



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
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October 31, 2006

Richard King, Ph.D.
1236 Malvern Avenue
Pittsburgh, PA 15217

RE: Paper Ballots

Dear Dr. King:

On behalf of Secretary Pedro A. Cortés, I am providing this response to your e-mail correspondence of October 22, 2006. Your correspondence referenced my letter to Mr. Marty O'Malley, which was one of many letters I sent to citizens who inquired about the use of paper ballots. In addition to those letters, the Department advised counties on September 28, 2006 that paper ballots are not permitted as an option under current law, except as back-up ballots in the event of the failure of an electronic voting system at a polling place.

We pointed the counties to Section 1104-A(b) of the Pennsylvania Election Code, which provides that the use of paper ballots be discontinued once an electronic voting system is put into place. Specifically, that subsection, in relevant part, provides:

Upon the installation of an electronic voting system in any election district, the use therein of paper ballots and of voting machines shall be discontinued, except as otherwise provided herein.

25 P.S. § 3031.4(b).

The only provision in the Election Code authorizing the use of paper ballots after an electronic voting system has been installed in an election district is Section 1120-A(b) of the Code. This subsection provides that paper ballots may be used as emergency back-up ballots in the event that an electronic voting system fails or malfunctions and cannot be used at the polling place. This subsection provides precisely as follows:

If any electronic voting system or any component thereof being used in any election shall become inoperable during [an] election, if shall, if possible, be

repaired or another machine substituted by the custodian or county board of elections as promptly as possible, for which purpose the county board may purchase as many extra systems or system components as it may deem necessary, *but in case such repair or substitution cannot be made, paper ballots, either printed or written and of any suitable form, may be used for registering votes.*

25 P.S. § 3031.20(b) (Emphasis added).

The concluding sentence of our memo stated "we advise that you be guided by these provisions of the Pennsylvania Election Code in the administration of an election." I trust that this not only demonstrates our consistent approach of advising counties on issues of state law, but that it adequately addresses the focus of your correspondence.

Sincerely,



Harry A. VanSickle
Commissioner

HAV/ahm