NEW YORK STATE OF OPPORTUNITY. | Board of Elections

Report Concerning Recommendations and Guidance for the Administration of Elections by Villages, School Districts, Fire Districts, Library Districts and Other Municipal Corporations Required to Hold Elections in New York State

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Overview

In August of 2014, Chapter 273 of the Laws of New York was signed, which extended until December 2015, the continued use of lever voting machines at elections not conducted by a board of elections. This law requires that on or before January 31, 2015, the State Board of Elections submit a report to the Governor, Speaker of the Assembly, Temporary President of the Senate and the chairs of the Committees on Election Law of the Senate and the Assembly concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to hold elections. The report is to include recommendations and guidance for such villages, districts, and municipal corporations to migrate to the use of voting systems which are compliant with section 7-202 of the Election Law and applicable State Board of Elections Rules and Regulations. Chapter 273 also required the report to include an analysis of the cost and fiscal impact to such villages, districts and municipal corporations for transitioning to compliant voting systems.

In preparing and issuing this report, as required by Chapter 273, the State Board of Elections invited comments from the Department of Education, the State's School Boards Association, the Conference of Mayors and the Association of Counties. The State Board also invited comments from other stakeholders in addition to those specified in Chapter 273, all of which were taken into consideration in the preparation of this report, and which are provided herein, in Appendix III.

The duplication of effort and cost related to elections conducted by any number of the various districts and political subdivisions in the State of New York is an area for a shared approach to eliminate duplication. Shared services and costs leading to the use of a voting system that meets statutory standards will do much to minimize voter and poll worker education and training issues. Doing so will provide consistency in the conduct of elections throughout the State, and continue to ensure that all elections are accurate, auditable, accessible and transparent which maintains voter confidence. Voters, candidates, advocates and all stakeholders deserve no less when they participate in elections at which they will select those who will decide how precious tax dollars are to be spent and those who will make the laws by which all must abide.

For the purposes of this report, school, village, fire, library, water, parks, and other such districts shall be referred to as special districts.

Introduction

Election Law section 7-202 was New York's Election Reform and Modernization Act (ERMA) of 2005 which was adopted to comply with the federal Help America Vote Act (HAVA) which was signed into law on October 29, 2002. HAVA's sponsors and the overwhelming bipartisan support in Washington which ensured its passage, intended to guarantee that federal elections are secure, transparent, more accountable and more accessible to voters. New York's State Legislature, mirroring the bipartisan support of their colleagues in Washington, sought to extend these goals to all elections and not just those for federal offices through the adoption of ERMA. The right to vote is fundamental in America, ensuring that the voice of the people is heard by those persons whom voters chose to represent them at all levels of government – not just federal and state offices. As a result of ERMA all the county boards of elections procured voting systems which comply with 7-202 through the use of precinct-based optical scan paper ballots in conjunction with an accessible ballot marking device in each polling site to allow full accessibility for voters with disabilities. The use of lever voting machines by villages, schools, and other special districts has been extended several times before Chapter 273 as evidenced in the milestones appearing below.

Milestones

October 2002	Passage of federal Help America Vote Act (HAVA)
July 2005	Passage of the State's Election Reform and Modernization Act (ERMA) Chapter 181 of the Laws of 2005.
August 2007	First statewide extension of requirement to replace lever voting machines, until replacement of same. Chapter 506 of the Laws of 2007.
August 2010	Extension of requirement to replace lever voting machines for school districts (expired December 2012) Chapter 359 of the Laws of 2010.
July 2011	Extension of requirement to replace lever voting machines for special improvement districts, villages that conduct their own elections, and fire districts (expired December 2012) Chapter 3 and Chapter 170 of the Laws of 2011.
July 2013	Extension of requirement to replace lever voting machines for run-off elections required in New York City primary elections (expired December 2013) Chapter 99 of the Laws of 2013.

August 2014	Extension of requirement to replace lever voting machines for village elections, special improvement districts and fire districts (expires December 2015) Chapter 273 of the Laws of 2014.
August 2014	Extension of requirement to replace lever voting machines for school districts (expires December 2015) Chapter 273 of the Laws of 2014.
August 2014	Extension of requirement to replace lever voting machines, and mandating this report (Expires December 2015) Chapter 273 of the Laws of 2014.

As reflected in the milestones above, there has been a twelve-year span for any jurisdiction, political subdivision or special district responsible for the conduct of elections to have found a solution for eliminating lever voting machines and replacing them with optical scan systems. A number of county boards of elections have already come to understandings with special districts, and have eliminated lever machines from those election processes. The transitions in these counties have been successful as attested to by the election commissioners of those counties. Voters now benefit from the use of the same reliable voting system and ballot format in every election in which they choose to participate, eliminating confusion and frustration resulting from the use of non-accessible and non-verifiable voting systems. Poll workers also enjoy the benefits of the transition in these counties, as they now only have a single set of training materials and procedures for all elections.

Administration of Elections in New York State

To understand the process and costs for migrating to voting systems that comply with Election Law Section 7-202, some background on the scope of elections in New York and the functions of voting systems is helpful.

New York State is a large and complex web of jurisdictions - 62 counties, 62 cities, 932 towns, 343 villages, and 7,658 'other' districts which may be conducting elections (such as school, fire, water, sewer, park, lighting and library). Elections across these jurisdictions are conducted throughout the year, with a majority of the village elections in March, school district elections in May, and some village elections in June. Traditional state and local primary elections are conducted in September and the general election is conducted

in November. Fire district elections round out the annual election cycle, as they are conducted in December.

All of these elections are not conducted by a single governmental body. While the federal, state and local elections are run by the county board of elections, villages for example, have the option of having the county board run their elections, on any day of the year that they choose. With very few exceptions, school district elections are run by the school districts themselves.

Functions of the Voting System

The proper functionality of any voting system must be ensured by the entity conducting the election:

Operability: The voting system has to function as required by statute and regulation, and must have successfully completed certification testing prior to sale and use. As such, the use of a certified voting system helps to provide voter confidence in the results of any election.

Accessibility: Voting systems must be accessible to voters, which is not limited to providing access only to voters with disabilities and does not only mean physical access. Accessibility also includes assistance in any required language(s) other than English, and such other assistance as any voter might require.

Auditability: Every election must be conducted transparently, reliably, verifiably and accurately in order for the public to be confident that the election was conducted in a fair and impartial manner. Every ballot cast by the voter must be able to be verifiable by the voter and auditable as part of required post-election tasks. An election must be able to be reconstructed, whether when so ordered via litigation or as a fail-safe step if and when a scanner failure occurs, so that no vote as cast by a voter is ever lost.

Migrating to Voting Systems which are Compliant with Election Law Section 7-202

Voting systems that comply with New York State Election Law Section 7-202, and the relevant regulations Part NYCRR 6209 must allow voters to:

- vote for all candidates on a full face ballot;
- allow for write in voting;
- provide notice that a candidate has voted for too many candidates;

- provide an opportunity to verify votes selected and to make any changes to such votes before the ballot is cast and counted;
- be provided with a ‘‘protective counter’’ which records the number of times the machine or system has been operated;
- have locks or seals to prevent tampering;
- have a system to allow for manual audits;
- be constructed to allow a voter in a wheelchair to cast his or her vote;
- permit alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a)
- not include any device or functionality potentially capable of externally transmitting or receiving data via the internet or via radio waves or via other wireless means.

For each polling place at least one voting machine or system shall:

- be equipped with tactile controls for voters with limited reach and dexterity;
- be equipped with an audio voting feature for voters who are blind or visually impaired; and
- be capable of being equipped with a pneumatic switch voting attachment which can be operated orally, a “sip-and-puff” switch for voters with limited motor skills.

Currently, the only voting systems that meet all of the statutory and regulatory requirements that have been approved by the State Board are the two optical scanner systems in use by the county boards: the Dominion ImageCast Voting System and the Election Systems and Software DS200/Automark Voting System.

Of the fifty-seven (57) county boards of elections outside of the City of New York, thirty-three (33) of them already provide optical scanners to special districts and build ballots for use in their respective elections. Of the remaining twenty-four (24) county boards, a number of them responded that they did not provide scanners to special districts because they had not been asked to do so. However many indicated that if asked, they would take the steps necessary to make systems available. (See Appendix II)

Special districts do have the option of purchasing their own voting system from the current state contracts with costs based upon the number of units purchased, software and support required and other factors described in the contracts. A more cost effective option is for special districts to use optical scan voting equipment currently owned by county boards of elections, with the approval of the county board of elections. This

arrangement would be facilitated through the execution of a memorandum of understanding between the county board and the special district.

County boards of elections should review the associated services they would or could be asked to provide, and establish what costs would be incurred by the special district. County boards should be clear that costs such as a straight 'leasing' fee, or costs for 'wear and tear' are inappropriate in these deliberations. Additionally, county boards should consider building ballots for special districts as skill-building opportunities for their existing ballot support staff/teams, and not transfer those costs to special districts.

There are additional aspects that special districts must understand in their transition away from lever machines, which include scanner setup and testing, ballot configuration and accessible ballot marking device setup and use. County boards have specially-trained workers that program and setup optical scanners. This staff is required to conduct tests on these scanners throughout the year to ensure their integrity and operability. Software and corresponding training must be procured and a license to use it must be purchased by the user in order to configure and produce the ballots which can be read by the scanners. Ballot marking devices which ensure accessibility to voters with disabilities must also be programmed, and then tested prior to every election.

Special districts should contact respective county boards of elections to determine and understand the dynamics of either transferring elections to the county boards or arranging for the use and support of optical scan voting systems and their respective ballot marking devices.

Costs and Fiscal Impact of Transitioning to Election Law 7-202 Compliant Voting Systems and Issues Requiring Clarification

Costs associated with the transition to compliant voting systems could be significant; however the fact is that compliant voting systems and skilled staff are already in place at county boards of elections across the State, therefore no such special district procurement may be necessary (unless a jurisdiction has such funds available, and chooses to purchase and own voting equipment). The use of intergovernmental shared costs and services agreements is an existing mechanism between county boards of elections and also between county boards and special districts. Such agreements are an approach to implementing this transition. In generating such agreement they take into consideration an evaluation of monies that have already been provided for the purchase of voting systems and services in their communities. Such agreements can eliminate multiple and duplicative levels of government performing the same function. Other benefits include a single voting system for voters and poll workers for all elections, establishing consistency in the conduct of elections throughout the State, and making all elections accurate, auditable, accessible and transparent.

If villages, school districts, fire districts or other special districts were to decide to purchase their own voting systems, costs for doing so would be substantial, and would presume such funds are available. These costs would need to include the cost of purchasing the system and its ancillary components and supplies, then using and maintaining it with their own trained election team.

Concerns for the cost to transition to compliant voting systems not only impact special districts, but county boards of elections as well. County boards need to evaluate the availability of equipment and other resources.

Voting System Costs

In order to transition to a compliant voting system, a special district must either work with their county board of elections to arrange for the use of existing systems, or purchase their own compliant system and be responsible for all related tasks and responsibilities. Villages who have yet to transition to compliant voting systems should understand that they may, pursuant to Village Law Section 9-900 and Election Law Section 15-104(1)(c), transfer the responsibility of running elections to their county board of elections.

Under the current statewide contract there are two vendors which supply compliant voting systems, Dominion Voting Systems and Election Systems and Software. If special

districts were to purchase systems from the current state contract for same, those equipment costs at present, are as follows:

Dominion Voting Systems	scanner-only unit	$ 8,500 each
	scanner/BMD unit	$ 11,500 each
	software license	$ 75,000 (5-year base price) *
Election Systems and Software	scanner only unit	$ 6,485 each
	BMD unit only	$ 2725
	software license	$ 111,360 (5-year base price) *

* If special districts were to arrange that the county board would program their elections, there would be no need for the purchase of the software identified above.

If arrangements were made for county boards to provide special districts with equipment, services and support, only those direct costs incurred by the board of elections could be charged back to the district.

> With agreement of the county boards, compliant voting systems that counties already use could be used by the special districts. County boards cannot charge for the use of their scanners, purchased with HAVA funds, but can recover actual costs – such as for transportation to and from poll sites and ballot creation/printing costs.
>
> County boards may not profit from making their voting systems available for use in special district elections. If any profit is realized, that sum, pursuant to federal funding guidelines, must be returned to the State's HAVA fund. (See federal funding guidelines referenced as the "Common Rule": OMB Circular A-102, Common Rule, 41 C.F.R. § 105-71.125 Program Income).

Ballot Costs

In addition to purchasing the scanners and BMDs, the special district must also print ballots that can be read by the scanner. There are many options available to any district for the procurement of ballots, including printing in-house, competitive procurement from a commercial vendor and coordinating with county boards of elections to piggy-back

off existing printing contracts. The actual cost of ballot printing may be charged back to the special district. The costs associated with the printing of system and statutorily-compliant paper ballots is an issue that would need to be addressed for those districts making a transition to optical scan voting. A sampling of per-ballot pricing has ranged from 23 cents to 57 cents or more, depending upon quantities ordered, ballot sizes and other configuration dynamics. There are many sources and options for the production of paper ballots which meet statutory requirements, and competitive procurement could result in more favorable pricing.

Costs for Trained Poll Workers

Special districts already pay poll workers to conduct their respective elections. County boards of elections can provide lists of poll workers already trained to conduct elections using scanners, from which special districts can select their election day teams. If special districts opt to use poll workers who are not already certified by the county board, such poll workers can be county board-trained and certified and the county may charge the cost back to the special districts.

Indirect Costs to the County Boards

County boards of elections should review the services they would or could be asked to provide, and establish what indirect costs for same might become the obligation of the inquiring/requesting special district. County boards of elections should be clear that costs such as a straight 'leasing' fee, or costs for 'wear and tear' are inappropriate in these deliberations.

Overview of Comments

Of the various sentiments expressed in the correspondence received and considered in the creation of this report (and provided in Appendix III), and those made at various related meetings and on corresponding conference calls, the following require comment:

1. Many comments included concern about cost. Boards of elections cannot charge for the use of scanners purchased with HAVA funds, but can only recover actual costs – such as for transportation to and from poll sites and ballot creation/printing/pre-election testing/auditing costs. (See federal funding guidelines referenced as the "Common Rule": OMB Circular A-102, Common Rule, 41 C.F.R. § 105-71.125 Program Income). Therefore, the impact of converting to a verifiable, accessible and accurate voting system is significantly less than that which is purported in anecdotal information shared with the State Board, and in a number of the statements received (all of which are provided in Appendix III).

    a. County boards may not profit from making their voting systems available for use in special district elections. If any profit is realized, that sum, pursuant to federal funding guidelines (provided by the EAC and called the "Common Rule": OMB Circular A-102, Common Rule, 41 C.F.R. § 105-71.125 Program Income), must be returned to the State's HAVA fund. This issue is addressed elsewhere in this report but it is important to note that where 'quoted' leasing costs from voting system vendors were referenced by those in opposition to the sunset in Chapter 273, such vendor costs may not be adopted by boards nor applied to the issue currently under discussion.

2. Special districts already pay poll workers to conduct their respective elections. By using lists of trained inspectors provided by county boards, the cost to 'retrain' poll workers is significantly mitigated. County boards can easily provide lists of poll workers already trained to conduct elections using scanners, from which special districts can select their election day teams. Special districts can select their election day teams from these lists of poll workers already training to conduct elections using compliant voting systems.

a) If special districts opt to use poll workers who are not already certified by the board of elections, such poll workers can be county board-trained and certified. As such, the county board will benefit by having additional certified poll workers on their roster, and will be able to call on this increased workforce for service at any and all elections which the board administers or facilitates.

b) By utilizing bi-partisan teams of poll workers, complaints from voters claiming electioneering in poll sites during school and other special district elections, could be reduced. This is another benefit of harmonizing the pool of election day workers. While special districts may claim that a non-partisan election does not require such a safeguard, the State Board's experiences with complaints and voter inquiries stemming from those events clearly indicate otherwise. When poll workers or those permitted to 'assist' with an election are those with a vested interest in the outcome of that same election, voters' concerns are justified. Electioneering is never helpful, should not be permitted, and should be monitored closely by poll workers. Violations should be dealt with swiftly and decisively.

3. In order to further assist with this transition, county boards of elections should use opportunities provided by special district use of county voting systems to improve the performance and add to the experience of their ballot programmers. This is easily accomplished by sharing services, and not charging any special district for those programming services. In that special district elections do not require complicated ballots, this task and any related cost, is relatively minor. Additionally, once a board of elections builds several of the special district-style ballots, they will have created a library of templates from which future elections may be easily selected and edited for use. In the event a county board can successfully demonstrate a hardship, with regard to building ballots for special districts, the State Board could provide that service until such time as the articulated hardship is overcome.

4. The concern for costs associated with the printing of paper ballots must be considered by any jurisdiction making the transition to optical scan ballots. However, no jurisdiction is required to print 110% of its voter file. This was based on 'best practice' advice provided by the State Board for only 2009 and 2010 pilot scanner roll-out projects at respective primary and general elections. This figure was developed using initial

implementation advice from optical scan-user states across the country. This figure had been used in many states, and was recommended to the State Board to help ensure that in an initial implementation year, if and when voters needed to make corrections to their ballots, there would be sufficient replacement ballots on hand in poll sites to accommodate any scenario. This was an implementation year advisory only and is neither a statute nor a regulation. The State Board continues to encourage election administrators to develop their own print thresholds for each type of election they conduct.

a) Printing costs for optical scan ballots are similar to those for paper ballots required under Article 7 of the Election Law. The concern for printing costs associated with transitioning to optical scan ballots would be negligible if many special districts which currently use paper ballots had already been compliant with election law requirements which specifically mandate that paper ballots be stubbed, perforated and numbered. This requirement also facilitates a well-documented ballot reconciliation and ensures accountability. There are many sources and options for the production of paper ballots which meet statutory requirements. The costs resulting from competitive pricing are not as high as some claim, in that special districts have a single and simple ballot style.

b) Special districts can use optical scan voting equipment currently owned by county boards of elections, through an easy-to-execute memorandum of understanding. A number of county boards, in response to a recent survey, have stated that they do not assist in the conduct of special district elections because they had not yet been asked to do so. In response to the logical follow-up question of 'what would your answer be if you were asked?', many boards responded that they would indeed make systems available.

5. Many comments related to concerns for transition costs. County boards of elections can absorb certain costs which would mitigate, to a certain degree, the fiscal impact of this transition, as discussed elsewhere in this report. Those county boards which continue to store and maintain a fleet of lever machines can and should discontinue doing so, and the staff and fiscal resources associated with same can be redistributed to

the tasks associated with deploying scanners and ballot marking devices in special district elections.

6. The New York Conference of Mayors in their comments stated that for villages which have switched from levers to scanners found, on average, an increase of 23% in the cost of conducting their elections. And they point out that this does not address the limitations that villages have in complying with the tax cap for any increased costs. The New York State Association of Counties added that the current tax freeze would also present problems for school districts for the increased costs for using scanners instead of lever machines. Senators Latimer and Martins and Assemblywoman Schimel in their comments also expressed their concern about the impact of increased costs on schools and villages.

7. It is possible that voting equipment could be impounded within a time frame that some say would make scanners unavailable for use by a special district. Participants in any impound order should understand that the 'election' in which they have concerns is preserved on the scanner's memory cards, and not on the scanner itself. The scanner is in essence, simply a container in which the election's memory cards and ballots are locked and secure. It is not a voting machine, absent those specifically-programmed memory cards. See Election Law Section 3-222(1) (Chapter 169 of the Laws of 2011).

8. At all elections, voters are entitled to ultimate confidence that the result of the election can be verified when any system fails. With optical scan systems, election administrators can always count the actual ballots which voters cast. When a lever machine fails, no such recovery is possible, leaving the outcome of an election in doubt.

9. Advocates shared their concerns for the lack of full accessibility of lever voting systems. They also state that current law, which allows any voter who is unable to operate the lever machine may have assistance in voting, however this provision does not meet the need for privacy and independence of voters who are disabled. An alternative suggested by Senator Martins in his comments was to provide a BMD for accessibility along with any lever machine for those counties where they could not provide the scanner with the BMD. However, the cost to program and test ballots for BMDs is substantially the same as for optical scanners.

Some may argue that continued use of lever machines is acceptable provided ballot marking devices are available in poll sites. It is important to note however, that there is

no way to audit a lever machine to ensure it functioned properly during an election, as evidenced by a formal opinion concerning compliance issued by the United States Election Assistance Commission.

See:
http://www.eac.gov/assets/1/AssetManager/EAC%20Advisory%20Lever%20Voting%20Machines%20200 5-005.pdf.

Voters have a right to cast a ballot, and to do so privately and independently. Voters also have a right to know that their votes will be accurately counted. Mechanical issues with lever machines are often undetected and are rarely evident before the close of polls. As such, there is no way to resurrect lost votes cast in an election conducted on a lever machine, and the election cannot be recovered. A number of such instances have been reported in the media, however seldom is there a follow-up report of any corresponding resolution.

Whether or not voters choose to avail themselves of ballot marking devices' assistive features which are currently available in poll sites across the State is a separate issue. No one will dispute the need for accessible voting systems. However, the collective and overarching issue is greater than only access. The integrity of every election is at issue, and because lever machines fail to meet any current standards required of any voting system, the faith and confidence of the electorate in the system on which they cast their votes is in jeopardy. The EAC report cited above concludes lever voting machines are not accessible voting systems.

