



Fate of Lever Voting Machines and Next Steps

Since it appears that the Federal Government has banned the use of lever machines in the 2006 election, Secretary of the State Susan Bysiewicz asked Attorney General Richard Blumenthal to work with the federal Department of Justice in order to explore and look at remedies available to the State of Connecticut. This federal advisory is a stunning decision because the EAC has issued this advisory opinion just four months before the federal deadline. The EAC has had 3 years to act and says this for the first time 4 months before the deadline. My Office and the rest of the states have been forced to proceed in implementing the provisions of the Help America Vote Act without guidance from the EAC. If this advisory opinion is binding, municipalities must replace ALL of their lever machines for the 2006 elections. The timing of the EAC advisory opinion is critical to Connecticut. Given the lack of guidance from the EAC on the future use of lever machines, my Office has since proceeded prudently and cautiously on their eventual replacement under a phase-in plan that has been outlined in our HAVA State Plan since July, 2003.

The HAVA State Planning Committee, represented by a diverse group of stakeholders, developed a plan for the future of voting machines in Connecticut. The Committee agreed that the towns would have the option to phase-in its replacement of lever voting machines once the initial HAVA "one per polling place" accessibility deadline for the 2006 election has been met. Our State Plan was submitted to

the Federal Government for their approval in July, 2003. Approval and funding were received in August 2003. The EAC never sent a contrary opinion regarding the timeline for our future replacement of lever machines. Our Plan for phasing in new machines has not changed. The plan included local choice and that has not changed.

What may change are the options available to the towns and cities in Connecticut. Before the ruling the options available to municipalities were:

- Lever voting machines
- Optical Scan machines (approved for use in CT since 2001)
- HAVA Compliant machines under the RFP

After the ruling the options available to municipalities are:

- Optical Scan machines
- HAVA Compliant machines under the RFP

The Secretary of the State's Office received approximately \$33 million in federal funding that will be used to purchase the accessible voting machines by January 1, 2006 as required by HAVA. Since we are still in the process of reviewing bids, the cost per voting machine is not yet known. Once that figure is known, we will determine how we will replace the lever voting machines. Secretary of the State Susan Bysiewicz agrees with leaders in the Connecticut Conference of Municipalities, the Connecticut Council of Small Towns, the Registrars of Voters Association and the Town Clerks Association that uniformity of voting machines is still the best solution for our state.

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Federal Requirements for the Purchase of New Voting Machines

The Help America Vote Act is the most important civil rights law passed since the 1965 Voting Rights Act. HAVA section 301 requires one electronic voting system in each polling location in the municipality for use by persons with disabilities by January 1, 2006. This section requires that the voting system used must, "be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters." In response to this requirement, our office has issued a RFP.

In addition to HAVA mandating that by January 1, 2006, each polling place have one voting machine available that is accessible for individuals with disabilities, HAVA also requires that all voting systems 1) permit the voter to verify selections in a private and independent manner, 2) provide the voter the opportunity to change their choices before the ballot is cast and 3) produce a permanent paper record (with a manual audit capacity) of the total votes cast after the election. *Since all of the requirements found in HAVA are federal law, the State of Connecticut must comply with its provisions or face review by the Department of Justice.*

Status of Purchase of New Voting Machines

A Request for Proposal (RFP) has been issued for purchase of one electronic voting machine for each of the state's 769 polling places, as required by HAVA. Two additional machines will also be purchased for training and testing purposes in my Office.

We are currently in the process of reviewing the RFP responses. Our intention is to take each of the qualifying machines on the road during the week of November 14th to each Congressional district so that the general public and local election officials can try each machine. You will be receiving a brochure with more details shortly. Input that we receive from those tests will be factored into my Office's final decision on Connecticut's choice of new voting equipment. This will be

the first time in Connecticut history that public input is factored into the awarding of a contract and will hopefully set a new standard as we look for ways to improve the integrity of and public confidence in the state contracting process. Another part of the contracting process includes the opportunity for registrars of voters, town clerks and local elected officials to grade each vendor on their training process. The chosen vendor is responsible for training Registrars of Voters and pollworkers on all new software and firmware requirements and logic and accuracy testing. The new machines will meet the January 1, 2006 deadline set by HAVA.

At the end of the RFP process, one vendor will be awarded a State contract and, as required by HAVA, federal funding will be spent to purchase 771 electronic voting systems from that contract to provide one electronic voting system in each polling location in each municipality for use by persons with disabilities.

Strict Contracting Process for Purchase of New Voting Machines

The State of Connecticut has very strict rules when it comes to issuing state contracts for the purchase of materials or services. The State Department of Administrative Services (DAS) is the awarding authority to handle the administration of the request for proposals, evaluations, negotiations and subsequent contract award for the voting machines. According to DAS, procurement policies do not allow the RFP evaluation team to discuss or elaborate on any aspect of the RFP or proposals during the current proposal evaluation process.

DAS and the Secretary of the State's Office assures anyone interested in the purchase of new voting machines for Connecticut, that all applicable statutes and regulations surrounding competitive negotiations will be followed. The vendor whose proposal is deemed by the awarding authority to be the most advantageous to the state, in accordance with the criteria set forth in the request for proposals, including price and evaluation factors, will be awarded the contract.





