

**UNITED STATES  
ELECTION ASSISTANCE COMMISSION**

**CAMBRIDGE, MASSACHUSETTS      APRIL 26, 2005**

**TESTIMONY  
DEVELOPMENT OF STATEWIDE VOTER  
REGISTRATION DATABASE GUIDELINES**

**PRESENTED BY  
MICHAEL V. SCIORTINO**

**Madam Chair Hillman, Commissioners Martinez, Digregorio and Soaries,** my name is Michael Sciortino and I am Director of the Mahoning County Board of Elections located in Youngstown, Ohio and I am currently serving as Chair of the EAC's standards board executive committee. Let me first say that it is truly an honor to be before you today presenting testimony regarding the development of HAVA's statewide voter registration database guidelines.

The guidance before you is basically broken down into 3 categories: (1) Introduction (2) scope and definitions and (3) Guidance on Statewide VR Lists. My testimony will focus on the background and authority of the EAC in developing guidance, a synopsis of the thought processes that went into scope and definition section, and some comment on section 3. John Lindback, Oregon State Election Director, co-executive board and working group member will cover section 3 in greater detail.

To begin with, the Help America Vote Act of 2002 (HAVA) requires the Chief Election Official in each State to implement a "single, uniform, official, centralized, interactive computerized statewide voter registration list." That list is to be "defined, maintained, and administered at the State level" and must contain the "name and registration information of every legally registered voter in the State."

The details of implementing these voter registration lists were left to the States. However, Congress authorized the United States Election Assistance Commission (EAC) to issue voluntary guidance to assist the States with interpreting and implementing the provisions of HAVA as they relate to the requirement for a statewide voter registration list. HAVA makes it clear for the EAC to develop guidance, so establishing a starting point and framework for guidance development was paramount.

As you know, Commissioner Martinez acted as the EAC's contact on this project. After some preliminary discussions with Commissioner Martinez, it was decided that a working group made up of election officials, scientists from the National Academy of Sciences and computer experts would be the best way to assemble the experience and knowledge that would go into our guidance. I would like to read the following names into the record so that these individuals be recognized for their hard work that went in to developing the voluntary guidance in front of you today:

- Sarah Ball Johnson, Executive Director, State Board of Elections (KY)
- Louie Bernard, Clerk of Court, Natchitoches Parish (LA)

- David Caldwell, Data Processing Manager, for Rebecca Vigil-Giron, Secretary of State (NM)
- William Campbell, City Clerk, City of Woburn (MA)
- Kathleen DeWolfe, Director, Elections Campaign and Finance for Deborah Markowitz, Secretary of State (VT)
- John Lindback, Director, Elections Division (OR)
- Chris Nelson, Secretary of State (SD)
- Peggy Nighswonger, State Elections Director (WY)
- Todd Rokita, Secretary of State (IN)
- Sue Sautermeister, Municipal Election Commissioner, City of Ridgeland (MS)
- Christopher Thomas, Director of Elections (MI)
- Hans van Spakovsky, Counsel to the Assistant Attorney General, US Department of Justice

Upon assembling in Washington DC to formulate the guidance, it was clear from the initial comments of the group that this guidance should in no way “punish the pioneer” states that have already moved forward in implementing Title 3. The working group wanted to distinguish between mandatory and voluntary issues, help determine what a compliant HAVA VR system is, and aid in interpreting some language in Title 3 without hindering progress made in states thus far. Most importantly, our goal was not to release guidance that required additional sets of guidance to understand, but to help states and local election officials understand what HAVA intended to comprise a “single, uniform, official, centralized, interactive computerized statewide voter registration list.”

Next, the working group wanted to address the voluntary nature of the EAC’s guidance. Although this guidance is voluntary in that states can choose to adopt this guidance as interpretative of HAVA’s VR list requirement, it no doubt provides clarity and insight into the intent of HAVA. For those states beginning its implementation plan, I would advise adopting the guidance into policy or request additional clarity if needed.

