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COMMISSIONERS

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

BOARD OF ELECTIONS

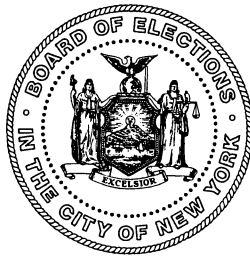
IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

AGENDA COMMISSIONERS MEETING TUESDAY, APRIL 28, 2009 AT 1:30 P.M.

-
1. Minutes
 - a) 3/24/09
 - b) 3/31/09
 - c) 4/07/09
 - d) 4/14/09
 - e) 4/21/09
 2. President Umane
 - a) Appointment of Standing Committee Members
 - b) Personnel Matter – 30-day Sick Leave
 - c) Certification of April 21, 2009 Special Election by Board of Canvassers – Thursday, April 30, 2009 – 9:30 A.M.
 3. Marcus Cederqvist
 - a) HAVA Update
 4. John Ward
 - a) Vacancy Report

For Your Information

- NYS Board of Elections Weekly Status Report for the Weeks of April 9, 2009 through April 16, 2009 and April 17, 2009 through April 23, 2009
- Board of Elections in the City of New York, Standing Committees for 2009
- Statement of the Board of Elections in the City of New York, before The New York State Senate Committee on Elections – Friday, April 24, 2009, New York City
- DMV Registration/Changes of Address



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JOHN J. WARD
FINANCE OFFICER

DATE: April 28, 2009
TO: Commissioners

FROM: John Ward
Finance Officer.

RE: Vacancies

					Inc.	New.
1	Assistant General Counsel					\$75,000
2	Valerie Marshall	Adm. Asst.	N.Y.	Dem.	\$39,440	\$37,562
3	Robert Helenius	VMT	Bklyn	Rep.	\$27,818	\$26,493
4	Lisa Sattie	Adm. Asst.	S.I.	Dem.	\$39,440	\$37,562
5	William Johnert	Adm. Assoc.	Tech	Rep.	\$46,878	\$44,646



State of New York
STATE BOARD OF ELECTIONS

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Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
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Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Stanley L. Zalen
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

April 17, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending April 16, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 4/9/09-4/16/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are in jeopardy and behind schedule.

Contracting with Voting System Vendors

Status of tasks in this category: on schedule

- The proposed contractual amendments have been sent to the vendors for their review, comment and signature.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: in jeopardy and behind schedule

- Overall progress of testing :
 - NYSTEC provided an executive summary of issues surrounding defining what a valid mark is on 4/14/09 so that accuracy test can be finalized.
 - NYSTEC & SBOE are working on designing an on-line survey to get feedback from counties on their level of IT support and other issues.
 - Recommendations for changes and clarifications
NYSTEC delivered final draft of the Pre-Qualification Test Procedures on 4/15/09.
 - ES&S provided options for ways to simplify their hash checking procedure.

NEW YORK STATE BOARD OF ELECTIONS

- A great deal of discussion has been had with the Department of Justice, the counties and the vendors regarding a Fall pilot election. Discussions are continuing and it is hopeful that plans regarding the pilot program can be finalized in the near future.
- SysTest & NYSTEC collaborated on a series of meetings to review the latest timeline and staffing plan. NYSTEC highlighted a critical need for an additional experienced staff in the areas of security and source code review. SysTest has hired two additional security staff, who will begin next week.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: on schedule

HAVA COMPLAINT PROCESS

We are still awaiting a response from NYC.



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April 24, 2009

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United States District Court
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James T. Foley U.S. Courthouse
445 Broadway, Room 441
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Re: *United States v. New York State Board of Elections, et al.*
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HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 4/17/09-4/23/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are in jeopardy

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *in jeopardy and behind schedule*

- Overall progress of testing :
 - NYSTEC and SysTest continued meetings to refine the timeline. Critical dates have been shared with vendors.
 - NYSTEC continues to focus on completing the Policies and Procedures that will be needed for the April County Commissioners meeting.
 - Conference calls with vendors continue, with the current focus on coordinating everything to make sure all hardware and software are delivered to SysTest by 4/30/09 and scheduling vendor training for SysTest staff.
- There have been numerous conversations with the Department of Justice and the counties regarding a pilot program this Fall in which the new voting systems will be utilized. It is expected that the DOJ will notify the SBOE as to their approval or disapproval of the pilot plan in the very near future. SBOE will then finalize the details and notify those counties participating of the same.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Nothing new to report.