10. In consideration of the significant opposition correspondence received from Nassau County correspondents, there are several items which warrant sharing:

The Nassau County Board of Elections in their comments, provided information showing the additional costs of moving from lever to scanner: Special districts currently pay a flat $150 per lever machine. This includes setup and delivery. In 2013 the County Board provided 1110 lever machines for use in 203 school/village and special district elections.

Nassau County asserts that it currently does not have enough scanners available for use for school/village/special district elections. They estimate they would need an additional 400 scanners and 125 BMDs to provide coverage for 200 special district elections. They estimate that cost at $484,800 for the scanners plus $993,750 for the BMDs, plus $356,734 for the software to run the systems. An additional $40,000 would

be needed for seals, bags, ballots and electronic media to record the results. This comes to a total of $4,875,284.

This does not include the additional cost for annual maintenance, which they state costs $120,000 annually for their current 1300 machines. They state that the cost for maintaining the levers, is “minimal”. Nor does it include the Nassau cost per ballot, which ranges from 39 cents to 45 cents per ballot. Or the additional staff the county board would require to cover the 200 additional elections. There would also be a cost for storage for the additional devices, since the lever storage areas are not suitable for electronic devices, and there is no space available in the current scanner warehouse.

In correspondence from the Nassau County Board of Elections, it is noted that they deploy in a single day, the same number of voting machines that they expect would have to be deployed throughout the year, in service and support of special district elections.

In 2008, the Nassau County Board of Elections purchased 450 scanner/BMD voting systems from Dominion Voting Systems, at a cost of approximately 5.1 million dollars. In January of 2010, the board purchased 1300 scanners and 450 ballot marking devices from Election Systems and Software, at a cost of approximately 9 million dollars. The Dominion voting systems were only used to comply with the initial court orders to enforce HAVA, the Dominion scanners are currently in storage in Nassau, and remain unused. Election Law (Section 7-200.1) permits the use of no more than two different voting systems at any one election.

Conclusion

A number of county boards of elections have already come to understandings with their special districts, and have migrated to compliant voting systems. The transition in these counties has been successful, as attested to by the election commissioners of those counties, and voters now use the same voting system and ballot format in every election in which they choose to participate. Poll workers also benefit from the transition in these counties, with the elimination of separate training or through streamlining training and procedures for each different type of election in which they serve and each different type of equipment used.

In those instances where special districts have not yet contacted their respective county boards of elections to discuss a path for transitioning to compliant voting systems, we strongly urge that they do so. A number of county boards of elections, in response to a recent survey, have stated that they do not assist in the conduct of special district elections because they had not yet been asked to do so. In response to the follow-up question of 'what would your answer be if you were asked?' many county boards responded that they would indeed make systems available.

If villages, school districts, fire districts other special districts were to decide to purchase their own voting systems, costs for doing so would be substantial, and would presume such funds are available. These costs would need to include the cost of purchasing the system and its ancillary components and supplies, then using and maintaining it with their own trained election team.

At a minimum, villages should consider taking steps to transfer elections to November, so that they coincide with existing municipal elections. This transfer of elections (made possible pursuant to Election Law Section 15-104(1)(c)) and Article 9 of the Village Law), would significantly consolidate and possibly eliminate election-related costs to villages. Additionally, this transfer would increase opportunities for independent voter access and increase voter turnout. Steps should be taken across the state to encourage higher turnout at all levels of the election process, including villages and other special districts. The inclusion of these contests on general election ballots for existing municipal elections would serve multiple purposes and achieve the goals and benefits of consolidated and shared services and costs. (Note that if such elections are required to be non-partisan elections, they can be accommodated on either of the optical scan voting systems currently in use in New York State.)

To help ensure special district access to compliant voting systems, the law should require that upon request, county boards of elections must make voting systems available to special districts, in a manner similar to the village accommodation in Election Law Section 15-104, or by amending Election Law Section 3-224.

APPENDIX I - Statistical Data

Fire Districts: As gleaned from the data compiled by the Office of the State Comptroller, there are 951 fire protection districts in the State (see Chart #1).

- http://osc.state.ny.us/localgov/pubs/research/townspecialdistricts.pdf#search=%20special%20districts as compiled by the Office of the State Comptroller, also articulates the number of Drainage, Lighting, Parks, Refuse and Garbage, Sewer, Water and 'other' special districts, which total 6,927 special districts, statewide.

Town Special District Entity Counts									
Counties	**Drainage**	**Fire Protection**	**Lighting**	**Park**	**Refuse and Garbage**	**Sewer**	**Water**	**Other**	**Total Town Special Districts**
Erie	144	43	427	3	23	119	143	37	939
Onondaga	177	35	188	10	20	220	143	74	867
Monroe	102	15	161	45	14	62	98	54	551
Westchester	16	28	21	15	5	141	54	21	301
Oneida	14	26	90	0	2	36	81	19	268
Orange	22	7	26	3	9	72	54	13	206
Suffolk	1	34	21	10	21	11	18	84	200
Broome	24	33	30	1	1	22	38	1	150
Chautauqua	4	33	41	1	1	26	42	2	150
Nassau	1	31	3	23	24	5	28	25	140
Saratoga	0	14	22	11	4	13	39	18	121
Ulster	8	13	49	1	0	18	24	7	120
Dutchess	1	7	25	1	1	34	42	8	119
Ontario	6	25	29	1	0	17	37	3	118
Sullivan	0	13	45	0	1	26	20	7	112
Madison	5	16	28	0	0	13	35	10	107
Rensselaer	0	16	22	0	0	29	36	4	107
Franklin	1	21	15	0	1	27	34	2	101
St. Lawrence	0	31	33	0	0	15	19	2	100
Clinton	0	13	29	0	0	20	32	5	99
Jefferson	1	15	26	0	0	20	35	1	98
Wayne	3	18	24	0	2	11	32	8	98
Niagara	7	12	13	0	13	18	26	3	92
Oswego	0	22	22	0	0	15	31	0	90
Putnam	6	10	10	11	4	12	26	10	89
Schenectady	23	7	22	10	0	16	9	0	87
Essex	1	9	7	2	2	23	39	2	85
Cattaraugus	0	23	18	0	0	22	19	1	83
Steuben	0	30	20	0	0	9	16	3	78
Greene	0	14	27	0	0	14	12	8	75
Allegany	0	25	14	0	1	11	15	5	71
Herkimer	0	20	19	0	1	6	24	1	71
Orleans	1	8	9	0	0	1	48	0	67
Tompkins	1	7	18	0	0	11	28	1	66
Otsego	0	16	32	0	1	4	8	0	61
Cayuga	1	10	18	0	1	8	21	1	60
Lewis	0	18	6	0	0	6	23	1	54
Livingston	3	11	12	0	0	6	20	2	54
Warren	1	9	10	2	1	11	20	0	54
Albany	1	12	13	0	1	4	13	9	53
Chenango	0	21	17	0	0	1	10	1	50
Columbia	0	17	17	0	2	5	6	3	50
Chemung	1	16	16	1	0	1	11	1	47
Rockland	0	5	7	1	2	7	0	25	47
Seneca	1	14	7	0	1	9	14	1	47
Washington	2	25	8	1	0	2	6	0	44
Delaware	0	4	25	0	0	2	12	0	43
Genesee	1	10	0	0	0	8	20	1	40
Wyoming	0	18	13	0	0	3	6	0	40
Fulton	0	15	2	0	0	5	4	0	26
Schoharie	0	9	8	0	0	3	3	0	23
Montgomery	1	12	2	0	0	3	4	0	22
Yates	0	8	2	0	0	2	9	0	21
Schuyler	0	12	1	0	0	2	4	0	19
Tioga	0	3	11	0	0	2	2	0	18
Hamilton	0	7	0	0	1	1	5	2	16
Cortland	0	5	2	0	0	1	4	0	12
Total	**581**	**951**	**1,783**	**153**	**160**	**1,211**	**1,602**	**486**	**6,927**

Villages: As gleaned from New York's Department of State, there are 343 villages in the State (see Chart #1, below).

School Districts: As gleaned from New York's Department of Education, there are 731 school districts in the State (see Chart #2, below).

Chart #1 - Villages and School Districts, by County

COUNTY	Villages	School Districts	COUNTY	Villages	School Districts
ALBANY	6	13	ONTARIO	5	10
ALLEGANY	6	12	ORANGE	15	18
BROOME	4	14	ORLEANS	3	6
CATTARAUGUS	4	8	OSWEGO	1	10
CAYUGA	6	18	OTSEGO	1	12
CHAUTAUQUA	6	3	PUTNAM	3	7
CHEMUNG	2	8	RENSSELAER	3	13
CHENANGO	1	9	ROCKLAND	13	9
CLINTON	1	7	SARATOGA	7	12
COLUMBIA	4	5	SCHENECTADY	0	6
CORTLAND	1	5	SCHOHARIE	8	6
DELAWARE	1	13	SCHUYLER	2	3
DUTCHESS	8	14	SENECA	5	4
ERIE	10	31	ST. LAWRENCE	6	18
ESSEX	2	11	STEUBEN	3	13
FRANKLIN	1	8	SUFFOLK	25	71
FULTON	0	6	SULLIVAN	6	9
GENESEE	5	8	TIOGA	6	6
GREENE	3	7	TOMPKINS	5	8
HAMILTON	1	8	ULSTER	2	11
HERKIMER	4	11	WARREN	1	9
JEFFERSON	9	12	WASHINGTON	3	12
LEWIS	1	5	WAYNE	7	11
LIVINGSTON	7	9	WESTCHESTER	23	48
MADISON	1	11	WYOMING	7	5
MONROE	10	20	YATES	1	2
MONTGOMERY	3	5			
NASSAU	49	57			
NIAGARA	1	10			
ONEIDA	12	16			
ONONDAGA	13	19			

Villages = 343 **School Districts = 731**

APPENDIX II - Survey of County Boards of Elections Concerning the Loaning of Voting Systems

County boards that make voting systems available to other jurisdictions

COUNTY	Yes	No	COUNTY	Yes	No
ALBANY	√		ONTARIO		◊
ALLEGANY		√	ORANGE	√	
BROOME	√		ORLEANS	√	
CATTARAUGUS	√		OSWEGO		◊
CAYUGA	√		OTSEGO	√	
CHAUTAUQUA	√		PUTNAM	√	
CHEMUNG		√	RENSSELAER		√
CHENANGO	√		ROCKLAND	√	
CLINTON		◊	SARATOGA	√	
COLUMBIA		◊	SCHENECTADY	√	
CORTLAND			SCHOHARIE		√
DELAWARE		√	SCHUYLER	√	
DUTCHESS	√		SENECA		√
ERIE	√		ST. LAWRENCE	√	
ESSEX		◊	STEUBEN		√
FRANKLIN		◊	SUFFOLK	√	
FULTON		√	SULLIVAN		√
GENESEE		√	TIOGA		√
GREENE	√		TOMPKINS	√	
HAMILTON	√		ULSTER	√	
HERKIMER		◊	WARREN	√	
JEFFERSON		√	WASHINGTON		◊
LEWIS		◊	WAYNE		√
LIVINGSTON	√		WESTCHESTER	√	
MADISON	√		WYOMING	√	
MONROE	√		YATES	√	
MONTGOMERY	√				
NASSAU		√			
NIAGARA	√				
ONEIDA	√				
ONONDAGA	√				

◊ = County boards that would make voting systems available if asked.

APPENDIX III - Copies of Correspondence

Appendix III includes copies of correspondence received, both in support of and opposition to the final sunset of legislation related to the continued use of lever voting machines. This compilation includes correspondence from the following:

ARISE Inc.
Association of Fire Districts of the State of New York, Inc.
Bethpage Water District
Center for Disability Rights, Inc.
Center for Independence of the Disabled, NY
Craig Cureau
Disability Rights New York
Margaret M. Goodfellow
Great Neck Park District
Great Neck Water Pollution Control District
Joseph Guagliano
Independent Living Center of the Hudson Valley, Inc.
Jericho Water District
League of Women Voters of NYS
Massapequa Water District
Nassau County Board of Elections
Nassau County Village Officials Association
Nassau-Suffolk School Boards Association
National Federation of the Blind
New York Civil Liberties Union
New York Conference of Mayors
New York State Association of Counties
New York State Council of School Superintendents
New York State Independent Living Council, Inc.
New York State School Boards Association
New Yorkers for Accessible Voting
Plainview Water District
Pocantico Hills Central School District
Resource Center for Accessible Living, Inc.
Southern Tier Independence Center (STIC)
Village of Atlantic Beach
Village of Bellerose
Village of Brookville
Village of Cove Neck
Village of East Hills
Village of East Rockaway

Village of East Williston
Village of Farmingdale
Village of Floral Park
Village of Flower Hill
Village of Freeport
Village of Garden City
Village of Great Neck
Village of Great Neck Estates
Village of Great Neck Park District
Village of Great Neck Plaza, Inc.
Village of Hempstead
Village of Hewlett Bay Park
Village of Kensington
Village of Lake Success
Village of Lattingtown
Village of Laurel Hollow
Village of Lawrence
Village of Lynbrook
Village of Mineola
Village of Munsey Park
Village of North Hills
Village of Old Brookville
Village of Oyster Bay Cove
Village of Plandome Heights
Village of Plandome Manor
Village of Rockville Centre
Village of Russell Gardens
Village of Sands Point
Village of South Floral Park
Village of Stewart Manor
Village of Upper Brookville
Village of Westbury
Village of Woodsburgh
Voting Access Solutions & New York State Independent Living Council
Westchester Independent Living Center

George Latimer, State Senate
Jack Martins, State Senate
Michelle Schimel, State Assembly

APPENDIX IV – Summary of Special District Elections Under Education and Town Law

LAW	WHO CONDUCTS	WHEN HELD / VOTING SYSTEM USE	SUMMARY
Education Law 1803, 1803[a] [Central School District Formation], 1951 [Referenda on BOCES acquisitions], 2035 [Annual District Vote], 2502 [City School District], 2553 [City School Districts with population over 125,000]	Boards of Education, except Boards of Elections for certain Elections pursuant to Education Law 2553	Third Tuesday in May; General Election (Education Law 2553) and Special elections at other times/ Elections pursuant to Education Law 1803 and 1951 may be conducted using hand counted paper ballots, lever voting machines or HAVA-compliant voting systems approved pursuant to the election law. Elections pursuant to Education Law 2035, 2502 and 2553 must be conducted on either lever voting machines or HAVA-compliant voting systems approved pursuant to the election law.	Most elections held pursuant to the Education Law must be conducted on voting machines (Education Law sections 2035, 2502, 2553). Through the end of 2015 lever voting machines are expressly permitted as an alternative.
Town Law 175, 176 [Fire Districts]	Fire Districts	Second Tuesday in December with exceptions/Hand counted paper or lever voting machines or HAVA-compliant voting systems pursuant to election law	The default method of voting at a fire district election is hand-counted paper ballots. Through the end of 2015 lever voting machines are expressly permitted as an alternative. Fire districts may, but are not required to, use voting systems approved under the election law.
Town Law 210, 211, , 213 212, 213 [Improvement Districts]	Certain "sewer, water park, refuse and garbage, or public dock purposes" (Town Law 341 [1]). Improvement Districts	Second Tuesday in December with exceptions/Hand counted paper or lever voting machines or HAVA-compliant voting systems pursuant to election law	These election provisions apply to improvement districts subject to Article 13 of the Town Law by statute or by designation made by such districts on or before Jun 29, 1933. The provision applies to various districts for "sewer, water park, refuse and garbage, or public dock purposes" (Town Law 341 [1]). The default method of voting for a fire district election is hand-counted paper ballots. Through the end of 2015 lever voting machines are permitted as an alternative. Fire districts may also use

			voting systems approved by election law but are not required to do so (Town Law 212).
Town Law art 6 and 7 [biennial town and special town elections]	Boards of Elections [biennial election] or Towns [special elections]	General Election in odd numbered years [biennial town election] or Special election at other times as permitted by law / HAVA compliant-voting systems pursuant to election law for all biennial town elections / hand counted ballots an option for special elections	The biennial town election for the election of town officers occurs at the time of the General Election in odd numbered years, and this election is administered by the boards of elections using a HAVA compliant voting system (Town Law 80). Special town elections at which certain ballot questions are submitted to town electors are conducted by towns. The statutory preference is for the use of voting systems approved pursuant to the election law. Town law commands "both special and biennial elections shall be conducted, the votes canvassed, and the results certified so far as practicable in the manner prescribed by…[election] law"(Town Law 83). However, if use of a voting system approved under the election law is not "practicable", it appears hand-counted paper ballots may be used (Town Law 82 [requiring "voting upon proposition shall be by ballot]).

APPENDIX V – Election Law Section 7-202

§ 7–202. Voting machine or system; requirements of

1. A voting machine or system to be approved by the state board of elections shall:
a. be constructed so as to allow for voting for all candidates who may be nominated and on all ballot proposals which may be submitted and, except for elections at which the number of parties and independent bodies on the ballot exceeds the number of rows or columns available, so that the amount of space between the names of any two candidates of any party or independent body in any row or column of such machine or system at any election is no greater than the amount of space between the names of any other candidates of such party or independent body at such election;
b. permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or independent body without the ballot, or any part thereof, being removed from the machine at any time;
c. be constructed so that a voter cannot vote for a candidate or on a ballot proposal for whom or on which he or she is not lawfully entitled to vote;
d. if the voter selects votes for more than one candidate for a single office, except where a voter is lawfully entitled to vote for more than one person for that office, notify the voter that the voter has selected more than one candidate for a single office on the ballot, notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast and counted;
e. provide the voter an opportunity to privately and independently verify votes selected and the ability to privately and independently change such votes or correct any error before the ballot is cast and counted;
f. be provided with a ‘‘protective counter’’ which records the number of times the machine or system has been operated since it was built and a ‘‘public counter’’ which records the number of persons who have voted on the machine at each separate election;
g. be provided with a lock or locks, or other device or devices, the use of which, immediately after the polls are closed or the operation of the machine or system for such election is completed, will absolutely secure the voting or registering mechanism and prevent the recording of additional votes;
h. be provided with sufficient space to display the information required herein, provided, however, in the alternative, such information may be displayed within the official ballot;
i. be provided with a device for printing or photographing all counters or numbers recorded by the machine or system before the polls open and after the polls close which shall be a permanent record with a manual audit capacity available for canvassing the

votes recorded by the machine or system; such paper record shall be preserved in accordance with the provisions of section 3–222 of this chapter;
j. retain all paper ballots cast or produce and retain a voter verified permanent paper record which shall be presented to the voter from behind a window or other device before the ballot is cast, in a manner intended and designed to protect the privacy of the voter; such ballots or record shall allow a manual audit and shall be preserved in accordance with the provisions of section 3–222 of this chapter;
k. provide sufficient illumination to enable the voter to see the ballot;
l. be suitable for the use of election officers in examining the counters such that the protective counters and public counters on all such machines or systems must be located so that they will be visible to the inspectors and watchers at all times while the polls are open;
m. be provided with a screen and hood or curtain or privacy features with equivalent function which shall be so made and adjusted as to conceal the voter and his or her action while voting;
n. contain a device which enables all the election inspectors and poll watchers at such election district to determine when the voting machine or system has been activated for voting and when the voter has completed casting his or her vote;
o. permit the primaries of at least five parties to be held on such machine or system at a single election, and accommodate such number of multiple ballots at a single election as may be required by the state board of elections but in no case less than five;
p. be constructed to allow a voter in a wheelchair to cast his or her vote;
q. permit inspectors of elections to easily and safely place the voting machine or system in a wheelchair accessible position;
r. ensure the integrity and security of the voting machine or system by:
(i) being capable of conducting both pre-election and post-election testing of the logic and accuracy of the machine or system that demonstrates an accurate tally when a known quantity of votes is entered into each machine; and
(ii) providing a means by which a malfunctioning voting machine or system shall secure any votes already cast on such machine or system;
s. permit alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a) such that it must have the capacity to display the full ballot in the alternative languages required by the federal Voting Rights Act if such voting machine or system is to be used where such alternative languages are required or where the local board deems such feature necessary; and
t. not include any device or functionality potentially capable of externally transmitting or receiving data via the internet or via radio waves or via other wireless means.
2. The state board of elections shall approve, for use at each polling place at least one voting machine or system at such polling place which, in addition to meeting the requirements in subdivision one of this section, shall:

a. be equipped with a voting device with tactile discernible controls designed to meet the needs of voters with limited reach and limited hand dexterity;
b. be equipped with an audio voting feature that communicates the complete content of the ballot in a voice which permits a voter who is blind or visually impaired to cast a secret ballot using voice-only or tactile discernible controls; and
c. be capable of being equipped with a pneumatic switch voting attachment which can be operated orally by gentle pressure or the creation of a vacuum through the inhalation or exhalation of air by the voter including, but not limited to, a sip-and-puff switch voting attachment.
3. The state board of elections may, in accordance with subdivision four of section 3–100 of this chapter, establish by regulation additional standards for voting machines or systems not inconsistent with this chapter.
4. Local boards of elections which obtain voting machines pursuant to this chapter may determine to purchase direct recording electronic machines or optical scan machines in conformance with the requirements of this chapter.