Details About New Voting Machines

In addition to incorporating all of the HAVA requirements and existing Federal and State Law requirements, the RFP also required vendors to:

1. Pass Federal Certification and be issued a federal Certification number. This certification reviews the entire voting system to ensure both the hardware and software are reliable and function properly. This review includes testing the hardware to ensure that it operates normally in extreme heat or cold, that it will function if dropped from reasonable heights and that the software counts votes in an appropriate manner.
2. Pass State certification. This certification includes standards to ensure the system will operate properly and comply with the provisions of the Connecticut General Statutes. This procedure includes a physical demonstration occurring over several hours where actual votes are cast according to a pre-set format (unknown to the vendor) to ensure all combinations of votes are cast and counted properly.
3. Be HAVA-compliant.
4. Provide a Voter Verified Receipt attachment in the event that Congress or the State Legislature mandates its use. HAVA does NOT mandate that the one machine available in each polling place have a Voter Verified Receipt, however, the Connecticut General Assembly recently mandated their use.
5. Demonstrate the security and integrity of their equipment, the back-up and disaster recovery capabilities of their equipment and all of the standards and safeguards designed to ensure all votes cast on the machinery are counted accurately. Put its software code on file with the National Institute of Standards and Technology's Software Reference Library as an additional layer of protection against electronic voting fraud. Changes or modifications to the code or to any of the electronic voting machines cannot take place without written notification to the Secretary of the State's Office.
6. Have a full-faced ballot because Connecticut law requires that the voter must be able to see or hear all candidates on the same screen.

7. Train local officials prior to the use of the new machine for any federal election held after 1/1/06. The training will begin soon after voting machines are delivered to each municipality. The local election officials will also rate the vendor on their methodology and effectiveness of the training.
8. Agree to participate in public demonstrations in each of Connecticut's five Congressional Districts where Mayors, First Selectmen, Registrars of Voters, Town Clerks and members of the public (including persons with disabilities) will be given an opportunity to rate and evaluate the machines. The University of Connecticut will manage the process and report on the evaluation of each machine.
9. Coordinate storage with the municipality, be responsible for expendable parts and provide hardware and software maintenance.

Role of Municipalities

The Secretary of the State's office will purchase one accessible voting machine per polling place prior to the federal January 1, 2006 deadline with the approximate \$33 million in federal funds already received. **Municipalities DO NOT need to appropriate funds to purchase the machines.**

Since a municipality already pays for the cost of printing materials, moderator training, and storage of the lever voting machines, there will be very few additional costs above what a municipality already budgets for these items. These additional costs may be printer paper, computer disks, printing of ballots if we move toward optical scan machines, storage of the optical scan ballots for the statutory period of time and related items.

The chosen voting machine vendor is responsible for maintaining the voting machine. The voting machine will have a useful life of 20 years and an internal warranty of five years. The RFP contains a service contract for maintenance and requires vendors to provide free of charge software upgrades for the life of the machine. Each municipality is still responsible for storage of these new machines. Since the machines will be electronic, the municipality must ensure proper storage of the machines in suitable climate and conditions.

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As many of you may already know, it appears that the federal government has banned the use of lever voting machines in 2006. The Election Assistance Commission (EAC) recently issued an advisory opinion stating lever voting systems have significant barriers which make compliance with the Help America Vote Act (HAVA) difficult and unlikely. If this advisory opinion is binding, municipalities must replace ALL of their lever machines for the 2006 election. Due to this sudden EAC advisory opinion, I have asked Attorney General Richard Blumenthal to explore and look at remedies available to the State of Connecticut with the federal Department of Justice. I am also working with chief municipal and election officials and legislative leaders in order to ensure that Connecticut is prepared to comply with the advisory opinion. As the Chief Elections Official for the State of Connecticut, I will work swiftly and prudently to address this advisory opinion.

Separate and apart from the EAC advisory opinion, Connecticut must still comply with a HAVA-mandated deadline to provide one accessible voting machine in each polling place by January 1, 2006. We are currently in the final phase of a Request for Proposal (RFP) to purchase these machines.

I have held meetings and forums around the state and have heard from elected officials, local election officials, advocates for persons with disabilities and technology experts regarding their thoughts about best practices for new voting machines as required under the Help America Vote Act. The information I have gathered is very beneficial because it provides me with a wide range of opinions regarding new voting machines. I am pleased that Connecticut's residents have taken an interest in our voting process because civic participation is the key to a thriving democracy. As the Secretary of the State, there is nothing more important to me than providing voters with the highest level of confidence that elections in our state are accurate, fair and secure. We must ensure that voting machines record votes accurately and that voters will have the confidence that their vote is accurately cast and counted.

Educating the public about the future use of new voting machines is a priority for our office. The purpose of this newsletter is to provide accurate information about the transition to new voting machines in Connecticut. Specifically, this newsletter will address:

- Fate of Lever Voting Machines & Next Steps
- Federal Requirements for the Purchase of New Voting Machines
- Status of Purchase of New Voting Machines
- Strict Contracting Process for Purchase of New Voting Machines
- Details About New Voting Machines
- Role of Municipalities

I hope you find this newsletter helpful. Feel free to visit our HAVA website for more information at:
www.sots.ct.gov/ElectionsServices/HAVA/IntroHAVA.htm

Sincerely,

Susan Bysiewicz
Secretary of the State

**Open letter to
Connecticut
Voters from
Secretary of
the State
Susan Bysiewicz**