HAVA COMPLAINT PROCESS

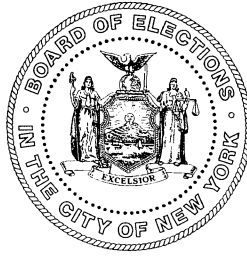
NYC HAVA Complaint

- Nothing new to report

Board of Elections in the City of New York Standing Committees for 2009

Human Resources	Commissioner Silie Commissioner Schacher
Budget & Finance	Commissioner Silie Commissioner Soumas Commissioner Polanco Commissioner Umane
Communications, Voter Registration and Outreach	Commissioner Polanco Commissioner Stupp Commissioner Araujo Commissioner Soumas
Management Information Systems and Services	Commissioner Dent Commissioner Umane
Legislative Affairs	Commissioner Yennella Commissioner Sampel Commissioner Stupp Commissioner Soumas
Investigations	Commissioner Sampel Commissioner Polanco Commissioner Soumas Commissioner Schacher

County
FY1



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STATEMENT OF THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK BEFORE THE NEW YORK STATE SENATE COMMITTEE ON ELECTIONS FRIDAY, APRIL 24, 2009, NEW YORK CITY

Chair Addabbo and Members of the Senate Elections Committee.

The Board of Elections in the City of New York appreciates the invitation extended by this Committee to appear this morning and offer our comments on the bills you are considering at today's hearing.

Present at today's hearing are the following members of the Board and its staff:

George González, Deputy Executive Director
Steven H. Richman, General Counsel
John Owens, Director, Campaign Finance Enforcement

The Board shares your desire to "assure the people that they will be able to participate in the most fundamental process in our democracy and instill confidence in the voters that their votes and voices matters." That is what we seek to do every day at the Board of Elections here in the City of New York. We note that the Chair is most aware of the responsibilities, abilities and challenges that face the City Board following his distinguished service on the City Council Committee overseeing our operations.

BOARD OF ELECTIONS

The Board wants to publicly express its sincere appreciation to the Chair for his kindness and courtesy during our annual Education and Information Day in Albany last month. He was generous with his time with our Commissioners and staff and graciously co-hosted with his Assembly counterpart our modest luncheon for the members of this Committee and their colleagues representing the City of New York.

With the Chair's permission, we want to share some information with the Committee that may add a certain perspective to your deliberations and underlines our concerns with the proposed legislation under discussion this morning.

The Challenges of 2008 and Insufficient Resources

In calendar year 2008, the Board of Elections in the City of New York conducted four election events that collectively saw more than four million City residents cast a vote. In addition, the Board processed two hundred percent (200%) more voter registration forms in 2008 than it did in 2007. It was more than just record turnout and registration activity that made last year unique. It also marked the first full scale deployment of a ballot marking device to every poll site in this City. This federal court mandate resulted in the Board of Elections having to perform double the number of tasks since we had to set up each election twice, one for the lever machines and once for the BMDs. This placed an enormous burden on the same BOE staff members with even greater limitations.

While this would have been a challenge under any circumstance, it was made considerably worse due to the lack of adequate funding for the Board's operations and legal obligations. Although almost everyone anticipated historic activity and voter participation, and the key decision makers were aware of the U.S. District Court's order, the Board's budget for the Fiscal Year ending this June 30th (2009) was reduced by more than \$ 7.6 million. Together with the Special Elections conducted to date in this fiscal year (and we anticipate two more before the end of June), this Board faces a budget shortfall of more than \$14 million.

For the next fiscal year which will include this September's Primary Election, a likely Citywide run-off election two weeks later and the

BOARD OF ELECTIONS

November General Election for all municipal officers and others, the Mayor's Preliminary Budget and subsequent changes to date seek to reduce the Board's budget by an additional \$31 million, which does not include the estimated \$13 million required to conduct a runoff. There appears to be little reason to be optimistic that this critical under funding will be addressed in the coming weeks.

Proposed State Senate Legislation

It is within that context that the Board now turns to the specific measures before you.

S. 1616 – The Constitutional Amendment to Allow Election Day Registration

The Board takes no position on this proposal.

S. 3372 – Implementing Legislation for the Constitutional Amendment to Allow Election Day Registration

The Board has several concerns with this bill as drafted.

First, it imposes an additional obligation on poll workers while they are trying to conduct the actual election. These civic minded \$200 per day per diem poll workers will be asked to review the sufficiency of identification offered to determine the identify and residency of each new Election Day registrant. The City Board is concerned that this obligation cannot be properly effectuated given the current level of staffing at our poll sites. It would clearly require additional training for all current poll workers and probably additional poll workers to provide these services at each poll site with their attendant costs. This bill does not provide supplemental funding to cover those costs. In fact, the introducer's memorandum in support incorrectly states that there are no fiscal implications.

In addition, Section 5-210(9) of the NYS Election Law, directs Boards of Elections to process a registration application, including verifying the identity of the applicant, using the information provided in the application and the appropriate Department of Motor Vehicles or Social Security Administration records within twenty-one days. Upon the completion of that

BOARD OF ELECTIONS

process, the Board is required to notify the voter of the status of his or her application. Section 5-210 further provides that each voter be assigned a unique identifier when the information is transmitted to the statewide voter registration list. This provision should be amended as part of this legislation to avoid an unintended ambiguity.

The language in this bill does not address what happens to the current statutory framework. The City Board does not have the capability to conduct such an instant check from the poll sites. To accomplish this task, the Board would need to acquire additional communication capabilities such as cell phones and/or laptop computers with remote internet capability. Obviously, significant additional planning and training would be required to implement this change in procedure.