ARISE

ariseinc.org

January 14, 2015

NYS Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Attn: To Whom It May Concern

My name is Karen Lynch, the Human Resources Director of ARISE, Inc., a designated Center for Independent Living (CIL). Each year, ARISE serves more than 4,000 people from our offices located in five Central New York counties: Onondaga, Oswego, Madison, Cayuga, and Seneca. All our programs are consumer-directed, maximizing choice and opportunities for the people we serve. Since 1979, ARISE's staff and volunteers have worked passionately to advocate for a myriad of issues important to people with disabilities: housing, transportation, education, employment, health care.

Everything we do is based on the Independent Living philosophy, the belief that people with disabilities have a right to self-determination - the freedom to make choices and work toward achieving personal goals and systems change.

It is with this in mind that we are writing to state our opposition to allowing local municipalities to use the old-style lever voting machines in non-federal/state elections. Legislation passed in the last two sessions of the Legislature gives any local elections held by villages, districts and any other municipal corporations a one-year exemption from using the electronic and accessible voting machines mandated for all state and federa! e!ect!ons under section 7-202 of NYS e!ect[on !aw.

This legislation violates the spirit of the federal Help America Vote Act (HAVA), passed in 2002. HAVA mandated that states must meet certain minimum requirements of election management for elections that receive federal financial assistance. One of the key federal requirements is the mandate to offer at least one accessible voting machine at each poll site. NY State finally met all requirements of HAVA in time for the 2010 elections, the last state in the union to do so.

Allowing the use of inaccessible lever voting machines forces people with disabilities to

Main/Onondaga County
635 James St
Syracuse, NY 13203
Voice: (315) 472-3171
Fax: (315) 472-9252
TTY: (315) 479-6363

Oswego County
9 Fourth Ave.
Oswego, NY 13126
Voice: (315) 342-4088
Fax: {315) 342-4107
TTY: (315) 342-8696

Madison County
131 Main St., Ste. 107
Oneida, NY 13421
Voice: (315) 363-4672
Fax: {315) 363-4675
TTY: (315) 363-2364

Cayuga/Seneca County
75 Genesee St.
Auburn, NY 13021
Voice: (315) 255-3447
Fax: (315) 255-0836
TTY: (315) 282-0762

ARISE at the Farm
1972 New Boston Rd.
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Voice: (315) 687-6727
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return to the pre-HAVA days of either voting with an absentee ballot or relying on assistance from another person in the voting booth. The whole idea of accessible balloting is to give people with disabilities the ability to cast an independent and secret ballot at their poll site-a right enjoyed by all citizens duly registered to vote. New York State should not take a single step backward in the struggle to ensure that all people, regardless of their abilities, have equal access to the ballot. This step is particularly offensive to the disability community since the right to have accessible voting machines for local elections is seemingly being taken away based purely on monetary concerns.

The most recent legislation requires that the NY State Board of Elections submit a report to the Governor, the Speaker of the Assembly, the temporary President of the Senate and the chairs of the Assembly and Senate committees on elections by January 31st, 2015. The report is required to include recommendations and guidanr.e. to municipalities using lever machines *to "migrate to the use of voting systems which are compliant with section 7-202 of the election law.* " The report is also required to contain *"an analysis of the cost and fiscal impact to such villages, districts and municipal corporations for transitioning to voting systems that comply with section 7-202 of the election law.*[11]

The Board of Elections is also asked *to "sollclt and take into consideration recommendations from stakeholders* ... [11] on this issue. While not specifically listed as a stakeholder in the legislation, the Board of Elections is asked to not limit discussion to only the enumcrutcd state agencies. As a designated Center for Independent Living and a member of the New York Association of independent Living (NYAIL), ARISE considers itself a stakeholder on this issue and is submitting the following recommendations:

1. All villages, districts and other municipal corporations currently using lever voting machines should be required to use accessible voting machines for all elections held after the December 31st, 2015 expiration of the lever machine exemption.
2. The villages, districts and other municipal corporations transitioning to accessible voting machines should be given the same latitude given to the county Boards of Election in 2010 when they se!ected their accessible voting machine systems. While 52 counties chose and currently use the ImageCast voting system produced by Dominion Voting Systems, 10 counties (including Albany, all NYC counties and Erie) chose and currently use the DS200 Ballot Scanner system produced by Election Systems & Software.
3. Many of the alternative systems to the ImageCast system are more accessible, easier to use with touch screens, smaller, more portable and easier to train poll workers and voters to use. The villages, districts and other municipal corporations should be allowed to make the decision to choose any accessible machine, regardless of its manufacturer. This would include any machine that does not utilize a full-face ballot, hardly a pressing concern for local elections that are often non-partisan in nature.

4. New York State should defray the cost of purchase for accessible voting machines for all the villages, districts and other municipal corporations transitioning from lever machines to accessible voting machines. In addition, the state should allocate funding to county Boards of Elections to help train the villages, districts and other municipal corporations on the use of the new and accessible voting machines

The promise of the franchise, the right of all duly registered citizen-s to cast an independent and secret ballot. is unconditional. New York. State has unfortunately placed the condition of the ability to manipulate a voting machine on local elections. This situation cannot be allowed to stand. One --i ndependent vote lost due to inaccessible voting machines is one vote too many.

It is even more troubling to note that the only thing standing in the way of all elections in New York State being conducted with accessible voting machines is the cost. Our values should not be held hostage by the marketplace. This is especially egregious at a time when New York State is looking at a budget surplus estimated at $6.2 billion. We cannot think of a better investment for this surplus than making all New York State elections accessible.

Sincerely,

Karen Lynch
Human Resources Director

ARISE

ariseinc.org

January 9, 2015

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Sincerely,

Tom McKeown
Executive Director

Association of Fire Districts of the State of New York, Inc..

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November 6, 2014

State Board of Elections
40 North Pearl Street
Suite 5
Albany. New York 12207

Dear Members of the State Board of Elections:

I. on behalf of the Association of Fire Districts of the State of New York, representing over 890 Fire Districts and 4,500 Fire District Commissioners, am writing to you relative to Section 4 of Chapter 273 of the laws of 2014 and the requirement for local governments, including fire districts, to no longer use lever voting machines commencing December 31, 2015.

Fire Districts are the smallest political subdivision of the State of New York which annually conduct an election of fire district commissioners on the second Tuesday in December. Fire Districts also periodically conduct special elections relative to bond issues and other issues that are mandated by State law.

Historically, the cost of fire district elections is less than several hundred dollars due to the fact that the members of the board of elections of a fire district by statute cannot be compensated more than 1hirty-five ($35.00) DoHars if the election runs from State mandated hours of 6:00 p.m. to 9:00 p.rn. and not more than Fifty ($50.00) Dollars if the election or referendum is conducted for hours prior to 6:00 p.m.. This relatively meager compensation provided by fire districts to those who serve on their election boards would be greatly increased if they are obligated to use the optical scanners.

Fire Districts, as all other governmental entities, are now required to comply with the "Tax Cap" and/or "Tax Freeze". If Fire Districts are required to use the optical scanners, which will greatly increase the cost of Fire District's Elections, it would be yet one more unfunded mandate running up against the ""Tax Freeze/Tax Cap". There are

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many questions that would need to be answered if Fire Districts are going to be required to use to optical scanner. How many ballots will we need? We have as few as 500 registered voters in some districts to over I0,000 in larger districts on Long Island. But with less than I0% vote in most districts, unless there is a specific referendum or bond issue, turnout is small. Would we be required to provide enough ballots for every resident of the district at significant cost?

The cost of training the three (3) to five *(5)* members of our Election Board would significantly increase yet again a unfunded mandate.

Questions arise relative to the availability of scanners which need to be in a secure place and which may be impounded after previous elections.

As previously noted, fire district elections occur on the second Tuesday in December, not long after the State or National Election in November. If there is a contested State Election and machines are impounded, they will not be available to fire districts in time for our elections. There are questions relative to the security of the equipment and who will be required to pickup and deliver the equipment. If we are going to use optical scanners there would be appear to be an increased cost associated with the delivery of same. If there is a problem with the optical scanner, who will be available to assist the Fire District Board of Elections after 6:00 p.m. on the second Thursday in December. Will there be personnel available to assist at the County Board of Elections ifwe have a problem with the equipment? Will the County Board of Elections allow us to use their equipment and if so at what cost? These are just some of the questions which have been posed to the State Association of Fire Districts relative to the use of the optical scanners.

We strongly encourage the State Legislature to remove the sunset of December 31[111], 2015, on the continued use of lever voting machines in fire district elections and referendum.

Very truly yours,
ASSOCIATION OF FIRE DISTRICTS

BY: WILLIAM N. YOUNG, JR., COUNSEL

WNY/rb

cc: Senator Jack Martins
Assemblywoman Michelle Schimel

BETHPAGE WATER DISTRICT

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FAX (516) 931-0068

November 13, 2014

Via 1st Class Mail and E-Mail
election.ops@elections.ny.gov
Ms. Anna Svizzero, Director of Election Operations
New York State Board of Elections
40 North Pearl Street Suite 5
Albany, New York 12207

Re: Lever Voting Machines

Dear Members of the Board:

At the request of both Assemblywoman Michelle Schimel and Anna Svizzero, the undersigned Commissioners of the Beth page Water District offer their unanimous support to the report that the State Board will be submitting to the Governor and the Legislature regarding a potential permanent exemption for Commissioner Elected Districts and sister municipalities from the use of optical scan voting machines.

We write concerning both the fiscal impact and financial burden a transfer from lever type to optical scan voting machines would have on the District. Coupled with the burden of its substantially higher cost, the lack of availability of optical scan voting machines could force Commissioner Elected Districts and sister municipalities to take a step backward and necessitate the utilization of paper ballots. Unavailability is a real concern given the short thirty (30) day turnaround time in which to program the electronic machines between the November general election and the Special District elec tion s in early December which process would prove impossible in the event of a general election recount.

For decades, the District has relied upon lever voting machines for its annual elections. The mach ines are maintained and managed by the Nassau County Board of Elections. The current rental for one lever voting machine is approximately $250 including delivery. The District maintains two machines during the election for an approximate total cost of $500. Informal communications with the Nassau County Board of Elections indicates that the rental for an optical scan voting machine would be substantially higher, as each machine must be programmed by a computer specialist prior to each election . Moreover , the cost of printing paper ballots will accrue an additional fiscal burden on the District, as l 0-percent more ballots must be printed than total voters registered in the District.

• The Nassau County Board of Elections has not confirmed the actual cost of renting and delivering optical scan voting machines, and the Board has made public that, without millions of dollars in funding, it will not be able to supply the amount of machines required for these local elections.

Consequently, we urge the Board of Elections to analyze the ful! cost of optical scan voting machines and its overall financial burden upon small local governments as it prepares its report for the Governor.

Respectfully submitted,
Bethpage Water District
Board of Commissioners

John R. Sullivan, William J. Ellinger, Gary S, Brettbn

cc: Michael F. Ingham, District Counsel
Assemblywoman Schimel

RECOMMENDATIONS TO THE NEW YORK STATE BOARD OI•' ELECTIONS REGARDING THE USE OF LEVER VOTING MACHINES

By
CENTER FOR DISABILITY RIGHTS
cdrnys.org

"So long as I do not firmly and irrevocably possess the right to vote I do not possess myself I cannot make up my mind - it is made up for me. I cannot live as a democratic citizen, observing the laws I have helped to enact - I can only submit to the edict of others."

- Rev. Martin Luther King, Jr.
Speech before the Lincoln Memorial
May 17, 1957

"The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men."

..... President Lyndon B. Johnson
on the Signing of the Voting Rights Act
August 6, 1965

November 17, 2014

For more information please contact:

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INTRODUCTION

On August 11, 2014, Governor Cuomo signed legislation extending, through the end of 2015, New York's statute allowing the use of lever voting machines in elections. This is at least the third time that New York State has extended the use of inaccessible lever voting machines. The use of these machines is an antiquated, discriminatory practice that is inaccessible to voters with disabilities, and New York State should not allow their use in any elections. Lever voting machines also cannot be shown to be reliable, and cannot be audited. If the Legislature and the Governor will not act to secure the people's fundamental civil right to vote in fair, accountable, and accessible elections, it then falls on the New York State Board of Elections to safeguard that right. To do so, the Board of Elections must, in no uncertain terms, refuse to allow polling locations to use lever voting machines, or any other inaccessible machines, in any public elections.

BACKGROUND

The right to vote is a fundamental right of all citizens of the United States. With respect to people with disabilities, the right to vote has been affirmed and protected in Federal law by the Voting Rights Act of 1965 (VRA), the Rehabilitation Act of l 973, the Voting Access for the Elderly and Handicapped Act of 1984 (VAEHA), the Americans with Disabilities Act of 1990 (ADA), and the Help America Vote Act of 2002 (HAYA). This right is also protected by New York State law in the Election Reform and Modernization Act of 2005 (ERMA).

The right of people with disabilities to vote in an accessible manner was first recognized in Federal law in the **VRA,** which provided that a person with a disability could receive assistance in the voting booth from a person of the voter's choice. In 1973, the Rehabilitation Act required programs and services supported by Federal funding to be accessible to people with disabilities: this includes voting in Federal elections. In 1984, VAEHA required the chief elections official of each state to ensure that all polling places were accessible to voters with disabilities. These laws were worthwhile steps, but they fell short of the fully integrated accessibility which is necessary to truly safeguard the rights of disabled voters. For example, even after VAEHA, accessibility was only required in Federal elections. Voters with disabilities could not be assured of an accessible polling place for purely local and state elections. Furthermore, polling could take place in inaccessible locations, and a disabled voter would have to request, in advance, an alternative, accessible voting means. The burden of requesting an accommodation remained on the voter, who might not even know until too late that she needed one. Moreover, votes cast by accommodation were thereby segregated from the votes of the district as a whole,

Passage of the ADA in 1990 changed the legal landscape for the better, though, nearly 25 years later, polling locations have still not caught up to the law. The ADA states that no public entity can exclude from participation in any activity, service, or program of that entity, nor discriminate against, any qualified person with a disability for reason of that disability. 42 USC I 2132. A

public entity under the ADA is any State or local government, including any department, agency, district, or other instrumentality of a State or local government. 42 USC 12131. "Failure to make polling places accessible violates these provisions." *New York ex rel. Spitzer v. County of Delaware,* 82 F.Supp.2d 12. 18 (N.D.N.Y. 2000) citing *Lightbourn v. El Paso,* 118 F.3d 421 (5th Cir.1997), cert. denied sub nom., *Lightbourn v. Garza,* 522 U.S. 1052, 118 S.Ct. 700, 139 L.Ed.2d 643 (1998). "Failing to ensure that disabled individuals are able to vote in penmn and at their assigned polling places-presumably the most commonly used method of voting could not reasonably be construed as consistent with providing 'meaningful acce,1,s' to the voting process, particularly where the alternativel> relied upon by the Defendants impose additional costs, risks and inconveniences on disabled voters not faced by others, Therefore, the inability to vote at assigned voting location,11 on Election Day constitutes irreparable harm." *Westchester Disabled on the Move v. County of Westchester,* 346 F.Supp.2d 473,478 (S.D.N.Y. 2004). Under the ADA, voters with disabilitie,11 muM be given meaningful access to the same services as other voters, and separate voting methods perpetuate, and do not avoid, discrimination against disabled voters.

In 2002, Congress passed HAVA, which requires each machine used in a Federal election to produce a permanent paper record which can be audited manually. HAV A abo require,11 that at least one machine at every polling place be acce,1, sible to voters with disabilities including voters with visual disabilities, in a manner that provides the same opportunity for access, participation, privacy, and independence, as other voters.

In response to HAYA, in 2005 the State of New York passed ERMA, which provided for the New York State Board of Elections (NYSBOE) to implement the requirements of HAYA. The New York Legislature has undermined the intentions of ERMA and HAVA, however, by continuing to extend the deadline by which lever voting machines must cease in use. Accordingly, the NYSBOE is allowed to certify lever voting machines through December 31, 2015, but under HAVA and ERMA the NYSBOE may not certify a voting machine which does not produce a paper record, which means that the NYSBOE may not certify lever voting machines.

LEVER VOTING MACHINES ARE NOT ACCESSIBLE TO VOTERS WITH DISABILITIES

The NYSBOE should refuse to certify lever voting machines because they are not accessible to voters with disabilities. Voters with physical disabilities may be unable to manipulate the levers; or to reach all rows of the machine ballot. One disabled attorney says of lever voting machines, "I have never been able to use them at all. I simply can't reach or move the levers. They are unacceptable. I've lived and voted in four state (CA, TN, IL and NY), and I did not see lever machines in the other three."

In many cases, voters who are blind may be unable to read the ballot or tell which levers they wish to operate. One voter, who is blind, describes his experience this way: "I've used the lever voting machines at both a polling place during an official voting day and once during a primary which was back in 2009. The local colleges use the old lever machines for student government elections as well which I've used. ln all experiences I've had to have sighted assistance."

New York law allows a voter to have present in the voting booth any individual they wish, for example a poll worker, an attendant, or a family member. CDR is aware of times when poll workers have refused to allow an attendant to be present when a disabled voter has wanted that attendant's presence. One voter describes a typical experience: "for the Primary & Official Election Day my Dad was with me as my sighted assistant and they made a big deal about it. They made him read the official oath and ſ recall how they at first wouldn't allow him to enter the booth with me." While the poll-worker's refusal may be described as a failure of training, such training is only necessary when inaccessible machines are used.

Even in cases when poll-workers do allow an attendant to accompany a disabled voter, the integrity of the disabled voter's vote is compromised by the use of inaccessible machines in other ways. For instance, the privacy of the disabled voter's vote may be compromised, not only with respect to the attendant, but also with respect to any other individual who is in earshot and is able to hear the voter directing the attendant. One attendant described her experience this way:

> "I was working with C. one Election Day ... I wheeled C [to the polling location] in his manual chair. Because he couldn't pull the levers himself I had to go into the voting booth with him. We both barely fit into the voting booth and would not have done so if he was using his power chair. With great difficulty 1 was able to reach around Charlie and pull the levers for him. The poll worker was standing right outside the voting booth, listening to everything we said, as C voted. After I explained [a Ballot Proposition] to C I heard the poll worker say 'yes, that's right'. I've always wondered what [the poll worker] would have done if the proposition was not explained correctly."

While many disabled people have a relationship of great trust and closeness with their attendants, the use of lever voting machines introduces a degree of uncertainty between the voter and their vote. In particular, blind voters using such machines must trust that their attendant is truly following their instructions. The use of lever voting machines, even with the assistance of attendants, compromises the disabled voter's right to vote privately and independently. For all of these reasons, the NYSBOE should refuse to certify any lever voting machines.

THE USE OF INACCESSIBLE VOTING MACHINES IS UNEQUAL TREATMENT UNDER THE LAW

Not only should the NYSBOE refuse to certify lever voting machines, it should refuse to certify any voting machines which are not accessible to disabled voters. The m e of a separate voting

system for voters with disabilities amounts to unequal treatment under the law. The votes of all New York voters should be cast using a system that is accessible to all New York voters.

Lever voting machines, and all voting systems that are not accessible to voters with disabilities, unlawfully segregate the votes of voters with physical disabilities from the votes of all other voters in a given polling location. While Federal and New York law require the presence of at least one accessible voting machine at each polling location, the mere presence of a single accessible voting machine is not enough to preserve the civil rights of disabled voters.

Voters with disabilities often discover that the one accessible machine at their polling location is not turned on, not set up, or not maintained in good working order. They also often encounter poll-workers who do not know how to turn on, set up, or assist them in using, the machine. A disability advocate describes his experience as follow.<,;

> "As a responsible citizen who strongly believes in the democratic process, I went to my local polling site to carry out my civic responsibility. In 2008, (a local television news station] wanted to film my votin g experience so they accompanied me to my polling site. Unfortunately when we arrived, in the middle of the afternoon, the newly acquired accessible voting machine was covered with a tarp and was unplugged. Although I had not planned to bring the media, I had informed my local Board of Elections that I would be voting on the new voting system. Still, the accessible voting system was not ready to be used and the poll workers were totally unprepared and untrained on how to use the machine."

Voter:s who reque.. t assistance from poll-workers report that they are made to feel singled out by workers who are untrained and unprepared to assist the voter on the accessible machine. The same advocate describes another voting experience:

> "In 2013 I arrived at my poling site expecting to go in, vote and go get dinner. However, once again, the accessible voting system was turned off, the poll workers were unprepared and they kept referring to the accessible voting system - in a very loud voice - as the "handicapped machine." As if all of this were not enough, I am made to be the center of attention, with everyone coming in to vote now aware of who I am and that I need to use the "handicapped machine" to cast my vote. Since this kind of treatment has been going on since 2008, I became extremely frustrated and humiliated to the point that I decided not to vote. Fortunately my wife persuaded me to stay and to force the Board of Elections to send somebody from their office to come and turn the voting system on so I could vote. Others around me were able to vote privately and independently but I had to wait around until the Board of Elections sent a person to my Polling site."

It is over forty years since the passage of the Rehabilitation Act; the ADA has been law for nearly twenty-five years; it is more a decade since HAVA was passed; and still, voters with

disabilities are not able to exercixe this fundamental right privately and independently, in the same manner ax other voten..