As a local election official, I took a particular interest with number 2 on page 2 which asks - *who would benefit from reading this guidance?* I strongly believe this guidance helps local election officials understand what HAVA intended to comprise a single, uniform statewide VR list. I caution local officials taking an adversarial position with their perspective state’s VR implementation plan. The success of HAVA Title 3 depends upon states and locals working together in a professional manner to make it easier for folks to vote, yet at the same time, eliminating fraud and unneeded duplication of records. There really is no confusion on whether Title 3 places responsibility on the states for design, implementation, and maintenance of the official statewide VR list. But we did want to mention that HAVA also places responsibility on local election officials to assure that the names and information contained in the statewide lists are accurate.

So who is a local election official charged with this responsibility? I can tell you that in Ohio, my part-time election equipment delivery personnel are considered “election officials” under the Ohio Revised Code. My board hires these workers and I swear them in according to law as I do full-time employees. Did HAVA intend for these “local election officials” to have access to the state’s VR list and maintain it? I think we know that answer, but some states or jurisdictions may need interpretation for those situations

that may not appear as obvious; moreover, access and security must be addressed at the local level. Someone at the local level needs to be in charge and responsible for data entering the system. So the working group established the following definition of local election official which I think addresses these concerns: The person or persons who have primary legal responsibility for determining the eligibility of an individual to vote and maintaining and updating the voter registration information of eligible voters in his/her voter registration jurisdiction. In Ohio for example, the Director of the boards of elections would be the "local election official" responsible for names and information entering the list in his or her jurisdiction.

Finally, my comment on the guidance on statewide voter registration lists section centers around the working group's discussion with congressional staffers who were at ground zero during HAVA's creation, and more importantly, took part in writing or developing the SVRL provisions of HAVA. I was pleased to hear this congressional panel state that state and local jurisdictions need to have discretion in their implementation of the SVRL; that HAVA was never intended to be a "one size fits all" piece of legislation. However, after working with my colleagues on the working group, I have come to understand the phrase "degrees of compliance". You will hear more from Mr. Lindback on this topic, but there are two basic approaches to implementing SVRL: In the first system sometimes called "top down system," the state builds one VR system for use by all local jurisdictions, eliminating local databases. The second type of system or "bottoms-up" approach allows local jurisdictions to maintain its database, bridge with the state's system and complete cross-matching functions or checks on a periodic basis.

During our working group discussion with the congressional panel, the goal of HAVA is to link state and local jurisdictions making it easier for people to vote on Election Day. In this regard, if the list being used on Election Day by state and local jurisdictions is the official list maintained by the state, then both approaches to SVRL implementation would be acceptable. The guidance in front of you today recognizes both plans as meeting the uniform list requirement, but that the "top-down" systems "are most closely akin" to HAVA. Here, the emphasis behind this guidance was to not punish those pioneer states that are ahead of the curve in implementing their SVRL. In the final analysis, if both systems accomplish the same goals in the end, then HAVA requirements have been met.

In closing, I hope this guidance clarifies the meaning of certain portions of Section 3 of HAVA and also serves to encourage state and local election officials to work together to define and assume their appropriate responsibilities for meeting this HAVA requirement. It is my job to run accountable, reliable and professional elections in Mahoning County, Ohio. I compare implementing and maintaining a statewide voter list to running reliable elections. A good and strong election system will always be more than "what type of voter registration system do you have, or what type of new election system do you have?" Instead, good election practices are a function of the systems, procedures and people that make elections happen, as well as the voting equipment. I am confident that SVRL provisions in HAVA will be implemented and in the end voting will be made easier. But again, the system and the people will make this happen, and never the system alone.

I want to thank you for allowing me the opportunity to present testimony today and stand ready to assist you in any way as need for additional HAVA guidance develops. I would be happy to answer any questions you may have at this time.