Finally, it appears that if this bill is enacted, a person who seeks to register prior to Election Day in accordance with the statutory requirements is subject to greater scrutiny than a person who registers at a poll site on Election Day. The enhanced communication capability would be required to avoid multiple registrations by the same person at different poll sites.

S. 3996 – Reduces the deadline by which a registration application is received from 25 days to 10 days

The Board of Elections wishes to advise the Committee of the significant practical problems of implementing such legislation as well as the costs involved.

As we have reported, during the last two weeks before the 2008 registration application deadline, the City Board received and processed over 200,000 voter registration application forms. In order to process this huge volume (during the prior nine months of 2008 the Board received and processed 500,000 forms) and have the information in the poll list books on Election Day, the Board put staff on 12 hour shifts around the clock, hired additional temporary employees for which funding was not and has not yet been provided and for the first time we printed supplemental poll list books in many election districts containing these additional registrations. You should be aware that these supplemental poll list books created other problems at certain poll sites on Election Day.

BOARD OF ELECTIONS

If this bill is enacted, none of those late arriving registrations would, if valid, appear in the poll list book. Those persons will have to vote by affidavit ballot, which then would have to be processed, post-election, again involving significant additional staff and costs. In addition to the hand processing of the affidavit ballots, mailed notifications are sent to each voter who voted by affidavit ballot advising the voter whether their vote was counted.

With the current staffing levels, these last minute voter registration applications may not even be processed by Election Day. Our staff multi-tasks, and in the days before an Election, the preparations for the actual conduct of the Election takes precedence. Therefore, the canvassing and processing of affidavit ballots will be delayed until all these last minute voter registration applications are processed, entered into the City Board's system and identities verified through the Statewide Voter Registration List.

Enactment of this bill would clearly require additional BOE staff work with its associated costs and this bill does not provide supplemental funding to cover those costs. Once again, the introducer's memorandum in support incorrectly states that there are no fiscal implications.

S. 3995 – Provides additional opportunity for new registrations to indicate choice of party enrollment where original choice was omitted or void.

This bill would require the Board of Elections to include in its notice of acceptance of a voter registration application information as to the party enrollment choice made, and if the registrant did not select a party, the voter is not eligible to vote in a party's primary election.

The bill also mandates that the form include a postage paid card addressed to the local BOE on which the registrant can enroll in a political party.

The Board notes that the introducer's memorandum in support incorrectly states that there are no fiscal implications. The cost of the return post card is clearly an additional unfunded cost that is placed on a local Board of Elections in a time of continued under funding.

BOARD OF ELECTIONS

In addition, the bill is not clear of what is the effect of a registrant indicating on the voter registration application intent not to enroll in any party.

S. 1268 – Educates the incarcerated and those released but servicing sentences about their voting and absentee ballot rights and provides for assistance in registering and voting by absentee ballot

The City Board notes that the bill amends Section 8-407 of the Election Law and its enactment will increase the work load and costs to conduct in person absentee balloting in designated facilities. The bill lowers the number of absentee voters from 25 to 15 which requires the presence of a bi-partisan team of inspectors between 13 days and the day before an election to conduct absentee voting. It mandates that the Board conduct in person absentee voting at correctional facilities. This will require the hiring of additional inspectors on a permanent or temporary basis.

Once again, at this time and in the current budgetary situation, the Board does not have the fiscal resources to implement this legislation if enacted. The Board once again recommends that the enactment of legislation that requires the expenditure of additional funds be accompanied by the dollars necessary to effectively meet the obligations imposed.

S. 4035 – Requires State Board of Elections to address forms to local county board when voter downloads from the web-site

The Board of Elections in the City of New York supports this proposal, since it will improve our ability to receive and process in a timely fashion voter registration applications by reducing the number of application forms that are first sent to the State Board of Elections and then retransmitted to the City Board for processing under the NYS Election Law.

Conclusion

Member of the Committee, this concludes the prepared remarks of the Board of Elections in the City of New York. Thank you for providing us with

BOARD OF ELECTIONS

the opportunity to offer comments on these proposed statutory changes. We would be happy to respond to any questions you may have.



STATE BOARD OF ELECTIONS

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April 24, 2009

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
The City of New York Board of Elections
32 Broadway
New York, New York 10004-1609

Re: DMV Registration/Changes of Address

Dear: Executive Director, Deputy Executive Director:

The New York State Board of Elections has received your letter of April 7, 2009 concerning the DMV Registrations/Change of Address forms that were sent by DMV to the Borough Office Managers that claim to have not been processed in accordance with the statutory requirements imposed on DMV.

The State Board of Elections is reviewing the materials and has begun researching the process and plan to meet with the local DMV contact to discuss the materials forwarded.

We will report our findings in the near term.

Stanley Zalen, Co-Executive Director
Todd Valentine, Co-Executive Director