INACCESSIBLE VOTING MACHINES VIOLATE THE CIVIL RIGHTS Oii' VOTERS WITH DISABILITIES

The presence of a xingle accessible voting machine, even when it is operating properly and when poll-workers are well-trained in its operation, still segregates the votes of disabled voters from the votes of the general public. This segregation is a troubling violation of 1he civil rights of disabled voters. To begin, the privacy of the disabled voter's vote could be easily compromised, particularly if only a small number of voters are able to use the accessible machine. In addition, the use of a single accessible voting machine causes _the votes of all disabled voters to be kept separate from the votex of the general public, such that they have to be affirmatively counted into the general vote totals. This segregation is a form of unequal treatment, and it exposes the votes of disabled voters to abuse.

No other population of voters must use a separate voting system because of it!. protected da!.!. status, Only disabled voters are segregated in this way. It would be a !.elf-evident violation of civil rights if, for example, all voters of a particular race or religion were required to use a different voting system than the system used by the general population. When a class of voters is treated differently in the polling place, it raises the troubling possibility that their votes will be treated differently as well.

The Federal Department of Justice has recently issued guidance on discrimination against disabled voters in polling places. According to that guidance, under HAVA, the voting system used in Federal elections must provide disabled voters the same opportunity for access and participation, including privacy and independence, that other voters enjoy. Under the ADA, voters with disabilities must receive the same service in all elections as other votern unless accommodation of the disabled voter would fundamentally alter the service. Segregating disabled voters into a voting system which poll-workers are not well-trained to use, which is unreliable, and which may not even be set up when they arrive to vote, is clearly different service: it is discrimination, and it is a violation of the voter's fundamental rights as well as their rights under the ADA. Further, it is not the case that using only accessible machines would fundamentally alter the service of providing a voting system.

CDR urges the NYSBOE to end this discrimination by refusing to certify inaccessible voting machines, including lever voting machines.

LEVER VOTING MACHINES CANNOT BE AUDITED

The NYSBOE should refuse to certify lever voting machines because they cannot be audited. HAYA is clear that a "voting system" must produce a verifiable paper trail for the purpose of audit or recount. Lever voting machines do not produce a paper trail and therefore violate HAVA

as well as New York Election Law. New York Election Law§ 7-202(j) requires that a voting system, to be approved by the NYSBOE, shall "retain all paper ballots cast, or produce and retain a voter verified permanent paper record ... [and] ... such ballots or record shall allow a manual audit and shall be preserved in accordance with the provisions of , section 3-222 of this chapter."

As NYSBOE knows, a lever voting machine contains no document ballot. Instead, a voter chooses candidates by pulling a lever for each candidate choice listed on the machine. The machine records votes by advancing a counting mechanism in response to the levers the voter has pulled. Because there is no documentary ballot, lever voting machines cannot be audited: only the totals each machine has recorded may be reviewed. These counts contain no evidence of whether a mechanism within the machine may have malfunctioned. Lever voting machines contain over 28,000 moving mechanical parts. As New York is the last state to use lever voting machines, replacement parts for the machines arc rare and failures are not uncommon.

Lever voting machines neither retain all paper ballots cast nor produce and retain a permanent paper record, and do not a11ow a manual audit. Accordingly, lever voting machines do not meet the requirements of HAVA and of NY Election Law, and the New York State Board of Elections should refuse to certify any lever voting machines.

RECOMMENDATION: THE NYSBOE SHOULD ONLY CERTIFY ACCESSIBLE VOTING MACHINES

The NYSBOE should refuse to certify any voting machines that are not accessible, and should require all voting machines in all polling locations to be accessible to all voters. Only widespread accessibility will ensure that the rights of disabled voters are protected. Not only that, but it will solve a number of logistical problems that have surrounded the use of accessible machines.

First, all poll workers will be trained on a single, accessible voting system. Not only will this reinforce the fact that disabled voters arc simply voters, it will enable election workers to be better trained on the single voting system which all voters will use. As the NYSBOE is aware, voting rights advocates routinely point to voting issues which have their root in poor training of poll-workers. Training will be improved by eliminating the use of inaccessible voting machines so that poll-workers will only need to be trained on a sing1e system .

Second, it will reduce the likelihood that an accessible voting machine will not be available, not be set up, or not be in working order when a disabled voter comes to vote. Voters with disabilities often discover that the one accessible voting machine is not set up, or that it is not working, or that no poll-worker understands how it is to be used, which indicates a failure pf poll-worker training as discussed above. If all voting machines were accessible, the disabled voter will simply move to the next, accessible voting machine and cast her vote as any other voter would.

Third, it will simplify ongoing maintenance of the accessible voting system because only one system will have to be maintained. Workers will not need to maintain two systems, one of which receives the lion's share of use and, accordingly, the lion's share of attention. It is not uncommon for the system that will only be used by a minority of voters to suffer neglect. As the law only requires a single accessible voting machine, the right of disabled voters can be jeopardized if that single machine fails during an election day. The accessible voting system will be the voting system, and the effort of maintaining that single system will ensure better reliability for all voters.

The voter, mentioned above, whose negative experiences having his father assist him led him to use an audio device, says that the poll-workers were not well-trained to assist him with the accessible machine, and that a poll-worker handled his ballot after he had filled it in. "In 2008 l used the Audio Device to vote. I was the first and only person to use it and I got there right before closing of the polls. I felt like I was playing a video game and when l asked questions the poll person had no idea The ballot printed out and the poll person stuffed it into the electronic viewer."

It is clear that better training of poll-workers is also necessary to safeguard the rights of disabled voters. Use of a single system that is accessible to all voters will ensure that all training, setting up, operating, and maintaining voting machines will be directed at the system that all voters can use. The NYSBOE should refuse to certify machines that are not accessible to disabled voters. When all machines are accessible, the votes of disabled citizens will be counted in the votes of the general voting population; that is to say, the votes of disabled citizens will be counted.

The Center for Disability Rights urges the New York State Board of Elections to refuse to certify lever voting machines because they are not accessible to voters with disabi1ities, they cannot be shown to be reliable, and they cannot be audited.

The Center for Disability Rights further urges the New York State Board of Elections to refuse to certify any voting machines which are not accessible, as is necessary to safeguard the civil rights of voters with disabilities by ensuring that their votes are not segregated out by the use of accessible voting systems.

About the Organization

The Center for Disability Rights, Inc. is a not-for-profit, community-based advocacy and service organization for people with all types of disabilities. CDR has been advocating for the full community integration of people with disabilities for over two decades through ending the institutional bias inherent in Medicaid. The Center for Disability Rights operates the New York Disability Voters Network, a grassroots, nonpartisan voting initiative for voters interested in disability issues. Learn more at www.nydvn.org.

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CID•NY

Center for Independence of the Disabled, NY

November 17, 2014

The Commissioners
c/o Anna E. Svizzero
Director of Election Operations
New York State Board of Elections
40 N. Pearl Street, Suite 5
Albany, New York 12207

Dear Commissioners,

Since 1978, the Center for Independence of the Disabled, New York (QDNY) has worked on civil rights issues for people with disabilities, including the most fundamental of those rights - the right to vote. We are dedicated to ensuring that people with disabilities can go to their local polling places, vote privately and independently, like everyone else; and be a visible part of the civic compact.

Currently, village, special district, improvement district, library district, fire district and school district elections are permitted to use lever machines in their local elections, -thereby bypassing years of incremental change towards accessible polling places and equal opportunity for all voters to express their franchise. Using lever machines or paper ballots without providing Ballot Marking Devices effectively denies many voters with disabilities the right to vote privately and independently. Voters with visual disabilities are not able to read paper or lever ballots, many voters with physical disabilities cannot mark paper ballots or reach and operate the levers, and voters with certain cognitive disabilities are not able to visually focus on the ballot style associated with the lever machines.

As municipalities and villages are government entities, they cannot avoid their obligation to comply with Title II of the Americans with Disabilities Act and section 504 of the Rehabilitation Act. In short, any activity undertaken by a government entity, no matter its size, must provide its citizens with disabilities equal opportunity to benefit from all of their programs, services and activities, including voting, This means *all* government entitles must ensure *all* elections are accessible, i.e. accessible voting systems must be available, polling sites must be physically accessible and any information made available to the general public must be made available (n an alternative accessible format.

People are often resistant to the introduction of new technology and are nervous about learning new methods. We've watched this happen with the introduction of computers; ATMs; and a host of other new inventions that are now common usage and in fact are relied on by most people. In fact many of the accommodations for people with disabilities that are commonplace, like curb cuts and elevators at transportation hubs have made life easier for the general public as well.

Reverting to the use of lever machines is confusing for the public, who may not understand the difference between State and Federal Electron regulations. Using the !ever machines may not allow for the kind of trouble shooting and practice that ensure the effectiveness and efficiency of the new technology,

Given the inconsistencies in supplying accessible voting for people with disabilities, it is dear that the use of the lever machines seem to be cancelling out the advances brought about by HAVA. The fact that some venues used lever machines and did not provide accessible voting machines is illegal and also shows the lack of poll worker education, lack of understanding of the civil rights laws that apply and the complete disregard for the rights of people with disabilities. This must stop. The State should take a stand and ban the use of lever machines in all elections.

Sincerely,

Monica Bartley
Community Outreach Organizer

Breads, Tarry (ELECTIONS)

From: Craig Cureau <craig .cureau@gmail.com>
Sent: Monday, November 03, 2014 5:58 PM
To: ele.sm.election_ops
Subject: Voting machines

Please do not return to levers as the means of casting ballots. Using levers is not and accessible option for many people with disabilities. We need to be going forward rather than backwards in our efforts to give all Americans equal access to voting.

Sent from my iPhone

DISABILITY RIGHTS NEW YORK

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VIA EMAIL election_ops@elections.ny.gov
&
VIA FIRST-CLASS MAIL

November 14, 2014

New York State Board of Elections
40 North Pearl Street
Suite 5
Albany, NY 12207

Re: Report on Local Elections/Continued Use of Lever Voting Machines

Dear Sir/Madam:

Disability Rights New York (DRNY) submits the following comments in response to your invitation to provide information "concerning the administration of elections by villages! school districts, fire districts, library districts and other municipal corporations required to hold elections." See Email of New York State Board of Elections, Elections Operations Unit, dated October 22, 2014. A large number of these local entities continue to use lever voting machines. As set forth in more detail below, such machines are inaccessible to many persons with disabilities and deny those persons their right to vote independently, privately, and in a manner equal to their non-disabled peers. Accordingly, the use of lever voting machines violates Title II of the Americans with Disabilities Act, 42 U.S.C. §12132, and other federal law and should cease.

As New York State's designated Protection and Advocacy system (P&A), DRNY is authorized under federal and state law to protect the rights of individuals with disabilities, investigate complaints of abuse and neglect, and pursue appropriate remedies. See Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §10801 *et seq.;*

Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. §15041 *et* seq.; Rehabilitation Act, 29 U.S.C. §7g4e(f); N.Y. Exec. Law §558(b). In addition, DRNY is authorized to provide legal and advocacy services to ensure voting accessibility for people with disabilities pursuant to the Help America Vote Act, 42 U.S.C. §15461, and does so through its Protection & Advocacy for Voting Access (PAVA) program.

There is no dispute that many features of the lever voting machine, such as the position and resistance of levers and voting handles, the font size of the printed information, and the size of the voting booth, make the machine inaccessible for voters with many types of visual, mobility, and cognitive disabilities. Voters with such disabilities experience difficulty seeing and reading the ballot choices, reaching and operating the levers and voting handles, and visually and mentally focusing on and understanding the full-face ballot design. Consequently, such voters usually require assistance when using the lever voting machines. As a result, voters with disabilities are forced to request assistance by poll workers or another individual of the voters' choosing. Such assistance requires voters with disabilities to reveal their ballot choices or other information to the person operating the lever machine or otherwise assisting them. Thus, while the right of non-disabled voters to cast their ballots privately and independently is respected, voters with disabilities who cannot operate the lever machines without assistance are forced to forfeit that same right.

That such discrimination continues to exist in New York State nearly 25 years after the enactment of the Americans with Disabilities Act and more than a decade since the enactment of the Help America Vote Act is intolerable. Title II of the ADA requires that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination to such entity." Courts have held that fully participating in voting is a public benefit and includes the right to cast a private and independent ballot. See *Disabled in Action v. Board of Elections in City of New York,* 752 F.3d 189 (2d Cir. 2014). Requiring a person with disabilities to vote only with the assistance of a third party (often a polling place worker or other stranger), if they are able to vote at all, "provides, at best, an inferior voting experience not equal to that afforded to others." *California Council of the Blind v. County of Alameda,*

985 F. Supp.2d 1229, 1239 (N.D. Cal. 2013). See a/so *National Federation of tha Blind, Inc. v. Lamone,* C.A. No. RDB-14-1631, 2014 WL 4388342.

That many localities in New York State are willing to provide assistance or other accommodations to voters with disabilities is irrelevant to whethar their continued use of lever voting machines is discriminatory. What matters is that accessible voting machines are readily available that permit people with disabilities to vote privataly, independently, and in a mannar equal to their non-disabled peers, yet these localities choose not to use them. Indaed, in many locations , people with disabilities who voted on November 4, 2014 using accessible voting machines (which, as you know, are required for federal elections) will be forced to use inaccessible lever voting machines for upcoming municipal elections despite living at the same address and perhaps even voting in the very same polling place. No reasonable person would argue that siting a polling place in an inaccessible building immediately next door to an accessible building would not violate the ADA and other laws. Yet by using lever voting machines when accessible machines are available -and in many cases have been used in past elections - localities are engaging in the very same type of discriminatory conduct.

It is long past time for the use of lever voting machines to end. While the use of these machines appears to be permitted by state law, as noted above such use does not comply with federal law, which must be followed in the event of any conflict between the two. Accordingly, DRNY urges the Board of Elections to make clear in its report on local elections that the use of lever voting machines violates the rights of voters with disabilities and must cease at tha earliest possible time.

Thank you for the opportunity to provide these comments. Please contact us if you have any questions or wish to discuss these issues further.

Very truly yours,

Mark J. Murphy
Attorney at Law
PAVA Director

Sarah Podber
PAVA Advocate

Margaret M. Goodfellow
PO 171
Windsor, NY 13865

November 16, 20 l 4

New York State Board of Elections
Elections Operations Unit
40 North Pearl Street, Suite 5
Albany, NY 12207

Re: Report concerning the administration of elections by villages, school districts; fire districts, library districts and other municipal corporations required to hold elections required by Laws of New York 2014, chapter 273

To Whom It May Concern:

The mandate of the Help America Vote Act of201 (HAVA) and the NYS Election Reform Modernization Reform Act (ERMA) implementation in New York State provides a single statewide election system with all elections under the jurisdiction on county boards of elections. Local and school board elections are equally important and must comply with HAVA and ERMA. Those requirements provide a permanent paper record, manual audit capacity and accessible voting for persons with disabilities cannot be met using voter lever machines.

Allowing continued use of voter lever machines divides the public into two separate classes. Those whose ballot integrity is secure and those that are not. Lever machines are vulnerable to undetectable tampering and unable to yield a record of each and every vote. If required, lever machines are incapable of conducting a valid vote recount. Maintenance of lever machines cannot be maintained. They are outdated, no longer being manufactured and parts are unavailable, County election boards in the past have provided these services. However, under this two class system, local governments will be required to have the care, custody and control of the machines and process, bringing added cost to taxpayers.

We all know that lever machines re inaccessible to people with disabilities. They are impossible to operate without assistance and violate the right to cast one's vote p1ivately and independently.

l have personally voted at a school board/budget election site that was and still is conducted in a building entranceway. No room is available for maneuvering if one is using a wheelchair, walker or cane. Lighting is poor. There is no room for privacy and the lever machine takes up 85-90% of the available space. The last election a student recognition program (complete with band concert) was being held in an adjoining theatre space.

The public is morally and legally entitled to equality in voting. New York State is violating the law.

Sincerely,

Margaret M. Goodfellow

GREAT NECK PARK DISTRICT
Robert A. Lincoln, Jr., Commissioner
5 Beach Road
Great Neck, New York 11023

Park Tel: (516)-482-0181 Park Fax: (516)-829-1190

GREAT NECK
PARK DISTRICT

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Inter-Office Memo

DATE: November 14, 2014

TO: New York State Board of Elections

CC: Hon. Michelle Schimel
Hon. Jack Martins

FROM: Robert Linco1n, Jr.,
Commissioner

RE: Impact of Transition away from lever voting machines

My name is Robert Lincoln. Jr. I am a commissioner of the Great Neck Park District on Long Island. 1 wish to address the impact to our district and it's voter/taxpayers which wil1 result from the transition away from lever type voting machines to electronic scanners.

Each year one of our 3 commissioner positions is up for election to a 3 year term. As required by Town Law, the election is conducted by the Park District. Requests to the Nassau County Board of Elections for them to conduct the election for us have been unsuccessful. However, they do provide the ro1ls of registered voters for our district, and we rent the lever type machines from them. We also pay the cost for transportation to and from the polling places.

For your information, we have four polling places serving specific geographic zones. We do two mailings to each household in the weeks prior to the election. We take extensive measures to advertise the election in order to promote participation. We permit absentee ballots, and we accommodate people who have any handicap.

Our total annual expense to conduct the election, including election workers, is approximately $10,000.00. We have more than 22,000 registered voters within the Great Neck Park

District; the normal voter turnout is under 2,000.

'Ibis year we will vote for 2 positions of commissioner, one for a 3 year term, the other for the remaining 2 years of a term vacated due to resignation. Voters will be entitled to vote for 1 candidate for each position. There are a total of7 candidates running, each of whom bas identified which position they seek. Although this may be unusual, it certainly is not unique.

We are already receiving questions concerning how winners will be determined (i.e. by specific position vs. those 2 candidates receiving the most votes, similar to certain other local elections). Although every effort is being made to be as clear as possible, we foresee confusion among some voters as inevitable.

Fortunately, this year we wiH be permitted to use the mechanical lever machines which do not permit more than one vote per position, thus avoiding ineligible ballots.

In analyzing the change to elcc,1ronic scanners we see an impact in 3 areas, as follows:

Cost:
The use of electronic scan type voting machines, will require printing a paper ballot for each registered voter plus the necessary additional reserve for potential errors. Based on information available, we estimate the printing expense for the ballots would be in excess of$11,000. Clearly, this would double the cost of the election to our taxpayers. It would also leave us with more than 20,000 unused ballots to be destroyed.

The ability to print ballots "in house", and on a "demand" basis could alleviate this concern, thus saving significant cost, especially when considering the large number of agencies statewide which will be printing ballots.

Availability:
The Nassau County Board of Elections has made no statement concerning the availability of electronic scanners for local special district elections. Our elections occur approximately 5 weeks after the general election in November. There is concern that it will not be possible to re--program the scanning equipment in time for the second Tuesday in December. Note that the window is actually smaller when considering the time required for delivery to the polling places (as well as pick-up after the general election).

There has been discussion that local boards of elections will need to purchase more machines and hire additional personnel to meet the requirements of multiple elections (including primaries) during the first half of the year. The need for those additional machines will repeat at the end of the year

as well. There is also the question of how the cost for additional equipment and personnel will be funded.

Undesirable Alternatives:
Should neither electronic scanners nor mechanical machines be available, the use of paper ballots, manually counted at the close of polls would be required. While this might be attractive for elections where a very a small number of voters consistently turn out, any ballot incorrectly completed would not be identified until after the pol1s close and ballot boxes are first opened. The only choice at that point would be to reject any such vote, and those votes would not be counted at all. This could affect the outcome of the election. And it would disenfranchise voters from voicing their choice in an important local election simply because they made an error.

Given low voter turnout at recent elections, we need to have a voting system that is user friendly, and dependable with unquestionable integrity. We all want to see voters participate in every election. I believe that local governments simply want a system that works and is available to us. We are actually the end users. and it is up to the Boards of Elections, starting at the State level, to provide the necessary resources.

I urge you ensure that our goals and needs are met.

Very truly yours,

Robert A. Lincoln, Jr.
Commissioner, Great Neck Park District

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GREAT NECK
WATER POLLUTION CONTROL DISTRICT

November 13, 2014

Via FedEx and E-Mail
election op @elections .ny .gov
Ms. Anna Svizzero, Director of Election Operations
New York State Board of Elections
40 North Pearl Street-Suite 5
Albany, New York 12207

Re: Lever Voting Machines

Dear Members of the Board:

At the request of both Assemblywoman Michelle Schimel and Anna Svizzero, the undersigned Commissioners of the Great Neck Water Pollution Control District offer their unanimous support to the report that the State Board will be submitting to the Governor and the Legislature regarding a potential permanent exemption for Commissioner Elected Districts and sister municipalities from the use of optical scan voting machines.

We write concerning both the fiscal impact and financial burden a transfer from lever type to optical scan voting machines would have on the District. Coupled with the burden of its substantially higher cost, the lack of availability of optical scan voting machines could force Commissioner Elected Districts and sister municipalities to take a step backward and necessitate the utilization of paper ballots.

For decades, the Great Neck Water Pollution Control District has relied upon lever voting machines for its annual elections. The machines are maintained and managed by the Nassau County Board of Elections. The current rental for one lever voting machine is approximately $250 including delivery. The District maintains two machines in two polling places during the election for an approximate total cost of $1000. Informational communications with the Nassau County Board of Elections indicates that the rental for an optical scan voting machine would be substantially higher, as each machine must be programmed by a computer specialist prior to each election. Moreover, the cost of printing paper ballots will accrue an additional fiscal burden on the District, as 10-percent more ballots must be printed than total voters registered in the District.

