



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PENNSYLVANIA
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June 2, 2006

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429 Fourth Avenue
Pittsburgh, PA 15219

Dear Mr. O'Hanlon:

Thank you and the others for participating on the conference call with members of the Department of State and the Governor's Policy Office. We apologize for the time that it has taken us to get back to you in writing. Of course the Primary Election Day issues diverted our attention, and we are pleased that Election Day went as smoothly as it did considering that 62 counties were using new machines.

We wanted to just take a moment to respond in writing to a few issues. First, the Secretary will clarify to the County Commissioners that there is nothing in the law that would prohibit counties from using voting systems that have voter-verified public records (VVPR). As you know, optical scan machines currently offer that option to counties and many counties choose to purchase that technology. However, in the case of DRE machines such technology is not available in a manner that would ensure the secrecy of an individual's vote.

In seeking to prepare for the infusion of VVPR technology once it meets our election standards, we urge that you begin to educate members of the legislature that work must be done to revise the Pennsylvania Election Code so that the law is clear with respect to the function of the VVPR. Specifically, state law would be needed to identify whether the electronic returns or the paper record would constitute the official record and address what the function of the paper audit record would be in the case of a recount or discrepancy in election returns. In fact, in our HAVA State Plan, the Department has already expressed its desire and plan to work with the General Assembly to identify options available to the counties to use electronic voting systems with a VVPR and define the role of the VVPR during a recount.

Again to clarify the Rendell Administration views on VVPR, we have no opposition to the infusion of VVPR assuming that such technology will be compatible with the systems that have been purchased, will operate reliably and will be affordable to counties. In the meantime, we urge you to work to pass legislation that protects the integrity of the election and integrates the use of the VVPR in the process.

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With regard to the accessibility of electronic voting systems, the Administration fully supports measures to ensure that all such systems used in the Commonwealth are accessible to all citizens including those with limited or no manual dexterity. As we discussed on the conference call, the federal standards currently used by the independent federal testing authorities, do not contain manual dexterity requirements – as you accurately point out they of course do not impose any prohibitions in this regard either. As you noted, the 2005 Voluntary Voting System Guidelines do contain manual dexterity requirements. Beginning in December, 2007, in accordance with state law, manual dexterity requirements will be required of any election system to be approved by the Department. Furthermore, we will be taking steps to ensure that accessible voting systems used by counties are accessible to all voters including those with limited or no manual dexterity. We have begun discussions with vendors of electronic voting systems to discuss improvements that will make existing voting systems accessible to voters with limited or no manual dexterity. We will discuss with vendors a realistic timetable for making such improvements, and, as always, we will seek ways to make these features available at low cost to encourage counties to purchase them without imposing a financial burden on the county taxpayers. Finally, in addition to the practical concerns, please understand that questions regarding the impact of the examination requirements under both state and federal law have been referred to the Office of Chief Counsel. Should any legal impediments arise, we will advise you accordingly.

I hope this answers any questions you may have. I have, under separate cover, sent to you memoranda the Department of State has received from both the Department of Justice and the United States Election Administration Commission regarding HAVA issues as well as a copy of the closing argument given by Chris Herron, Esq., the Department of Justice in the *Taylor v. Onorato* case pertaining to DOJ's interpretation of HAVA requirements for electronic voting systems.

I want to personally thank you and all of the other people on the conference call for the concerns that were expressed. The Department appreciates the depth of those concerns about ensuring a fair election process and providing access to voting for every eligible voter.

Sincerely,



Harry A. Van Sickle
Commissioner

HAV/WPB/sab

c: Donna Cooper, Secretary of Planning and Policy
Pedro A. Cortés, Secretary of the Commonwealth