in the county's specific HAVA allocations. The SHOEBOS Program offers a range of options to counties for furthering the goals and objectives of HAVA which the League Survey Report recommends. We understand that \$5.1 M. is available in the SHOEBOS Program for counties to access. While we appreciate that the mandates of HAVA have dramatically increased the need for Agency assistance to the local boards of elections, we urge the Board of Elections to make implementation of the SHOEBOS Program a priority so that counties can take advantage of their allocation monies before the expiration date.

Availability of Sample Ballots on County Boards of Elections websites

Increasingly, the general public and the voters look to the Web for basic information on any topic. While many voting information sites, such as the LWNYS' *Vote 411* are available to provide candidate information to voters, the specifics of each county's ballot should be readily available on each county board of elections website. In November 2010, Citizens Union, www.citizensunion.org. released a report, "***County Boards of Elections and Sample Ballots,***" which inventoried NYS county boards of elections sample ballot practices. Of the 58 counties, an astounding 32, or 53% of New York counties did not provide sample ballots for their voters. 47% or 27 counties provided sample ballots on the local board website. Using SHOEBOS Program monies for this purpose should be investigated by counties under the guidance of the Board of Elections.

Increasing Training for Elections Personnel

According to the NYS Election Law, Section 3-412 subdivision 5. "Each board of elections shall reproduce a booklet of instructions for inspectors prepared by the state board of elections. A copy of such booklet shall be given to each inspector at the time such inspector attends the course of instruction."

Has such a booklet of instructions been prepared and distributed to all county boards of elections to use in inspector training? If not, we urge the Committee to learn why not. A basic booklet describing machine operations, procedures and legal processes is desirable in achieving uniformity in elections in the state. Counties would be able to supplement the basic booklet with their own specific county information.

The ***NYS Board of Elections 2010 Annual Report*** indicates that "The On-line Poll Worker Training Program continued to be available in 2009 to further poll worker training. In 2008, the State Board created the On-line Poll Worker Training Project as a supplemental means to training poll workers. Our solution provider, SOE Software, accumulated existing training materials. The project was an inclusive effort to deliver training to poll workers through both a written manual and an online training platform.

SOE Software has collaborated with the State Board and a bi-partisan Advisory Group consisting of seven counties and the New York City Board of Elections. This resulted in the development and distribution of a county-level administrator user manual of the online poll-worker training platform, as well as an instructor manual and a student poll-worker training manual. Full use of the on-line training platform was completed in October 2008 and its use has been ongoing.”

The report does not indicate how many (nor which) counties are using the on-line training module. It is offered to the counties to use as a password protected program. Currently, this training program is not posted to the NYSBOE website. We urge the State Board to offer the program without password protection on both the NYS Board of Elections website and the county boards of elections website. Public Access to the training program will enhance recruitment of potential poll workers, and prospective poll workers could learn about the tasks of the job before making a commitment to do so. Recruitment of more tech-savvy persons to this position would be enhanced by using web-based information portals.

In 2010, the League and other voter advocacy organizations supported legislation permitting split shifts for election inspectors and allowing certain students to serve as election inspectors. Signed into law in 2010, these new provisions can be the key to increasing the pool of election inspectors, but county boards need help from the State Board in developing practical solutions to applying the new law to solving potential inspector shortages. Amending the NYS Election Law to permit unaffiliated voters to serve as inspectors would also increase the pool of voters who would be available.

Revising the Paper Ballot to Maximize Usability

The League’s Voter Survey found that from 10-20% of voters had problems with completing the paper ballot part of the voting process indicating a need for improving the design of the ballot. The design of a ballot can have a great impact on the outcome of any given election. New York’s ballots have remained largely unchanged (despite the changeover to a paper-based voting system) and do not reflect the recommendations of the US Election Assistance Commission (see EAC 2007 report, “Effective Designs for the Administration of Federal Elections”).

Simplifying the design of the New York State ballot need not be a lengthy or costly process. Many changes can be made simply by redesigning the ballot. In 2008, based on the new ballot guidelines from the USEAC, the American Institute for Graphic Arts (AIGA) began a project called Design for Democracy. Using their knowledge of graphic arts and the ballot design guidelines, the AIGA came up with several easy changes to make to ballots. According to the NYS Board of Elections, many of the problems with

ballot design: confusing layout, cramped fonts, too many languages, etc., can be changed easily within the current legislative parameters that the ballot must meet, without changing the rules.

In a presentation on Ballot Layout and Design at the April 2011 conference of the NYS Board of Elections, staff presented a workshop and handout on Usability to local boards of elections personnel. The information provided examples of how to build a ballot based on key usability concepts and in June 2011 the SBOE contracted with AIGA to present a day-long training workshop on Usability for SBOE staff and local commissioners. The objective was to use this training session as a starting point for what could be done within the parameters of the existing law. Some changes to ballot configuration require engineering and certification testing which are expensive and time consuming. There are about 2500 ballot styles in an average general election.

In October 2010, the Office of the State Comptroller (OSC) issued a report on Voting-Related Problems in the September 2010 Primary Election. The following section on ballot issues (p. 8) is reprinted from that report:

“At the present time, county boards of elections design their own ballots according to the general ballot design and layout that is set in statute. The State Board is not legally mandated to review and approve the form and layout of the ballots counties use. However, the ballot design currently contained in the Election Law is still the old ballot form that was used with the lever operated voting machines, so the law provides little relevant guidance to Boards.”

The report recommends that that the SBOE should fulfill its oversight responsibility by reviewing and approving the counties’ ballot forms. The League concurs with this recommendation.

The Brennan Center and the Usability Professionals’ Association have long advocated for better ballot design which follows basic usability principles followed by rigorous usability testing. Although some changes within existing statutory requirements can be made by local boards of elections, that will lead to a lack of uniformity in ballot forms across the state, in essence leading to unequal treatment of voters. A better approach is to change the NYSEL regarding the basic ballot requirements as represented in A.4696A Kavanagh and A7492A Kavanagh. The LWVNYS supports the concepts presented in these bills through statutory change as the best way to achieve minimum uniform standards for all ballots in the state.

Other Areas of Concern

Voter Registration Modernization

HAVA required states to create computerized statewide registration databases, so the infrastructure for voter registration modernization in New York is in place. New York currently uses a paper-based system for voter registration that is cumbersome and prone to error. Modernizing this system would both save money and increase the accuracy of the voter rolls and we urge you to consider this as the next logical step in increasing the efficiency of this aspect of election administration.

Under automated or “paperless” registration systems, state government agencies, primarily the Department of Motor Vehicles (DMV), collect and transfer voter registrations electronically and automatically. States can also allow online voter registration by citizens and once an eligible citizen is on a state’s voter rolls, that record is automatically updated when new information about the citizen appears in any state database. Eligible citizens can correct errors on the voter rolls before and on Election Day. Seven states have fully automated voter registration at DMVs and at least ten other states have partially automated systems. Nine states currently offer online registration and two more have passed legislation to do so.

Primary Date

The League also wants to reiterate our support for changing the date of the New York Primary Election from September to June. We believe that the interests of voters will be better served by this change, and that election administration will benefit by the additional time gained between the Primary and the General Election. Some of the recommendations we have made in this testimony would be facilitated by additional time between the Primary and General Election. We join with the Election Commissioners Association in advocating this change.

Thank you for the opportunity to comment.

Attachment: SHOEBOX Program description