The Nassau County Board of Elections has not confirmed the actual cost of renting and delivering optical scan voting machines, and the Board bas made public that, without millions of dollars in funding, it will not be able to supply the amount of machines required for these local elections.

Consequently, we urge the Board of Elections to analyze the full cost of optical scan voting machines and its overall financial burden upon small local governments as it prepares its report for the Governor.

Respectfully submitted,
Great Neck Water Pollution Control District
Board of Commissioners

Jerry Landsberg, Deena Lesser, Steve Reiter

Breads. Tarry (ELECTIONS)

From: Svizzero, Anna (ELECTIONS)
Sent: Wednesday, January 28, 2015 12:50 PM
To: Breads, Tarry (ELECTIONS)
Subject: FW: BOE Action Alert

From: Joseph Guagliano [mailto: jos ephlukeg@aol.com]
Sent: Monday, January 26, 2015 12:59 PM
To: ele.sm.info
Cc: LTarric664@aol.com; Josephlukeg@aol.com
Subject: Fwd: BOE Action Alert

Joseph Guagliano
josephlukeg@aol.com

My comments as to BOE report:
New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, New York 12207-2729

January 26, 2015

Dear Sir/Madam

I am writing to request that the New York State Board of Elections (BOE) mandate that accessible voting machines, including the ballot marking device (BMD) be used in all local elections. Currently the State permits villages, school districts, fire districts, and other municipal corporations to use antiquated lever voting machines in their elections . This exemption expires on January 31, 2015. It is the intention of the federal Help America Vote Act (HAVA) to require the use of accessible voting machines with the BMD in all federal elections. In the spirit of HAVA disability advocates throughout the state respectfully request that the State Board of Elections ensure uniformity in voting by disposing of the !ever voting machines. Currently many County Boards of Election use optical scanners with the BMD device exclusively. We applaud those counties, including Dutchess and Orange for the use of accessible voting machines in all elections so that persons with disabilities and seniors can cast an independent and private vote. It isn't fair and just for individuals with disabilities and seniors to vote differently depending what county they reside in.

The use of lever voting machines disenfranchises persons with mobility and sensory disabilities because they cannot operate the lever voting machines. By permitting local elections to be conducted with the use of lever voting machines says two things: 1. It doesn't matter that a large percentage of individuals with disabilities and seniors can't operate lever voting machines. As such, this population don't deserve the right to vote in a private and independent manner and 2.State and local elections are not important enough to require the use of accessible voting machines for persons with disabilities and seniors. Both of these premises are inherently faulty. Voting at any level of government is a civil right. Persons with disabilities and seniors pay taxes and have like everyone else and many pay costly and burdensome school taxes even if they don't have children attending school. Shouldn't they have the right to cast their vote on accessible machines given the gravity of these important local issues.

The rights of persons with disabilities to accessible voting machines makes common sense. County Board's of Elections possess them. It is illogical that they aren't used in local elections.
Joseph Guagliano
josephlukeg@aol.com

Independent Living Center of the Hudson Valley

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802 Columbia Street, Hudson; NY 12534
Voice/tty (518) 828-4886 Fax (518) 828-2592

November 13, 2014

New York State Board of Elections
Elections Operations Unit
40 North Pearl Street, Suite *5*
Albany, NY 12207

Re: Report concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to bold elections required by Laws of New York 2014, chapter 273

Dear Commissioners:

As the Systems Advocate for the Independent Living Center of the Hudson Valley (ILCHV) and a member of the New Yorkers for Accessible Voting, (NYFAV) a newly formed coalition comprised of individuals, community and disability organizations committed to promoting Equal Access to the Electoral process for all New Yorkers, I am writing about election laws which are currently in practice in New York State and are effectively disenfranchising eligible voters with a variety of disabilities as well as many other citizens who are unable to utilize lever voting machines, denying them the right to vote, which is in violation of the U.S. Constitution, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act.

While many states and localities across the country have made significant strides in updating voting technology and improving the voting experience for Americans with disabilities, far too many New York state local elections remain stuck in the past. New York's repeated delays in phasing out of use the lever voting machine in elections held by villages, school districts, and other municipal corporations has left local elections across the state inaccessible to a wide range of New Yorkers, including eligible voters with disabilities. Voters disenfranchised by the continued use of lever machines include, amongst others, those who are blind, visually impaired, have learning disabilities, cannot read, wheelchair users, are short in stature and cannot reach the levers, and those who do not have use of their hands.

The United States Department of Justice has made it clear that federal law ensures the right of persons with disabilities to cast their votes privately, independently, and in a manner equal to that of

voters without disabilities. [1] For many New Yorkers with disabilities, lever machines do not provide a private, independent, and equitable voting experience. As such, the use of lever machines is in clear violation of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, federal laws to which all local municipalities and voting districts are subject

Unfortunately, contrary to the wishes of New Yorkers with disabilities, in 2012 and again in 2014, New York State passed a law allowing the use of lever machines in non-federal elections. The old style of voting with lever machines is not accessible to a variety of eligible citizens, including citizens who are blind, visually impaired, learning disabled and other disabilities, including citizens who do not speak English as their primary language, While this newly passed law in 2014, A09321A / S07371 is set to sunset in December 2015, the New York State legislature are actively seeking to extend this practice and indeed, to make these provisions permanent The Senate have previously passed S3705 which sought to make these provisions permanent Many disability rights organizations of New York, have strongly opposed this move within the New York State legislature to play politics with our right to vote.

Resulting from the Help America Vote Act, all polling sites have accessible voting systems. As such, it is unacceptable that this system is not being used for many municipal elections. The New York State Board of Elections should encourage all municipalities to work together to ensure continuity in voting and to use the accessible voting systems as opposed to denying a segment of the population their right to vote in the same manner as everyone else.

As I am sure you are aware, every County Board of Elections, as a government agency and election administrator must be compliant with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Help America Vote Act, and NYS Election Law. Your Board is charged with ensuring full access to every voter for every aspect of the voting experience, from registering to vote, to entering their polling site, to casting a ballot - all in a private and independent manner.

Requirements for voting systems used in NYS are established under *NYS Election Law, sec. 7-202, Voting machine or system; requirements of* Lever voting machines do not meet the specific requirements of this law. By having an exception in the law permitting the continued use of lever voting machines in local and school district elections that do not meet these requirements, New York State is denying the full protection of secure, accurate, recountable and accessible voting to all voters in New York State

Both Title V (Section 504) of the Rehabilitation Act of 1973 and Title 11 of the Americans with Disabilities Act require governmental entities to provide people with disabilities access to activities, programs, and services provided by state and local governments. As such, municipalities should have been ensuring accessible elections long before the passage of the Help America Vote Act in 2002. However, instead of working toward a solution where all elections adopt a uniform and accessible election process for all, municipalities are seeking additional time to comply, Moreover, there is a strong movement to make these provisions permanent in New York State, even further affecting many individuals with a variety of disabilities and others who are unable to utilize the lever voting system, their right to vote privately and independently,

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"The Americans with Disabilities Act & Other Federal Laws Protecting the Rights of Voters wlth Disabilities," *United States Deportment of justice,* September 2014, http;//www,ada,gov/ada_ voting/ ada_voting_ta.htm,

The "right to vote" is mentioned five times within the U.S. Constitution. The phrase appears for the first time in the Fourteenth Amendment, which says that states shall lose congressional representation:

> **"when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime."**
>
> This piece is adapted from the book *American Epic: Reading the Constitution*.

Civil Rights and Disability Awareness

Without knowing it, poll workers are violating a person's civil rights by asking them to disclose their disability, This question often comes when a voter with no obvious disability, i.e., the voter does not use a wheelchair or does not have a service animal, asks to use the accessible voting system. Additionally, asking a person with a service animal to produce identification or a special license is against the law as doing so forces a disabled voter to disclose their disability. An obvious lack of disability awareness training shows when voters of short stature having difficulty accessing voting booth or Older American voters waiting in long lines are not uniformly offered an accommodation like a lower surface to write on or a chair to sit in. This is why there needs to be one unified method of voting that is the same for everyone. And, anyone is entitled to use the Ballot Marking Device (BMD) regardless of whether they have a disability or not. No one should be questioned by anyone as to why they want to use the BMD and everyone should be permitted to use the BMD if they so desire to do so. Everyone should be informed of the availability of the BMD and that any eligible voter can use the BMD to cast their vote.

Voter Education

New voters are born every day, so it is still important to continue educating the public about the voting systems, such as the BMD and all the accessible features they offer. For instance, the ability to enlarge the font is very helpful to voters with low vision. Many Older American voters who try to use a magnifier to read and mark the ballot in the small and sometimes wobbly booths, with sometimes wobbly hands, do so with great difficulty. If there is a way for them to read the ballot comfortably and mark it clearly by using the BMD, then voters need to be aware of this technological assistance, including offering non-voting day machine try outs and tutorials. We need to consider our Veterans with disabilities, citizens who speak English as a second language, as the BMDs can easily be programed to address other languages, (not capable with lever voting systems) and the fact that people are living longer, acquiring many physical and/or sensory limitations, accessible voting will become even more pertinent.

I am writing to ask that your office investigate this current practice which members of the New York State legislature are seeking to make permanent, and which Governor Cuomo currently has supported by signing Aog321A / S07371 into law. It is my opinion and that of many others, that you will find this practice to be in violation of the U.S. Constitution and Federal civil rights laws and I,

along with many other Disability Rights Advocates, urge the New York State Board of Elections to work to stop New York State from continuing this practice.

Respectfully,

Clifton Perez

Clifton Perez, MSW
Systems Advocate, ILCHV

November 12, 2014

Via Mail and E-Mail
election ops@elections .ny.gov

New York State Board of Elections
40 North Pearl Street Suite 5
Albany, New York 12207

Re: Lever Voting Machines

Dear Members of the Board:

At the request of both Assemblywoman Schimel and Ms. Anna Svizzero of your office, the undersigned Commissioners of the Jericho Water District offer the enclosed in support of the report the State Board will be submitting to the Governor and the Legislature regarding a potential permanent exemption for Commissioner Elected Districts and sister municipalities from the use of electronic voting machines. Specifically, we write concerning the fiscal impact a transfer from lever type to electronic voting machines would have on the District.

For decades, the Districts have relied upon the lever voting machines for their annual elections. The machines are maintained and managed by the Nassau County Board of Elections. The current rental for a lever voting machine is approximately $1SO per election. Our informal communications with the Nassau County Board of Elections indicates that the rental for an electronic voting machine would be substantially higher as each machine must be programed by a computer specialist for each election. In addition to the costs of programing the electronic voting machine, the very transfer to an electronic system imposes substantially increased complexity to the election process itself and the District will expend considerable effort in the training new election inspectors.

Consequently, we urge the Board of Elections to analyze the full cost of electronic voting machines and their overall impact upon small local governments as it prepares its report, for the Governor.

Respectfully submitted,
Jericho Water District
Board of Commissioners

Nicholas J. Bartilucci

Anthony J. Cincotta Thomas A. Abbate

MFI s
cc: Assemblywoman Michelle Schimel

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The League of Women Voters of New York State
62 Grand Street, Albany, New York 12207
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THE LEAGUE OF WOMEN VOTERS
of New York State

November 14, 2014

New York State Board of Elections
Elections Operations Unit
40 North Pearl Street, Suite 5
Albany, NY 12207

Re: Report concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to hold elections required by Laws of New York 2014, chapter 273

The League of Women Voters of New York State, a multi issue nonpartisan organization which works to promote political responsibility through the informed and active participation of citizens in government, is pleased to submit the follow comments regarding the use of lever voting machines in local and school district elections.

The League maintains that a uniform and standardized voting system, used for all classes of elections, promotes confidence in the reliability and efficiency of our elections and is important for public understanding of our election system.

With the mandate of the Help America Vote Act of 2002 (HAVA) and the New York State Election Reform Modernization Reform Act (ERMA) implementation in New York State, the League has advocated for a single statewide election system with all elections under the jurisdiction of the county boards of elections. Local and school board elections are equally as important to our democracy as .statewide elections and, as such, should comply with the requirements advanced hy HAVA and ERMA. The requirements of those acts for providing a permanent paper record, manual audit capacity, and accessible voting for persons with disabilities cannot be met by lever voting machines.

County boards have the professional expertise as well as the equipment and resources necessary to conduct all elections governed by the NYS Election Law and NYS Education Law (school elections).

- By permitting the continued use of lever voting machines administered by local governments, New York State sets up a separate parallel voting system for specific classes of elections, and sends a confusing message to voters and to elections personnel.

- Lever machines are vulnerable to undetectable tampering and unable to yield a record of each vote cast in instances where recounts are necessary.

- Lever machines are inaccessible to people with disabilities; for those with visual disabilities the lever machine ballot is unreadable and would require the voter to have assistance, thus compromising her privacy and independence. For those voters with physical disabilities, levers are difficult or impossible to operate and would also require assistance in voting.

- Private and independent voting for persons with disabilities is not possible with the lever voting machine.

Permitting the continued use of lever voting machines for use in certain municipal and school elections requires that those entities maintain the now outdated (and no longer manufactured) machines in working order on a regular basis, a function that these entities are not equipped to perform and which will have a fiscal impact. County boards of elections have performed these functions in the past which guarantees reliability, accuracy and efficiency for the administration of elections. Under the existing dual system, the local governments will be required to have the care, custody and control of the machines and process.

Requirements for voting systems used in NYS are established under *NYS Election Law, sec.* 7-*202, Voting machine or system; requirements of* Lever voting machines do not meet the specific requirements of this law. By having an exception in the law permitting the continued use of lever voting machines in local and school district elections that do not meet these requirements, New York State is denying the full protection of secure, accurate, recountable and accessible voting to all voters in New York State.

The League of Women Voters urges the respective governmental I bodies to work toward an immediate resolution of providing equality in voting to all New Yorkers, as required by the Help America Vote Act of 2002, the Americans with Disabilities Act, and Election Reform Modernization Reform Act.

Sally Robinson, President
League of Women Voters of New York State

cc: Anna Svizzero

FOR: ASSEMBLY ELECTIONS COMMITTEE

LEAGUE OF WOM.EN VOTERS/N.Y.S.
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NEW YORK PUBLIC INTEREST RESEARCH GROUP (NYPlRG)
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MEMO OF OPPOSITION

A.9321-A (Schimel)

June 16, 2014

AN ACT to amend Chapter 359 of the laws of 2010 amending the education law relating to use of lever voting machines; to amend chapter 3 of the laws of 2011 amending the election law relating to the number and use of voting machines in village elections; and to amend chapter 170 of the laws of 2011 amending the town law relating to the types of voting machines used in certain elections, in relation to extending the provisions of such chapters

Summary of Provisions

This legislation would permit the use of lever voting machines for school district, town, village and special districts for a one-year period and require the New York State Board of Elections to submit a report to the Governor and Legislature by January 31, 2015, concerning the administration of these elections and to include recommendations and guidance on how these jurisdictions can migrate to the use of voting machines that are compliant with section 7-202 of the NYS Election Law. The bill requires the participation of certain stakeholders, but does not include persons with disabilities who are regularly disenfranchised by the continued use of lever voting machines.

Statement of Opposition

By permitting the continued use of lever voting machines, New York State sets up a separate parallel voting system for specific classes of elections. A uniform and standardized voting system, used for all classes of elections, promotes confidence in the reliability and efficiency of our elections and is important for public understanding of our election system.

Our organizations fully supported the federal Help America Vote Act (HAVA) and the New York State Election Reform Modernization Act (ERMA) and their goals of using voting systems that provide a permanent paper record and manual audit capacity and that promote accessibility for persons with disabilities. Lever voting machines do not meet those requirements.

The League of Women Voters/N.Y.S. and NYPIRG urge you to reject this bill.

Massapequa Water District

84 Grand Avenue -
Massapequa, NY 11758

Tel: 516 79,8 5266

Fax:516-798 0279

November 12, 2014

Via Mail and E-Mail
Election.ops@elections.ny.gov

New York State Board of Elections
40 North Pearl Street Suite 5
Albany, New York 12207

Re: Lever Voting Machines

Dear Members of the Board:

At the request of both Assemblywoman Schimel and Ms, Anna Svizzero of your office, the undersigned Commissioners of the Massapequa Water District offer the enclosed in support of the report the State Board will be submitting to the Governor and the Legislature regarding a potential permanent exemption for Commissioner Elected Districts and sister municipalities from. the use of electronic voting machines. Specifically, we write concerning the fiscal impact a transfer from. lever type to electronic voting machines would have on the District.

For decades, the District has relied upon the lever voting machines for their annual elections, The machines are maintained and managed by the Nassau County Board of Elections. The current rental for a lever voting machine is approximately $150 per election, Our informal communications with the Nassau County Board of Electicms indicates that the rental for an electronic voting machine would be substantially higher as each machine must be programed by a computer specialist for each election. ln addition to the costs of programing the electronic. voting machine. the very transfer to an electronic system imposes substantially increased complexity to the election process itself and the District will expend considerable effort in the training new election inspectors.

Consequently, we urge the Board of Elections to analyze the full cost of electronic voting machines and their overall impact upon small local governments as it prepares its report for the Governor,

Respectfully submitted,
Massapequa Water District

Thomas P. Hand

Joseph T. Tricarico

Raymond J. Averna

Committed to deliver and preserve our water supply for the welfare, health, and safety of the inhabitants of the Massapequa Water District

NASSAU COUNTY BOARD OF ELECTIONS

240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4800
(516) 571-2411 FAX (516) 571-2058

Louis G. Savinetti
Republican Commissioner

William T. Biamonte
Democratic Commissioner

November 14, 2014

BY EMAIL and
FIRST CLASS MAIL
Election_ ops@elections.ny.gov

New York State Board of Elections
40 North Pearl Street
Suite 5
Albany, New York 12207
ATTN: Robert A. Brehm and Todd D. Valentine

Re: Cost and Fiscal Impact of
Transition From Lever Machines

Dear Executive Directors:

Pursuant to section 4 in Chapter 273 of the laws of 2014, the State Board of Elections (NYSBOE) is required to report to the Governor and state legislature on the cost and fiscal impact of the transition of school districts, villages end special district elections to voting systems that comply with section 7-102 of New York Election Law. As part of the report, NYSBOE is required to "take into consideretion" input from "stakeholders,[11] which necessarily includes the county boards of election. We are writing to supply such input.

Because of the number and frequency of elections held in Nassau County by school districts, villages and special districts, the Nassau County Board of Elections would require additional personnel, equipment and facilities for storage and machine-testing in order to accommodate the elections that currently utilize Lever Machines. The required investment would be substantial.

BACKGROUND

The Nassau County Board of Elections conducts all Federal, State, County and Local elections using the optical-scan voting machines, known as "DS200s", manufactured by Election Systems & Software, LLC.. of Omahe, Nebraska ("ES&S"). A Ballot

Marking Device ("BMDs") also is deployed to every polling site, to assist disabled voters in marking their ballots.

In addition, the Nassau County Board of Elections annually supplies voting machines and related services for more than 200 elections for school-district, villages and special districts. These elections take place in every month of the year. Currently, as allowed by law, those elections are conducted using lever-style machines (the "Lever Machines").

THE **NASSAU BOARD'S CURRENT VOTING MACHINE OPERATIONS**

For school districts, villages and special districts that continue to use Lever Machines for their elections, the Board currently acts as a vendor: the Board rents the machines to the requesting district/village, with limited associated services, for a charge of $150. Board machine mechanics set the Machines **as** directed by the district/village, and then stand by to provide any repairs needed on the day of the election.

Volume and Frequency of School, Village and Special District Elections

The Nassau Board supplies Lever Machines for more than 200 elections every year. The following chart shows the number of school district, village and special district elections for which we supplied Lever Machines in 2013.

MONTH	NUMBER OF ELECTIONS	NUMBER OF MACHINES	NUMBER OF POLL SITES
January	3	10	3
February	1	3	1
March	34	145	46
April	16	21	16
Mav	46	335	110
June	25	56	25
July	2	10	4
August	2	369	5
September	2	2	2
October	3	9	4
November	2	13	4
December	67	137	86
TOTAL	**203**	**1,110**	

As this chart show, more than 1,100 Lever Machines were prepared and supplied by the Board in 2013.

Processing Time for
Lever Machines vs. D$200s

The limited processing time for Lever Machines means that they can be "turned around" and re-used quickly: In the absence of a court-ordered impound, which is rare in the elections conducted with Lever Machines, each machines is In use for only a few days before, and a few days after, an election.

In addition, the Lever Machine canvass and recanvass operations are conducted by the school, village or special district, and do not involve the use of Board personnel.

The 0S200 machines, in contrast, require a lengthier preparation process in the lead-up to each election, including extensive pre-election testing, sealing and scanning, and specific canvass, re-canvass and audit operations post-election. Each 0S200 is thus "in use," and unavailable for any other election, for an extended period of time. This is illustrated by the shading in the following chart.

