

Members of the PI Editorial Board,

Thank you for your ongoing coverage and editorial support on elections issues recently and over the past year. Following up on your editorial this morning on HAVA compliance, we offer the following observations on state and federal law issues that bear upon matters discussed in your editorial this morning.

I. State Law Issues

As you know, this has been a remarkable year for elections in Washington State. In addition to meeting the HAVA requirements discussed in your editorial, we faced the closest Governor's race in U.S. history, participated in an election contest lawsuit that lasted eight months after the election, changed our form of primary twice, implemented eleven new legislative election reform measures, converted over 25 counties to vote by mail, implemented new voting systems in many counties, introduced voter ID requirements, and conducted an unprecedented level of voter education to help prepare Washington voters for these many changes.

In addition to the HAVA requirements, Washington State law now requires a Voter Verified Paper Audit Trail (VVPAT) to be installed on all electronic voting devices. This requirement will be a challenge for Washington for two reasons.

First, the equipment needed to meet the VVPAT requirement has not yet been federally certified.

Second, state law requires that voting system equipment must have been certified and used in another state before it may be used in Washington. Since this equipment has not been certified at the federal level, it has not been certified or used in another state.

Thus, our office will be introducing legislation to eliminate the requirement that equipment be certified and used in another state before it may be used in Washington.

II. HAVA Issues

HAVA has three key new requirements for 2006 relating to the following areas.

- Statewide Voter Registration Database (VRDB)
- Punch Card Voting Devices
- Disability Access Units

Further background on these requirements follows.

Voter Registration Database.

HAVA requires that Washington State establish a statewide voter registration database by January 1, 2006. The development of Washington's VRDB has been a partnership between this office and the 39 counties. Formerly, Washington maintained 39 different voter registration databases, one in each county managed by that county. Washington State is this week completing the download of registrations from the counties into Washington's new centralized statewide database to be managed by the Office of Secretary of State. On January 1, 2006, Washington State will have a fully populated statewide voter registration database in compliance with HAVA. We will be doing the various list maintenance exercises throughout the first quarter of 2006 to address issues relating to felon, deceased, and double voters.

Punch Card Replacement

HAVA requires that no punch card system may be used in a federal election after January 1, 2006. Washington formerly had fifteen counties using punch card voting systems. Each of these counties has replaced these systems with a HAVA compliant system. Washington State will be in full compliance with respect to these requirements by the first federal election in 2006.

Disability Access Units.

HAVA requires that each polling place in America provide a federally certified disability access unit to allow disabled voters to vote in privacy.

Each Washington county has selected the disability access unit compatible with that county's voting system.

Each Washington county has been authorized a HAVA grant by our office to fund each county's purchase its disability access units. Some counties have purchased federally certified disability access units and will be in full compliance with this requirement by January 1, 2006.

Not all counties will be in compliance with this requirement by January 1, 2006 because not all vendors have obtained federal certification for their disability access units.

These vendors are in the final stages of obtaining federal certification for their disability access units and may not have this certification until later in January 2006. Each of these vendors has certifications pending in December and January.

Counties purchasing disability access units from these vendors will not be able to install the equipment until they are federally certified.

Thus, every Washington county is either fully in compliance with this requirement or fully prepared to be in compliance with this requirement upon federal certification.

All Washington counties will be fully compliant with this requirement by the first federal election in Washington (September 2006). In fact, we expect each county to be fully compliant with this requirement seven or eight months prior to the first federal election in 2006.

The vendors are late obtaining federal certification for this equipment because the federal government was late in establishing the certification standards for this equipment. The federal government did not approve these standards until July 2005.

The federal government was late establishing certification standards due to the late creation of the Election Assistance Commission and the late funding of that Commission.,

All vendors have been working diligently to obtain federal certification for their equipment to meet the January 1, 2006 deadline.

Your editorial correctly noted that Oregon will be fully compliant with the disability access unit requirements. As you know, Oregon is a fully vote by mail state. The state of Oregon selected one vendor for disability access units to be used by all counties statewide. The disability access unit selected in Oregon is the ES&S AutoMark. Because the AutoMark is a touch screen voting device that actually creates a paper ballot, the certification process was much simpler than a pure electronic voting device and certification was issued for this device in 2005. Thus, Oregon is in full compliance with this requirement.

Washington State law allows each county to select its own voting systems. Washington currently has four vendors serving Washington counties, including those using the ES&S Automark. Each county needs to have a disability access unit that is compatible with the county's voting system. Three of these vendors are in the final stages of obtaining federal certification for their disability access units.

Washington State and this office have worked very hard to meet the 2006 HAVA deadlines. When the final federal certifications have been issued for vendors in Washington, the counties will purchase, install and test their equipment well in advance of the first federal election in Washington, and Washington State will be fully compliant with HAVA.

We would be happy to answer any further questions you may have.

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