MONTH	2014 DS200 ELECTIONS	NO. OF DS200s USED
January		
February	Special Election	45
March		
April		
May		
June	Federal Primary	925
July		
August		
September	State Primary	1,107
October		
November	General Election	1,129
December		

In addition, at any given time some percentage of the Board's DS200s are out of service and awaiting repair.

Thus, as a practical matter, virtually all of Nassau's DS200s are unavailable for use in school, village or special district elections for at least half the year

The following is a rough estimate of the cost:

DS200s -- 400 additional@ $8,712 = $3,484,800

BMDs -- 125 additional, with carts@ $7,950 = $993,750

Election Management System (hardware + software, 5 computer system) = $356,734

In addition to the machines, additional equipment such as secure, seal-protected canvass bags for emergency ballots, spoiled ballots, affidavits and electronic media-- to duplicate the operations currently used for D8200 elections -- would also be needed, at a cost of approximately $100 per machine, would total approximately $40,000.

Together, it is estimated that the total cost for initial equipment acquisition would total approximately $4.875 million (4,875,284).

Maintenance and Supplies

The ongoing cost of conducting D8200 elections would far exceed the minimal current cost of keeping the Lever Machines in good repair. In addition to annual maintenance (which cost the Board approximately $120,000 for 1300 machines in 2014), each D8200 election requires peper rolls for printing required reports and results, and several types of paper, plastic and metal seels to ensure the integrity of the machines.

Most significantly, the current cost of paper ballots f6r the DS200s ranges from .39 to .45 *per ballot.*

All of these costs, including the substantial ballot costs, will have to be passed along to the schools, villages and districts.

Personnel

The Board also would require additional personnel in order to cover the additional 200+ elections with DS200s. This would include trained IT staff, as well as staff to prepare, test, canvass and audit the machines.

Facilities

Because the Lever Machines do not present the same security issues as the DS200s, the space in which they currently are stored would not be suitable for the additional DS200s. Accordingly, the County would have to obtain and secure additional space that could be configured appropriately for secure storage, set-up and testing.

WHAT THE NASSAU BOARD WOULD NEED IN ORDER TO SUPPLY DS200S FOR ALL ELECTIONS

As the foregoing illustrates, the Board's current stock of DS200s is insufficient to meet the demand for them from all schools, villages and special district elections. Accordingly, additional DS200s will have to be purchased to meet the demand for machines when Lever Machines are statutorily retired.

In addition, while the preparation of Lever Machines is a mechanical process, not dependent on computer knowledge or resources, the pre-election work for DS200 elections is done by different personnel, with different skills, including computer expertise.

As a practical matter, the staff who currently do this work for one election at a time cannot also, for example, prepare 67 elections simultaneously (as would be required in December, as per the chart above). Nor does it appear feasible, using the same example, to prepare all 67 of those December elections on the current Election Managements System while the current General Election results are still being processed under a Court-ordered Impound, which is the case as this letter is being written.

Finally, while the security for Lever Machines generally involves only locking, sealing and drilling them down so that the internal mechanisms are not accessible, the security for our DS200s includes separate, fenced-in warehouse areas that can be entered only by bipartisan teams supplied with keys for separate locks. Acquisition of additional DS200s would require additional warehouse space that could be so configured.

Based on all of the foregoing, the Board will require a significant expansion of equipment, personnel and facilities if/when all municipalities and special districts are required to use DS200s,

THE ESTIMATED COST TO SUPPLY DS200S FOR ALL ELECTIONS

The estimated costs to supply DS200s for all elections include equipment, personnel and facilities.

Equipment

It is estimated that the Board would require approximately 400 additional DS200s, 125 Automarks (BMDs) and a separate Election Management System in order to cover the additional 200+ elections every year.

In addition, a secure area would be needed to house the necessary computer operations.

The warehouse that currently houses our DS200s and EMS does not have any unused space, and we are unaware of any existing County space that would be suitable.

CONCLUSION

For all of these reasons, there would be significant costs in transitioning all school districts, villages and special district elections to electronic voting. The fiscal impact to the Board and the schools/villages/special districts - which currently pay only $150 to use each Lever Machine --would be substantial and burdensome.

We are available to provide any additional information that would be useful as you prepare your Report.

Sincerely,

Louis G. Savinetti
Republican Commissioner

William T. Biamonte
Democratic Commissioner

NASSAU COUNTY BOARD OF ELECTIONS

240 OLD COUNTRY ROAD- MINEOLA, NEW YORK 11501--4255
(516} 571-2416 - Fax: (516) 571-3829

William T. B

William T. Biamonte
Democratic Commissioner

Lawrence Nedelka
Executive Assistant

My name is Larry Nedelka. I am the Executive Assistant to William T. Biamonte, Democratic Commissioner of the Nassau County Board of Elections.

I am here to speak on behalf of Commissioner Biamonte about the realities of assisting School Districts, Villages and Special Districts with their elections.

The sheer number of those elections in Nassau would make it impossible for us to provide electronic voting machines for all of them with our current resources.

The best illustration of the difficulty of trying to use electronic voting machines for multiple elections in a short period of time is what occurred in New York City last year. In the mayoral primary, the City admitted that it would be *IMPOSSIBLE* to prepare its electronic voting machines in time for a run-off election - and these are the same machines used in Nassau and other counties around the state!

For Nassau County, the situation is much *more* complicated, because we annually provide voting machines and related services for more than 200 elections every year, for school districts, villages and special districts.

And, these elections take place in every month of the year.

The Nassau County Board of Elections conducts all Federal, State, County and Local elections currently using optical-scan voting machines, known as "DS200s", manufactured by Election Systems & Software of Omaha, **Nebraska** ("ES&S").

This year we have four such elections: A special election for the County Legislature held in February; the Federal Primary in June; the State Primary in September; and the General Election in November.

For each Electronic Voting Machine election,

(a) IT specialists need to create the ballots that will be readable by the machines;

(b) the resulting ballots must be printed so that they will be machine-readable;

(c) software must be burned for every machine;

(d) every machine must be individually tested to ensure it properly reads the ballots for that election;

(e) the machines must be sealed and the seals recorded; and,

(f) post-election, a percentage of machines must be audited, by comparing the actual ballots with the machines' tabulations, to make sure the votes were correctly counted.

The Board is able to process all of the Lever Machine elections with our current staff and within our current facilities for several reasons, including that:

(a) preparation of Lever Machines is a manual process, not dependant on computer expertise or resources, and takes less time than preparation of DS200s;

(b) Lever Machines do not require extensive pre-election testing as do DS200s;

(c) canvassing of the election results on Lever Machines is conducted by the Village/School/Special district, and generally does not require the involvement of Board personnel;

(d) for Lever Machines, in contrast to DS200s, no post-election audit is required; and

(e) Lever Machines do not present security issues that must be addressed by the Board for DS200s.

Most importantly, there is minimal overlap between the Lever Machine and DS200 elections because, while the DS200 elections require a long

preparation process in the lead-up to each election, and a long canvass, re-canvass and audit operation post-election, the Lever Machines do not.

The Board's Current Lever Machine Operations

The Board's Lever Machine and Electronic Voting Machine elections:

MONTH	NUMBER OF ELECTIONS	NUMBER OF MACHINES	NUMBER OF POLL SITES
January	3	10	3
February	1	3	1
March	32	147	**43**
April	16	21	16
May	52	342	105
June	25	56	25
July	2	10	4
August	2	369*	72
September	2	2	2
October	3	9	4
November	2	13	4
December	69	136	88
TOTAL	**209**	**1,118**	

* Includes Town of Oyster Bay Referendum

If all School Districts, Villages and Special Districts were required to use DS200s, the Board would require a significant expansion of equipment, personnel and facilities to service those elections.

We estimate the total cost for just the *initial equipment acquisition* could total more than $5 million.

The Board would have to purchase additional electronic voting machinesin order to cover the additional 200+ elections every year.

In addition to the machines, additional equipment such as secure, seal-protected canvass bags for emergency ballots, spoiled ballots, affidavits and electronic media-- to duplicate the operations currently used for DS200 elections -- would also be needed at a cost of $45,000.

The ongoing cost of conducting 0S200 elections would far exceed the minimal current cost of keeping the Lever Machines in good repair.

In addition to annual maintenance, which this year cost the Board more than $123,000 for 1,300 machines, each 0S200 election requires paper rolls for printing required reports and results, and several types of paper, plastic and metal seals to ensure the integrity of the machines.

The current cost of paper ballots for the DS200s ranges from .39 to .50 *per ballot.*

The current recommendation from the NYS Board of Elections is that ballots should be printed for 110% of the active registered voters in the jurisdiction.

The Board also would require additional personnel in order to cover the additional 200+ elections with DS200s.

This would include trained IT staff, as well as staff to prepare, test, canvass and audit the machines.

Because the Lever Machines do not present the same security issues as the DS200s, the space in which they currently are stored would not be suitable for the additional DS200s.

Accordingly, the County would have to provide additional space that could be configured appropriately for secure storage, set-up and testing.

The warehouse in which our DS200s now are stored does not have sufficient space for this.

In addition, a secure room would be needed to house the necessary computer operations.

Clearly there will be an additional burden to Nassau County and, I suspect, every county in New York State with a multitude of villages, schools and special districts.

With the current economic state of affairs affecting New York's counties, the additional expenses would have to be passed to the districts. The only other alternative would be for the districts to contract directly with ES&S to conduct the election.

Given the tax caps that the districts must operate under, the burden shifted to them could cause serious financial ramifications.

Thank you.

NASSAU COUN.TY VILLAGE OFFICIALS ASSOCIATION

Post Office Box 484, New Hyde Park, NY 11040
Tele: 516-437-1455 Fax: 516-437-1456
Email: exec@ncvoa.org

December 15, 2014

Mr. Jrunes Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh,

For the past several years, The Nassau County Village Officials Association (NCVOA) has been communicating with our state elected officials regarding the numerous fiscal and logistical challenges the electronic voting machine legislation has created for Nassau County's villages, school districts and special districts, During this time, the NCVOA has made several unsuccessful attempts to work with the Nassau County Board of Elections to resolve these issues,

Enclosed please find copies of letters sent by village mayors to you, detailing Nassau County's inability to furnish its 64 villages with electronic voting machines.

Sincerely,

Warren Tackenberg
Executive Director

Enc.

MAILING ADDRESS : P.O. BOX 385, Bellmore, NY 11710-0385 Tel (516) 781-2053 Fax (516) 679-0401
OFFICE: 219 Bedford Avenue, Bellmore, NY 11710-0385 e-mail: info@nssba.org
MARY JO O'HAGAN, PRESIDENT **LORRAINE OELLER,** EXECUTIVE DIRECTOR

November 14, 2014

TO: New York State Board of Elections

FROM: Mary Jo O'Hagan, President
Mark Masin, Legislation Committee Chair

RE: Commentary - Fiscal impact to school districts for transitioning to voting systems compliant with section 7-202 of NYS Election Law

In response to the 2002 federal "Help America to Vote Act" (HAVA), New York State passed its own legislation requiring the universal use of optical scanner voting machines. Mindful of the logistical problems and financial burden that would be placed on local school budgets, the New York State Legislature passed a series of annual extender bills delaying the mandated use of optical scanners and allowing the continuance of lever voting machines for school budget votes and elections.

Authority of New York's school districts to continue the use of lever voting machines is to now finally expire at the end of December 2015. Beginning in 2016, schools will be required to either use optical scanner voting machines or resort to the archaic process of paper ballots.

Testifying in support of the most recent extender bill, Nassau-Suffolk School Boards Association noted- that, with not a single exception, the major complaint from all responders to its survey of member districts was the substantial cost that would be levied upon already stressed school budgets. Second and third in the list of concerns were availability of sufficient number of machines and technological reliability of the optical scanners.

May this submitted commentary affirm that the same issues remain, largely unaddressed, as **we approach the mandated transition to optical scanners.**

In response to HAVA, many of New York's counties purchased optical scanners and most were reimbursed by the federal government up to 95 percent of the average $11,000 cost of each machine. Despite the federal subsidy, costs of general elections ballooned, with the budgets of local election boards more than doubling in order to fund just the initial collateral costs attended to the use of new scanners.

Although some school districts have established an effective working relationship with their counties, **many counties refuse to allow their school districts to use their optical scanners either free, at reasonable charge, or at all,** citing security and transportation issues that make sharing of these

expensive and sensitive machines impractical. Counties also express concerns about having sufficient optical scanners and the time needed to program them for what could be four or five elections within the five-month span in which school votes are mandated (village elections in March and June, school budgets votes and re-votes in May and June Congressional primaries in June). Impounding of machines due to a vote challenge could reduce even further the number of machines that schools could access.

This is an unfunded mandate with significant annual recurring costs; costs not limited to the expense of purchasing or leasing the new machines, their replacement and repair, the creation and maintenance of controlled climate environments for their storage and use, the special transportation needs, the requirement to have one Ballot Marking Device at each voting site, the costs of printing the requisite number of ballot forms to conform with state requirements and vendors' warranties, and the post-vote shredding of the required inexplicable excess of unused ballot forms. Every step of this process requires additional personnel and the training and retraining of these individuals. If the estimates for these increased expenditures are substantiated, schools could be looking at 300% to 400% increase in the cost of conducting school budget votes and trustee elections.

Absent sufficient financial relief from New York State, the costs inherent in these new mandated requirements will grow exponentially within local school budgets, threatening educational program and hindering efforts to contain costs. Nassau-Suffolk School Boards Association implores you to convey in your January 31, 2015 report to the Governor and NYS Legislature, the sense of urgency the State must employ in addressing the transition's impact on school costs and local property taxes.

Svizzero, Anna (ELECTIONS)

From: Blake, Lou Ann <LBlake@nfb.org>
Sent: Monday, November 17, 2014 2:17 PM
To: Svizzero, Anna (ELECTIONS)
Cc: OFFICE@NFBNY.ORG
Subject: RE: Use of Compliant Voting Systems

Hello Anna,

Thank you for your reply and I apologize for my misunderstanding.

Lever machines are not accessible to blind and other print disabled voters, as well as voters who have limited use of their hands. Voters with disabilities have the same right to vote privately and independently as do voters without disabilities. You may be aware of the recent court decisions in California, New York, and Maryland that found that the inability of voters to vote privately and independently is discrimination under the ADA.

When compared to the current state of the art voting technology, the use of lever voting machines represents a real step backwards for all voters, not just voters with disabilities. We believe that the ideal voting system is one in which all voters use the same machine to cast their ballot.

For all of the above reasons, we do not support the continued use of lever voting systems. However, if the New York legislature votes to continue their use, an accessible voting system must be provided to voters with disabilities as required by the ADA.

Thank you very much for this opportunity to comment. If you have any questions, please feel free to contact me.

Best regards,

Lou Ann

Lou Ann Blake, J.D.
HAVA Project Manager and Law Symposium Coordinator
Jernigan Institute
NATIONAL FEDERATION OF THE BLIND
200 East Wells Street
at Jernigan Place
Baltimore, MD 21230
Telephone: (410) 659-9314, ext. 2221
Fax: (410) 659-5129
E-mail: lblake@nfb.org
Web site: www.nfb.org

From: Svizzero, Anna (ELECTIONS) [mailto:AnnaSvizzero@elections.ny.gov]
Sent: Friday, November 14, 2014 11:06 AM
To: Blake, Lou Ann
Cc: State President, New York
Subject: RE: Use of Compliant Voting Systems

Thank you for this , but what I was actuaUy hoping that you had comments to offer regarding the expiration of a current extension of the use of lever machines. Basically, should the state legislature continue to permit political subdivisions such as those mentioned in the attachment I sent you, to use voting systems that are not HAYA-compliant? If you would like to comment, please do so. If you'd like to discuss this, please call me anytime at 518-473-5086. Thank you again- Anna

From: Blake, Lou Ann [mailto:LBlake@nfb.org]
Sent: Friday, November 14, 2014 9:14 AM
To: Svizzero, Anna (ELECTIONS)
Cc: OFFICE@NFBNY.ORG
Subject: RE: Use of Compliant Voting Systems

Hello Anna,

After taking a quick look at the documents you provided, I can offer the following comments on Section 7-202:

- For the audio ballot there is no requirement as to the type of speech-is it to be synthetic or human voice recorded? Most blind people would probably say that synthetic speech is better because when you speed up human voice recorded speech it sounds like a cartoon character.
- There is no requirement regarding the ability to speed up or slow down the speech.
- There is no requirement regarding volume control or what volume setting the audio ballot should start at. Peopie who are hard of hearing may not hear that the ballot has started if the initial volume is set too low.
- There is no mention of a large print option or high contrast option for voters with low vision.
- There is no mention of Braille on the user interface so blind voters can identify the controls.
- I recommend that the State Board of Elections require the accessible voting system to be certified under the 2005 VVSG in order to ensure that the system SBE acquires is accessible.

Thank you so much for providing me the opportunity to look at the documents. If I can be of further assistance, please feel free to contact me.

Best regards,

Lou Ann

Lou Ann Blake, J.D.
HAVA Project Manager and Law Symposium Coordinator
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200 East Wells Street
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Web site: www.nfb.org

The National Federation of the Blind knows that blindness is not the characteristic that defines you or your future. Every day we raise the expectations of blind people, because low expectations create obstacles between blind people and our dreams. You can have the life you want; blindness is not what holds you back.

To make a donation to the National Federation of the Blind Imagination Fund campaign, please visit www.nfb.org/ImaginingOurFuture.

From: Svizzero, Anna (ELECTIONS) [mailto:Anna.Svizzero@elections.ny.gov]
Sent: Thursday, November 06, 2014 3:47 PM
To: Blake, Lou Ann
Subject: RE: Use of Compliant Voting Systems

Thank you kindly- if youwant to chat about the back story or any other aspect of this, call anytime. I'm at 518-473-5086

From: Blake, Lou Ann [mailto:LBlake@nfb.org]
Sent: Thursday, November 06, 2014 3:46 PM
To: Svizzero, Anna (ELECTIONS)
Subject: RE: Use of Compliant Voting Systems

Hello Anna,

Thank you very much for the invitation to participate. I will take a look and provide feedback.

Best regards,

Lou Ann

From: Svizzero, Anna (ELECTIONS) [mailto:Anna.Svizzero@elections.ny.gov]
Sent: Thursday, November 06, 2014 3:32 PM
To: Blake, Lou Ann
Subject: FW: Use of Compliant Voting Systems

Good afternoon - I wanted to share this invitation with you, in the event you would like to participate. Please feel free to call to discuss, at anytime.
Anna

Open Invitation to Contribute:

Good morning all As you may know, the State Board of Elections is charged with the responsibility to prepare a report, as follows:

On or before January 31, 2015, the state board of elections shall submit a report to the governor, speaker of the assembly, temporary president of the senate and the chairs of the committees on election law of the senate and the assembly concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to hold elections. The report shall include recommendations and guidance for such villages, districts and municipal corporations to migrate to the use of voting systems which are compliant with section 7-202 of the election law and applicable state board of elections rules and regulations. The report shall also include an analysis of the cost and fiscal impact to such villages, districts and municipal corporations for transitioning to voting systems that comply with section 7-202 of the election law. Prior to preparing and issuing the report, the state board of elections shall solicit, and take into consideration, recommendations from stakeholders including, but not necessarily limited to, the NY state department of education, the NY school boards association, the NY conference of mayors and the NY state association of counties.

A copy of Election Law, Section 7-202 is attached, for your convenience, as is a copy of Chapter 273 of the Laws of 2014.

Please accept this correspondence as an opportunity to contribute to our production of this report, by providing us with position papers, fiscal impact reports, statistics, press releases, or other reports of any nature, that you would like the State Board to consider. Please provide any such materials to the State Board via e-mail no later than November 17, 2014, at election_ops@elections.ny.gov If hard copies are your choice of transmission, please mail same to us at 40 North Pearl Street, Suite 5, Albany, New York 12207.

If you have any questions or desire clarification regarding this invitation, please feel free to e-mail us at election_ops@elections.n y.gov.

We thank you in advance for your participation in this project.

NEW YORK STATE BOARD OF ELECTIONS
ELECTION OPERATIONS UNIT

NYCLU
NEW YORK CIVIL LIBERTIES UNION

125 Broad Street
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Statement of the NYCLU in Opposition to Continued Barriers to Voter Access

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The New York Civil Liberties Union (NYCLU) is grateful for the opportunity to provide comment to the State Board of Elections regarding Chapter 273 of the Laws of 2014, and the impact of the continued exemption of certain local bodies from the requirements of Election Law § 7-202. The NYCLU, a nonprofit, nonpartisan: organization with eight chapters and regional offices and nearly 50,000 members across the state, works to defend and promote the fundamental principles, rights and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York. This includes the right of each and every New Yorker to cast a private, independent, and accurately recorded vote, The NYCLU commends the State Board for its continuing efforts to ensure that access to the vote extends to al1 New Yorkers, and expresses grave concern over the repeated extension of legislative exemptions from otherwise mandatory migration to accessible voting systems.

For more than a decade, there has been strong consensus that the use of lever voting machines in public elections is problematic, for two primary reasons: inadequate capacity to deliver an accurate and accountable vote, and inability to equip the machines for use by people with accessibility needs, Since 2010, however, the New York state legislature has authorized and re-authorized a compliance exemption allowing the use of lever voting machines in elections held by villages, school districts, fire districts and special improvement districts - on the flimsy justifications that these bodies have a "preference" for using the machines, that it will cost too much to comply with laws requiring adoption of accessible voting systems, and that such laws were not really meant to apply to minor local elections, Every time this exemption is re-authorized, it sends an unconscionable yet unmistakable message to potential voters with disabilities or other accessibility needs: your constitutionally-assured right to vote does not apply in this ca,-,e, and your participation is neither required nor desired.

Even more broadly, while it is important to acknowledge progress and efforts at progress, we must directly confront the disparity between the real accessibility needs of people with disabilities, and the systems and practices that have to date been deemed sufficiently accessible. People with disabilities constitute a vast portion of the New York state population - nearly three million New Yorkers of voting age, But investigations have shown that poll workers are inadequately trained to interact with voters with accessibility needs, and election locations and materials are not designed with these needs in mind. In fact, the overwhelming array of barriers to voting faced by people with disabilities can amount to an effective bar on participation. The amplified result of this disenfranchisement is reflected in statistical findings: frustrated by lack of

access, people with disabilities are less likely to register to vote and less likely to turn out on Election Day, and those who are able to overcome the most basic barriers to participation often arrive at election sites to encounter uninformed staff and unusable equipment.

This attrition is not for lack of interest in civic affairs; it is consistently linked with access related concerns, ranging from transport needs to inaccessible poll sites and unworkable voting systems to intrusive, humiliating treatment by poll workers. Rather than counteract these barriers with increased outreach, however, political campaigns and election authorities are actually less likely to engage with potential voters with disabilities, and in tum, policymakers are less likely to be aware of or understand disability-related issues. Due to these coinciding forms of exclusion, the public voices of many citizens with accessibility needs are unjustly and systematically muted - a condition that New York cannot continue to abide.

A key factor in facilitating equal access to the private and independent vote is the modernization and equipping of accessible voting systems. New York and federal law guarantee every eligible person the opportunity to exercise his or her right to vote privately and independently. However, despite these guarantees, countless New Yorkers with visual, motor, and cognitive impairments are effectively denied access to the vote, particularly where outdated voting systems remain in use. Absent proper equipment, voters with disabilities and other accessibility needs are often forced to choose between forfeiting their vote, and forfeiting their privacy and independence when they must either rely on others to assist them or wholly entrust another to cast a ballot on their behalf. Continued failure to permanently eliminate these barriers to access directly contradicts core democratic principles -voter privacy, voter autonomy, and equal protection under the law.

Of course, improved machinery can only be an effective accessibility tool if poll workers understand how to use the systems and how to respectfully assist others in using them; likewise, accessible systems can only be useful if those who will benefit from them are aware of their availability, and can be assured that their participation, independence and dignity will he of utmost importance on Election Day. This suggests the need for in-depth, consistent training of election inspectors and poll workers, and ongoing engagement of potential voters with all varieties of accessibility needs.

Ultimately, the shared goal for all stakeholders in New York's election process must be to establish truly equal access to a private and independent vote for all persons, This means that access and accommodation considerations must cover every step of the electoral process- from engaging potential voters prior to registration, through generating confidence that votes cast by people with accessibility needs will count. With this level of access in mind, and recognizing in good faith that this is the level of access which the State Board intends and expects to establish as the rule in every election statewide, the NYCLU offers a handful of key recommendations, and again expresses sincere appreciation for the opportunity to participate.

- **Recommendation: Pursuant to Election Law§ 3-102, the State Board should weigh in authoritatively against any further legislative extension of voting system compliance exemptions granted to local bodies** including school districts, villages and special districts (as exemplified in Chapter 273 of the Laws of2014). Voting in New York State cannot justly and accurately be deemed accessible until all forms and occurrences of public voting are fully accessible to voters with disabilities and other accessibility needs.
- **Recommendation: Election authorities should establish and maintain advisory groups drawn from all populations that experience systemic harriers to access - chiefly, those with disabilities and those with limited English proficiency,** In particular, testing and certification of voting systems and accessibility equipment should never be deemed complete without the input and participation of voters with accessibility needs.
- **Recommendation: Election authorities should re-assess available voting systems and assistive technologies, and continue to re-assess as technologies develop and as voter needs are better understood.** Even in light of the favorable intentions of laws requiring adoption of accessible voting systems, and the good faith efforts of those implementing the transition, there are always opportunities for improvement. Final decisions about accessible systems have in the past been rendered on marginal grounds, and without adequate input from those with accessibility needs. Further, technological advances can impact both the relative utility and costs of assistive equipment, so periodic re-assessment can potentially yield both improved access and reduced cost.
- **Recommendation: Election authorities should make every effort to engage voters with accessibility needs and to inform them of available resources.** For some, the greatest barrier to-voting may be not having been told about the technologies and assistance available at their local polling place. These efforts must include communication via websites, traditional publication forums, advocacy organizations, common points of contact, and community relationships such as those established via public advisory groups.
- **Recommendation: Election authorities must ensure appropriate training of election inspectors and poll clerks, as required by Election Law§ 3-412.** Current law requires specific information on "assisting voters with disabilities or with limited or no proficiency in the English language" as part of this core training; it also requires that inspectors and clerks be instructed on "use of voting machines, disability etiquette, and [related] duties" as soon as possible following their designation. Building on these elements, election workers should receive specific training on appropriate communication and respectful interaction with people with disabilities, operation of assistive technologies, and the legal rights of voters with accessibility needs.

Pater A Baynes
Exoc1.1tivc Director

New York State Conference of Mayors and Municipal Officials

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Comments of the New York State Conference of Mayors and Municipal Officials to the State Board of Elections in Response to Chapter 273 of the Laws of 2014

November 17, 2014
Albany, New York

Introduction

New York's village governments hold a unique place in New York's election system. While general elections for cities, towns, and counties are held on the first Tuesday following the first Monday in November and are conducted by county boards of elections, general elections for villages are, by State law, conducted by the villages themselves, although villages can and many have turned the conducting of their elections over to the county. In addition, pursuant to Article 15 of the Election Law, village elections are, by default, held on the third Tuesday of March, although villages can and many have changed the date of their village election. After March, the second most popular time to hold the election is the third Tuesday in June, with the third most popular time for holding village elections being the general election in November.

Pursuant to Chapter 273 of the Laws of 2014, the authority for local governments, including villages, to continue to use lever voting machines was extended one year to December 31, 2015. In addition, Chapter 273 mandated that the New York State Board of Elections submit a report to the Governor, Speaker of the Assembly, Temporary President of the Senate and the Chairs of the Senate and the Assembly Committees on Election Law concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to hold elections on or before January 31, 2015. The report must include recommendations and guidance for villages, districts and municipal corporations to migrate to using voting systems which are compliant with Election Law§ 7 202 and applicable State Board of Elections rules and regulations. The report must also include an analysis of the cost and fiscal impact to villages, districts and municipal corporations for transitioning to voting systems that comply with Election Law§ 7 202. Chapter 273 also mandates that prior to preparing and issuing the report, the State Board of Elections must solicit, and take into consideration, recommendations from stakeholders including, but not necessarily limited to, the

New York State Department of Education, the New York School Boards Association, the New York Conference of Mayors and Municipal Officials, and the New York State Association of Counties. Via an email dated October 22, 2014, the State Board of Elections elicited comment from the New York State Conference of Mayors and Municipal Officials (NYCOM) regarding the transition from lever voting machine to the electronic scanner ballot machines. NYCOM submits the following comments in response to that request.

Recent History of Village Elections

Villages have, pursuant to Article 15 of the Election, conducted their own elections without significant problems for many decades. However, recent changes to New York's election law have caused significant problems for villages across New York.

The current set of challenges facing villages began in 2005, when the State mandated that local governments turn their voting machines over to the county hoards of elections. Election Law§ 3-226 (as added by Chapter 180 of the Laws of2005) requires that "[a :111 voting machines, and appliances and equipment relating to or used in the conduct of elections shall he in the care, custody and control of the board of elections." Consequently, in 2005 all villages in New York relinquished control of any lever voting machines they owned or possessed to their county boards of election. Election Law § 3 224 authorizes county boards of elections to allow villages to use their voting machines, but it does not require county boards of elections to allow villages to use the county voting machines. Specifically, Election Law§ 3-224 provides in relevant part that "[t]he board of elections may permit ... villages ... within the county to use voting machines ... for the conduct of elections." Consequently, pursuant to Election Law§ 3 224, the only way for villages to utilize the lever-style voting machines between 2005 and 2010 was to obtain them from the county.

Until this year, NYCOM had interpreted Election Law § 3-226 as preventing villages from owning or having custody or control of any voting machines, which put villages at the mercy of their county board of elections. However, in the first half of 2014, the New York State Board of Elections, via an email dated May 29, 2014, opined that Election Law§ 3-226 did not preclude villages from owning their own voting machines, although those voting machines would have to comply with the requirements for any voting machine in New York. Clarification regarding this interpretation of Election Law § 3-226 would be beneficial for New York's village officials.

The Transition to the Ballot Scanner Voting Machines

Chapter 180 of the Laws of 2005 was generally not a problem for villages, and villages that had used lever machines prior to 2005 continued to do so with little to no impact on their election operations or the cost of conducting their elections until 2011. In July 2010, Chapter 164 of the Laws of2010 was signed in to law, completing the implementation of the Federal Help America Vote Act (HAVA) in New York. While HAYA governs Federal elections, the New York State legislation implementing HAYA requires the use of ballot scanner machines in any election in New York State; whether or not the election is a Federal election. As a result, New York State law prohibited the use of lever voting machines even in non-Federal elections, such as village elections conducted in March and June.

Villages Transition to Ballot Scanner Voting Machines

In the years leading up to the 20 l O transition to the ballot scanner voting machines, NYCOM advised and provided training to its village members about the impending transition to the ballot scanner voting machines, informing villages officials that they needed to be in contact with their county board of elections to facilitate this transition for village elections. To that end, upon the adoption of Chapter 164 of the Laws of2010, villages began preparing for their March

and June 2011 village elections by contacting their county board of elections to ascertain how to obtain or lease the electronic ballot scanner machines from the counties as they had done in prior years with the lever-sty le voting machines. •

lt quickly became evident in the Fall of 2010 that there was much confusion regarding the implementation of the ballot scanner machines in village elections and inconsistent application of state law from county to county. Some counties informed villages that the villages would be able to lease the counties' optical scanning voting machines. Other counties indicated that state law prohibited the county from releasing the optical scanners from their possession and control, and thus they would not be able to allow the villages to use the machines. One county initially indicated that it was contractually bound to keep the optical scanners in its possession and control and thus could not lease the ballot scanner voting machines to the villages, although that county ultimately modified its position and began leasing the scanners to its villages, subject to many conditions. Still other counties arc still simply refusing to allow villages to use their ballot scanner voting machines. In particular, Nassau County does not allow local governments within its jurisdiction to use it<; electronic ballot scanner machines, which is particularly problematic given the size of the villages and the number of voters in those villages.

Many villages that had used lever machines prior to 2010 are willing and prepared to use the electronic ballot scanner voting machines , but their hands are tied by their county boards of elections' refusal to allow 1hem to use the scanner machines. For villages whose counties refuse to allow villages to use or lease the ballot scanner machines, the only legal option available to those village officials is to revert to conducting village elections by hand-counting paper ballots or to purchase their own electronic scanner ballot machines. Because state law requires village elections to be canvassed by 9:00 a.m. of the morning following the election, in those villages that have significant voter turnout, conducting an election by hand-counting paper ballot may make this task impossible. For instance, the Village of Hempstead has a population of over

53,000 residents , while the Village of Freeport has over 42,000 residents, This is just a sample of the villages throughout New York State with considerable populations that will be adversely affected if the law remains as it currently stands. Although many of New York's villages with lower voter turnout hand-counted paper ballots even prior to the transition to the ballot scanner machines, hand-counting paper ballots is simply not a viable method of conducting an election for many of New York's villages.

Moreover, assuming that Election Law§ 3-226 does not prohibit villages from purchasing and owning voting machines, purchasing voting machines will be a substantial burden for village governments, particularly in light of the tax cap, and villages will likely have to contract out the programming of those voting machines, adding to the cost of conducting village elections. l 'or those villages that have switched to using ballot scanner voting machines from lever voting machines, the cost of running their elections increased more than 23% on average. If villages have to purchase their own electronic ballot scanner voting machines (at a cost of over $8,700 per machine) and hire private contractors to program those machines, these costs will undoubtedly be even greater. In the current tax cap and tax freeze era, this substantial increase in conducting village elections is untenable.

Amendment to Paper Ballots Language Necessary

While many villages will use the ballot scanner machines if they are made available from their county boards of elections or if they purchase their own scanner ballot machines, many other villages previously conducted their elections by hand-counting paper ballots and desire to continue doing so in the future. Furthermore , some villages that previously used the lever-style voting machines now prefer to conduct their elections by hand-counting paper ballots rather than using and paying for the new ballot scanner machines. Unfortunately, the hand-counting of paper ballots in elections has been made problematic for a number of reasons , The required

format of the paper ballot was changed by Chapter 165 of the Laws of 20 I 0, which amended Election Law § 7- I 06 to provide that the only paper ballot that is allowed under New York State law is the one to be scanned by the optical scanner. Requiring villages to use paper ballots that are formatted and designed to be counted by a ballot scanner machine when the village will not be using ballot scanner machines is impractical, costly, and inefficient, as the new ballot format is much more difficult to canvass by hand-counting. Accordingly, it is necessary to amend State law to provide for ballots to be formatted in a manner that is conducive to hand-counting.

Current Status of Village Elections

NY COM recently surveyed its village members regarding how they conducted their recent village election. A total of253 villages responded to the survey. Of those villages that responded, 81% conduct their own elections with the remaining 19% relying on the county to conduct their elections, A plurality of the villages, 42%, conducted their most recent elections by hand-counting paper ballots, while 36% of the respondents continued to use the lever style voting machines and 22% used the ballot scanner voting machines.

Of the villages that used lever voting machines in their most recent election, 65 of the 73 villages would continue to use lever machines if authority to do so is extended. Of the 73 villages that used lever machines to conduct their most recent elections, the county made the scanner voting machines available to 25 (34%) villages, while the county did not make scanners available to 34 (47%) villages. Fourteen (19%) villages did not respond to this question in our survey. The Nassau County board of elections appears to be the primary obstacle to allowing villages to use the ballot scanner voting machines, although this is no small problem as Nassau County is home to 64 villages, many of which are the largest villages in New York State.

For those villages that were offered the use of the ballot scanner voting machines by the county but used lever voting machines instead were, village officials gave the following reasons for not using the ballot scanner machines:

- 80% responded that the ballot scanner machines were too expensive;
- 56% indicated that the number of voters did not warrant using scanner machines; and
- 40% indicated that the number of ballot items did not warrant using scanner machines.

Additionally, many counties in the rural upstate communities have not had to address the use of the ballot scanner voting machines by villages yet, and it is unclear how much it will cost villages to have the scanner machines transported to their polling places from the county board of election facilities,

Of the 85 villages that conducted their most recent election by hand-counting paper ballots, the county made the scanner voting machines available to 29 (34%) of those villages, while 49 (58%) of the villages did not have the ballot scanner voting machines made available to them.

For those 29 villages whose county board of elections offered them the use of the ballot scanner voting machines, the villages declined to use the scanner machines for the following reasons:

86% reported that the ballot scanner voting machines were too expensive to use;
- 52% indicated that the number of voters did not warrant using scanner machines; and
- 3% responded that the number of ballot items did not warrant using scanner machines.

Accessible Voting Machines

Regarding the issue of the voter accessibility, NYCOM is committed to assisting its member villages in providing effective and affordable voting access to individuals with disabilities, There are easy, cost-effective ways for individuals with disabilities to vote in elections than by requiring villages to use ballot marking devices, First, voters needing assistance to vote by either marking a ballot that is going to be hand-counted or by marking a ballot that is going to he counted with scanner ballot machine may ask an election inspector or

any other person of their choice to assist them in cast their ballot. This right to assistance, which is set forth in Election Law§ 8-306, can be invoked for any method of voting, whether it be ballot scanner voting machines or the casting of paper ballots to be hand-counted. A second option available to individuals with disabilities is the absentee ballot.

These methods of voting are viable, cost-effective alternatives to using the ballot marking devices. Moreover, these methods are reasonable considering how infrequently individuals use the ballot marking devices. A recent survey of New York's county boards of elections outside of the City of New York revealed that, of the 24 county boards of elections that responded to the request for information, only 16 people had used the ballot marking devices during the November 2q12 general election.

Given the tremendous financial pressure New York's local governments are under from unfunded mandates and shrinking revenues, the substantial added cost of villages having to use ballot scanner voting machines greatly outweighs the minimal benefit the ballot marking devices offer, particularly in light of reasonable alternative methods for people with disabilities getting to vote.

Moving All Village Elections to November is Not an Option

Some election "experts", when educated about the challenge of conducting village elections, are quick to opine that the solution to the problem is to move all village elections to the November general election. This proposal is not a solution and is potentially more problematic than the challenges we are looking to solve regarding the implementation of the scanner ballot machines. Moving all village elections to November is not feasible primarily for three reasons.

First, putting the village elections on the November ballot would result in uninformed results, with individuals coming to the polls to vote on other elections (e.g., President, Governor,

Senator, Assemblyman, Town Supervisor, etc.), unaware of the candidates or issues involved in the village election.

Second, most of the State's village elections that arc conducted in March or June are non-partisan. Shifting these non-partisan elections to November would, by default, result in the elections becoming partisan and, in many if not most of the village elections, render the general election meaningless as the party primaries would be the determinative of the race because of party dominance in the village.

Third, putting village elections on the November ballot would be costly and complicated for the county boards of elections because it would require the counties to account for an additional 548 jurisdiction in their elections, some of which straddle two towns. This would require counties to purchase additional machines, and potentially require them to hire additional staff to program and deliver the machines and additional election inspectors. These three reasons are not the only grounds for not moving all village elections to November, but they are substantial, and in and of themselves make this proposal a non-starter.

Conclusion

Whether villages switch to conducting their elections by hand-counting paper ballots or using ballot scanner voting machines, the State needs to address the fact that hand-counting paper ballots is not a viable option for every village, that some counties may not allow villages to use their electronic scan ballot voting machines for the village elections, and that having villages purchase, own, program, and operate their own scanner ballot voting machines would be a tremendous unfunded mandate. The New York State Conference of Mayors, along with our village members are eager to work with the State to address this challenge. Thank you for the opportunity to testify at this important hearing.

NYSAC
New York State
Association of Counties

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November 17, 2014

Commissioner Gregory P, Peterson
Commissioner Andrew J, Spano
State Board of Elections
40 North Pearl Street, Suite 5
Albany, New York 12207

Re: Commentary for Potential Election Law Change

Dear Mr. Peterson and Mr. Spano,

This letter is in response to Section 4 in Chapter 273 of the laws of 2014 which requires the input and recommendations of those impacted by current laws regarding lever voting machines, A..c; you know, efforts were made by many, including NYSAC, to extend the local option to allow the continued use of lever voting machines by ce1tain municipalities. State Legislation, A.9321-A (Schimel)/ S.7371-A (Martins) was enacted to do just that. NYSAC recommends this local option to use lever voting machines is continued for future local school and village elections,

Without this authority, local governments will be forced to incur unnecessary expenditures for optical scan voting machines at local expense, Optical scan voting machines, rather than lever-style voting machines, must be used in elections administered by county Boards of Elections. Counties bought optical scan machines with federal Help America Vote Act (HAVA) funding. Unfortunately, there was not sufficient federal aid to purchase these devices for all local school and village elections. Schools are not equipped to use these machines, meanwhile the lever machines are still viable and readily available for use,

If the State does not allow the continued use of lever voting machines for school elections, expenditures of local tax dollars will be required (and real property taxes increased) in order to purchase more or adopt existing optical scan machines. Requiring such an unfunded mandate would place a burden on the local taxpayer, especially at a time when the property tax freeze is in place.

--YSAC supports allowing school districts and villages to continue to use the lever-style voting machines in future elections at local option and we oppose any future changes to State Election law that requires the expenditure of local tax dollars,

Respectfully Submitted,

Stephen J, Acquario
Executive Director

THE Council of SCHOOL SUPERINTENDENTS
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November 17, 2014

New York State Board of Elections
40 North Pearl St., Suite 5
Albany, New York 12207

RE: Comments on Chapter 273 of the lows of 2014 - stakeholder input on transition from use of lever voting machines

Dear New York State Board of Elections Members:

The New York State Council of School Superintendents (THE COUNCIL) submits these comments in response to a request seeking stakeholder input regarding chapter 273 of the laws of 2014.

THE COUNCIL supported the subject legislation and supports continued use of lever voting machines in New York State beyond 2015.

Many school districts own lever machines and utilize them for annual budget votes, school board elections, and special district votes. These machines serve their intended purpose welL

A limited ability to raise funds locally due to the state's property tax cap combined with a finite amount of state aid create an inability for school districts to afford any added costs to their budget, most especially in areas outside of basic operations .

This means that replacement of existing lever ma.chin es or increased costs for a different voting method are not feasible in most school district budgets. Any replacement of the existing lever voting method would need to be cost neutral to be viable for most school districts to implement.

The preference of THE COUNCIL would be further extension of the law authorizing use of lever voting machines beyond December 31, 2015.

In response to the request for comment by the Board of Elections, THE CouNCIL surveyed a regionally-balanced subgroup of its members to determine:

1) Current use of lever voting machines;
2) Current use of electronic voting machines;
3) Relative added costs of switching to use of electronic voting machines;
4) Likelihood of switching to electronic voting versus paper ballots upon expiration of lever authorization; and

S) Disabled voting population and use of special access accommodations.

Compiling superintendent responses, a few key findings emerged:

Counties are currently determining which school districts have access to electronic voting

The results of our survey were ultimately tied exclusively to the County{s) in which a school district was located. Currently, school districts are placed in considerably different situations depending upon the discretion of their county Boards of Elections to provide access to existing electronic machines.

Under the Help America Vote Act {HAVA), county Boards of Elections received funding to purchase electronic voting machines. They own, maintain and program these machines, utilizing th em in general elections. County Boards of Elections are required by law to conduct certain elections using these electronic machines. Without similar financial support, it is unlikely that most school districts would be able to afford the expense of purchasing electronic machines. This leaves them currently at the mercy of the local county Board of Elections.

Specifically, superintendent responses to our survey broke down into 3 distinct categories in this area:

1. **A Few County Boards of Elections Provide Electronic Machines at Reasonable Cost or No Cost to School Districts**

Some superintendents responded that their local county Boards of Elections provided use of electronic voting machines at little or no cost to the school district. Modest added costs associated with a "low cost" option were tempered by school district savings by requiring less staffing and voting locations, as well as less maintenance required by not owning the machines.

Some county Boards of Elections are currently providing the machines absolutely free of charge.

Other county Boards of Elections will provide the machines to districts, but tend to require the school district to pay for the cost of compatible ballots (the quoted costs were in the $600 range for a medium sized school district, but rose closer to $1,000 total with the addition of machine programming costs). These counties are voluntarily doing this, as they own the electronic machines, are not utilizing th em at the time of school votes, and already maintain the staff and infrastructure to operate the machines.

The low cost options were not cited by school districts as a deterrent to electronic machine usage. All superintendents who responded stating that their county required this level of payment, were in fact currently utilizing the option. These counties tended to be near the state's larger population centers.

Superintendents in both categories (no cost or low cost) reported no negative issues with the circumstances and have already transitioned to electronic voting, prior to expiration of the lever machine law.

2. **Some County Boards of Elections Allow Loan of Electronic Machines, but at Unaffordable Cost to School Districts**

Several superintendents responded to our request stating that they were currently still utilizing their lever machines, but had attempted to switch to electronic voting machines. These superintendents requested to rent or loan electronic machines owned by their local county Board of Elections.

The responses stated that school districts were asked to pay amounts ranging from $1,000 $7,000. These were flat fees quoted by county BOEs for the use of one machine. Other counties would have required school districts to pay costs they claimed were associated with expenses for machine maintenance, programming, delivery & removal, as well as maintaining a technician on site during polling hours. The exact costs of these expenses varied, but were seen as prohibitive by school districts.

This experience appears to be prevalent in upstate rural counties. While a rental quote of $1,000 per day falls closer to the scenario in the previous category in terms of dollars, that amount may not be as cost-effective for a smaller school district in a rural area as it might be for a larger suburban district. There is a relative sea le of affordability.

Superintendents saw these quoted costs as unaffordable for their school districts. They will continue to utilize lever machines at a significantly lower cost- as long as that is an option - or unless costs to utilize electronic machines decrease.

These superintendents stated that they are likely to use paper ballots should lever machines no longer be an option. Only one superintendent stated that their school district was too large to utilize a paper ballot option, even if lever machines were outlawed.

3. **Many County Boards of Elections Refuse to Loan Electronic Machines to School Districts at any Cost**

This was a common response by superintendents. Many county Boards of Elections did not allow school districts to use the county's electronic machines when requested, regardless of the cost. Again, this appeared to be a common response in upstate rural counties.

This left school districts in these counties with the sole option of purchasing their own electronic machines. Only one superintendent responded with an actual quoted cost for the machines. Their cost would be an $11,500 initial purchase cost, plus an unknown amount in ongoing labor costs for machine programming, maintenance and operation, as well as costs to format and print ballots. The district in question found this cost to be unaffordable.

likewise, other districts in this category, while not giving an express cost, found this option out of their reach, and have continued to use lever machines or paper ballots.

Many school districts are likely to resort to use of paper ballots upon expiration of the lever machine law

It was made dear by our members that, absent financial assistance, use of paper ballots would be the most likely resort for most school districts currently unable to afford electronic machines. This was the sentiment of the majority of districts surveyed.

Given current budgetary restraints, many school districts would have little choice but to resort to low-tech options, as opposed to transferring to the higher-tech electronic machines, as the New York State Board of Elections has expressed a desire to accomplish by eliminating the use of lever machines.

Without some type of additional financial support or low-cost use of electronic machines from county Boards of Elections, these school districts will not utilize electronic voting upon expiration of !ever machine authorization.

Use of alternative voting methods by disabled voters receives customized attention in many places

The understanding of the intent behind the current New York State Board of Elections report and expiration of the lever voting machine law was a desire to provide greater accessibility to disabled voters. This is a cause that superintendents are already addressing on a local level.

Some larger school districts expressed that there were disabled voters utilizing their handicapped-accessible voting methods. However, some respondents stated that their disabled voters tended to request paper ballots for mail-in rather than physically coming to the polls.

One school district owned a height-adjustable lever machine, which they were able to lower for access by wheelchair-bound voters. Another district was given access to a special electronic voting machine used solely for handicapped access by the county Board of Elections. Several districts stated that no voters utilized (available) alternative voting methods.

Superintendents support equal ballot access for all voters, and in a fashion that makes it as easy as possible for all voters to make their voices heard. This includes all of our disabled and handicapped voters. This group of voters may be better served by the continued or improved availability of individualized voting means rather than by a blanket transition to electronic machines.

Closing Analysis

Lever voting machines currently serve many school districts well. They provide a cost-effective means to tally votes and smoothly read results. Are electronic machines a more technologically-advanced option? Perhaps, but lever machines are currently the best way for many school districts to perform a necessary function with the resources available. THE COUNCIL therefore supports extension of the option for school districts to continue use of lever voting machines beyond 2015.

As expressed in detail above, if the law authorizing lever machines is allowed to expire, county Boards of Elections appear to hold the key to this issue. Those Boards that are sharing electronic machines with school districts at little or no cost are seeing successful use at the school district level. The school districts in these counties have voluntarily chosen to make the switch to electronic machines, even prior to the expiration of authorization for lever machines.

These factors lead The New York State Council of School Superintendents to the conclusion that any transit ion to electronic voting machines in school district elect ions would require: 1) financial support from the state in providing funds for school districts to purchase or rent electronic machines and/or 2) logistical support for school districts in those counties that are refusing to provide electronic

machines at an affordable cost, specifically the requirement that counties provide the electronic machines and accompanying services to school districts at an affordable cost.

Should the Board have any questions regarding this matter, please feel free to contact me.

Very Truly Yours,

Terrance N. Pratt, Esq.
Assistant Director for Government Relations

Svizzero, Anna (ELECTIONS)

From:	Brad Williams <BradW@nysi lc.o rg>
Sent:	Monday, November 17, 201411:53 AM
To:	Svizzero, Anna (ELECTIONS)
Subject:	Comments Regarding Lever Voting Machines 7-202
Attachments:	NYFAV Letter 111714.docx; Final NAC Table 15A Institutionalized Population.doc; 2014 NY Post Election Survey Report.docx

Anna Svizzero
NYS Board of Elections

My comments are on behalf of the New York State Independent Living Council, Inc (NYSILC) as a part of New Yorkers for Accessible Voting (NYFAV), a newly formed coalition comprised of individuals, community and disability organizations committed to promoting Equal Access to the Electoral process for all New Yorkers. **See attached letter from NYFAV.** In addition to the NYFAV letter, please take my comments into account for your report to the Governor regarding the lever voting machine law for local elections 7-202.

Lever voting machines represent archaic technology of a bygone era (dating back to 1892) and have no place or use in active elections. Would the State suggest replacing taxi fleets with Model T's? Perhaps we should replace computers, electronic documents and cloud back-up storage with period typewriters, hard copy document archives and massive filing drawer systems in warehouses. Why? Because it is "cost-effective." Yeah- right. We can dream up whatever excuse comes to our imaginations to avoid utilizing the newer voting systems. It will not prevent the changing demographics taking place in the United States and New York State now and in the years to come. Our State needs to be able to accommodate these changes related to many programs and services -which includes our voting system -whether our county officials and Mayors like it or not. Ironically, if they don't, they could find themselves voted out of office. A lawsuit is not out of the question.

Lever voting machines are inaccessible to several segments of the population. For many New Yorkers with disabilities, they cannot cast their ballot on a lever voting machine. There are over 2 million New Yorkers with disabilities living in the community out of a total of more than 19 million residents (11%). This does not account for institutionalized individuals. There are 928,961 civilian veterans age 18 or older living in the community in New York State, and 232,805 (2S.1%) of these individuals have a disability- a high incidence of disability compared to the general population. These figures are based on the 2011 Annual Disability Statistics Compendium, Rehabilitation Research and Training Center (RRTC) on Disability Statistics and Demographics, www.DisabilityCompendium.org, November 2011. Source is the U.S. Census Bureau, 2010 American Community Survey, and American FactFinder. In addition, when it

comes to the institutionalized population, NYSILC had to work hard to acquire the data from the State. In our 2012 Statewide Needs assessment, we defined the different types of institutional settings and identified 220,277 individuals. See the attached chart from the report.

People with disabilities (Employment First Executive Order #136), veterans with disabilities (2014 State of the StateL and institutionalized individuals (Olmstead Executive Order# 84) are recent priorities of the Governor. These policies are designed to increase the integration and participation of the identified citizens in the community (in a protected class) and are **inconsistent** with an archaic voting machine and law that limits access to voter participation.

I also want to point out that in May through July of this year, the Town of Minerva held its local election under 7-202 and had to request revote(s) due to the malfunctioning of the lever voting machines. After getting the approval from the State Education Commissioner to have a revote, they opted to use paper ballots. Was this even an option and under what laws or regulations? In doing so, what regulations are in place and what protocols were followed to ensure that accessible and language formats were offered to voters who required these means to vote? Perhaps they followed a protocol and can document it. Great. Or did the Town of Minerva assume that they have no voters with disabilities who required an accommodation or voters who preferred to vote in a language other than English. I really hope that "the accommodation" wasn't an absentee ballot . We all know that this is not an equal vote.

As part of NYFAV, we conducted a post-election poll. I have attached a summary report above. It has some very interesting result s. I think NYFAV would like to discuss some of the results with you at some point in the future. However, for this letter and the issue at hand, ***the most peculiar result wos one respondent who reported thot they voted on o lever voting mochine at o town in Suffolk County.*** How is this even possible? 7-202 is only supposed to be for local elections. This is a clear violation.

Please recommend that 7-202 end immediately and lever voting machines never be allowed in any elections in New York State ever again.

Brad Williams
Executive Director
NYSILC

New York State
School Boards
Association
Better School Board; Lead to Better Student Performance

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Latham, New York 12110·2125
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www.nyssba.org

INTEROFFICE MEMORANDUM

TO: ANNA SVIZZERO, DIRECTOR OF ELECTION OPETRATIONS, STATE BOARD OF ELECTIONS

FROM: JULIE M. MARLETTE, DIRECTOR OF GOVERNMENTAL RELATIONS
BRIAN FESSLER, GOVERNMENTAL RELATIONS REPRESEN1'ATIVE

SUBJECT: STATE BOARD OF ELECTIONS COMPLIANT VOTING SYSTEMS S'I'UDY

DATE: NOVEMBE R 17, 2014

CC: SETI-I AGATA, ACTING COUNSEL TO THE GOVERNOR

Chapter 273 of the Laws of 2014, signed into law by Governor Cuomo on August 11, provides for an additional one-year extension of the authority of school districts to use now outdated lever voting machines. At the end of this extension, districts must either make the transition from lever voting machines to optical scanner voting machines for all of their elections and votes or select another option that is compliant with state and federal law. The inclusion of this study recognizes the fact that county Boards of Elections, which administer local, state and federal elections, received millions of dollars in federal funding as part of the Help America Vote Act nearly a decade ago to help offset their cost of transitioning to the new machines. However, no such funding was made available to school districts.

1bis remains an important issue for hundreds of school districts across the state. Each May, voters elect members of their own communities to serve on boards of education for each district. At the same time, budgets arc decided upon by the voters themselves. While these are the most common school district votes, individual votes on capital projects can take place at any time throughout the year. This represents the most direct form of democracy in New York State.

School districts are already developing their budget proposals for the 2015-16 school year. These budget-; will have t:o include the funds necessary to support May 2016 elections. The following includes information and analysis that the New York State School Boards Association complied in recent years, as well as responses to an informal questionnaire provided on behalf of nearly 200 school districts this fall.

ISSUES

The overwhelming majority of school districts providing information to the Association still use]ever voting machines to conduct their budget votes, school board elections and capital approval votes. The biggest concern

for these districts is simple: cost. Districts still using lever voting machines budget several hundred to a few thousand dollars for their May vote (the most common election). Many possess their own machines, meaning expenses are often limited to basic set-up and supplies for volunteers. Districts estimate transitioning to optical scanners would cost upwards of .five times as much. 'While rental of the optical scanners represents part of this additional expense, the cost of the ballots that must be used is also significant. Districts are paying, or have received quotes, of up to 58 cents per individual ballot. Specific ballots must be purchased for each vote and are unusable once that particular vote is completed. Because of the unique nature of the ballots, many districts would be required to spend thousands of dollars on ballots alone for eve1y single election or vote they hold throughout the year.

While *cost* is the most common reason for schools to have continued to use the traditional lever voting machines, districts expressed a number of other reasons. In addition to voter comfort and ease of preparation for staff and volunteers, many school districts experienced difficulties attempting to coordinate the use of optical scanners with their respective counties. Some counties informed districts that they would not allow schools to use their optical machii1es under any circumstances and some made the rental fee so high that it was effectively cost prohibitive.

We also received reports of situations where the county would allow a school district to borrow the optical machine for the traditional May vote, but would not make them available for school proposition votes at any other time of the year. The plurality of these cases came from Nassau County, which makes sense given the number of school districts there, but we have been informed of more than a dozen other counties where schools have experienced some of the same difficulties, from western New York, to central New York, the Hudson Valley and the North Country. This is an issue that spans the entire 8tatc. The counties' position is certainly understood, given the cost and sensitivity of the optical scanners, but it leaves schools in an untenable situation.

Reports indicate that for districts that have already transitioned to optical scanners, most have been able to borrow the machines from their county free of charge, while often paying for basic costs such as transportation of the machines. The districts that are charged a rental fee arc reportedly being quoted amounts that are comparable to the costs other districts incur to run lever machine-based elections. This certainly makes sense, as cost is the main factor cited by districts that have yet to transition to optical scanners. When cost is not a barrier, most districts have been willing to begin using optical scanners. Schools appreciate the few counties that have made the optical scanners available at little to no cost, but we also recognize this may not be possible when the time comes that nearly 700 school districts could be asking to borrow the machines at the same time. In addition, school, village and primary election all occur within a short time, which could make the sharing of optical scanner machines a problem in some counties.

Many <1uestions remain unanswered. The majority of school districts we heard from have no reliable cost estimates regarding the borrowing or renting of optical scanner machines. This leaves many districts across the state looking for information and answers. A significant number of districts told us that they simply have no idea how they will run their elections after the current lever voting extension expires. Perhaps more alarmingly,

nearly as many districts told us they intend to use paper ballots in 2016 if they can no longer use lever voting machines, as those who anticipate transitioning to optical scanners.

This is especially true for smaller districts with election turnouts in the hundreds, as opposed to the thousands or ten thousands. In fact, dozens of districts already use paper ballots, including those as large as Binghamton. For these districts, it L'> a relatively simple cost analysis; and paper ballots make more sense for them than taking on the cost of expensive machines.

RECOMMENDATIONS

As 2016 approaches and districts anticipate the expiration of their authority to use lever voting machines, it is clear that help will be needed. If the intent of HAVA is to be achieved and increased municipalities are to be positioned to transition to optical scanners for their elections school districts cannot accomplish this alone. School districts face many logistical and financial hurdles and will need state action to address these issues. NYSSBA offers the following options for the state Board of Elections and other state policymakers to consider:

- Direct Allocation - State funding could be provided to school districts to help support the cost of purchasing optical scanner machines . Such funding could be based on the cost per machine and reasonable past voting patterns, reflecting the number of machines needed. As this represent a one-time initial cost, a portion of the State's multi-billion dollar settlement. funding could be used to fund this one time appropriation.

- Reimbursement -The state could provide for the reimbursement to school districts on an ongoing basis for the initial purchase of optical scanner voting machines and for the continued costs associated with optical scanner-based elections. This could be done through a new reimbursement methodology, or included as an approved cost for school building aid.

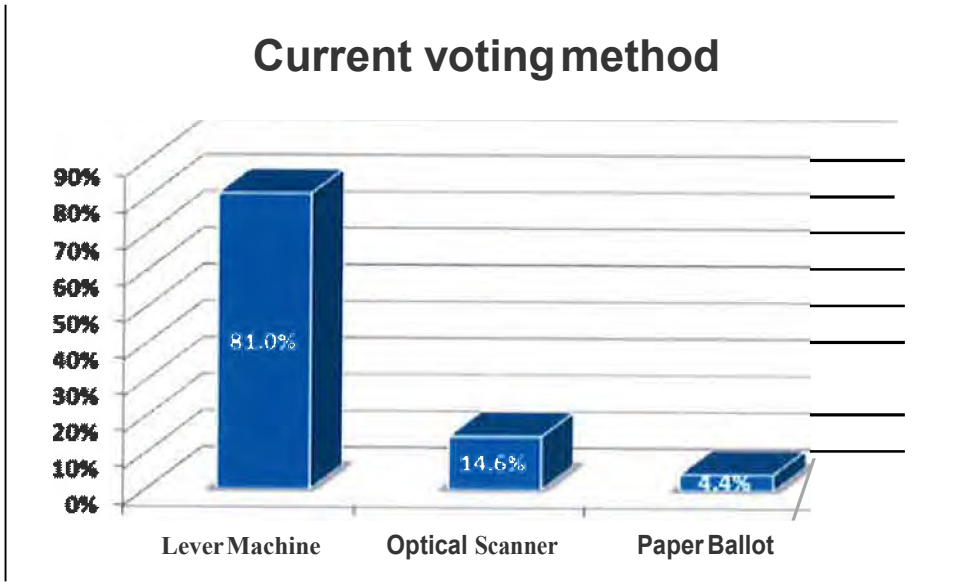
- Affordable Fixed Cost Lease -A fixed rate optical scanner lease structure between counties and school districts could help ensure affordable and predictable costs for school districts by regulating what can be charged for the use of federally subsidized machines. At this same time, some moderate revenue would provide counties with funding to help offset costs associated with the lending of their machines.

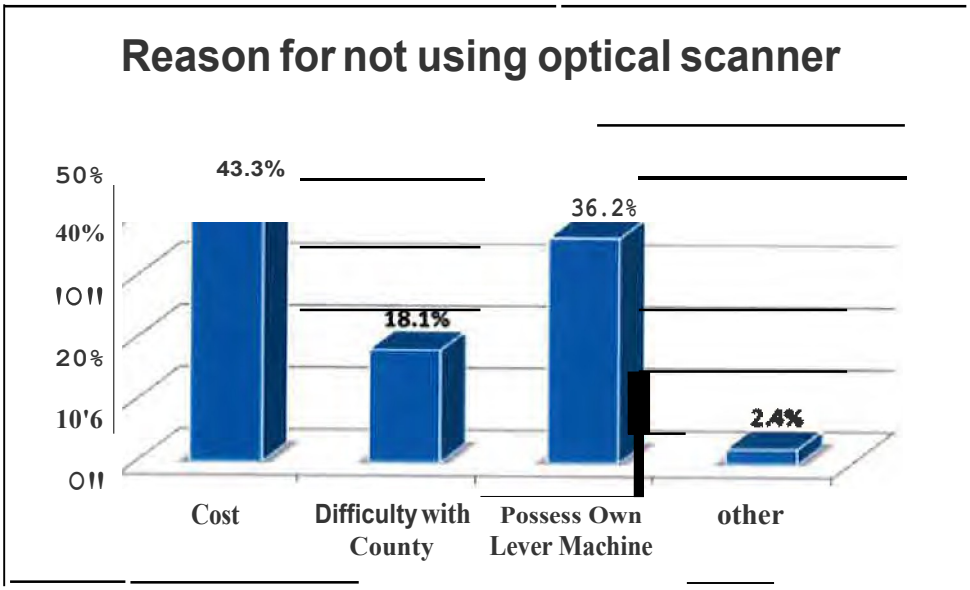
- State Procurement - A system where school districts can purchase optical scanner machines and associated materials collectively through a state contract, including ballots, could help reduce overall cost<;. 1ne state's purchasing power can create efficiencies through economies of scale, with the savings realized by school district

- Smart Schools Bond Act Funding - Given the recent enactment of this bond initiative, immediate legislation could be enacted that would allow school districts to use this one-time funding to support the purchase of optical scanner machines.

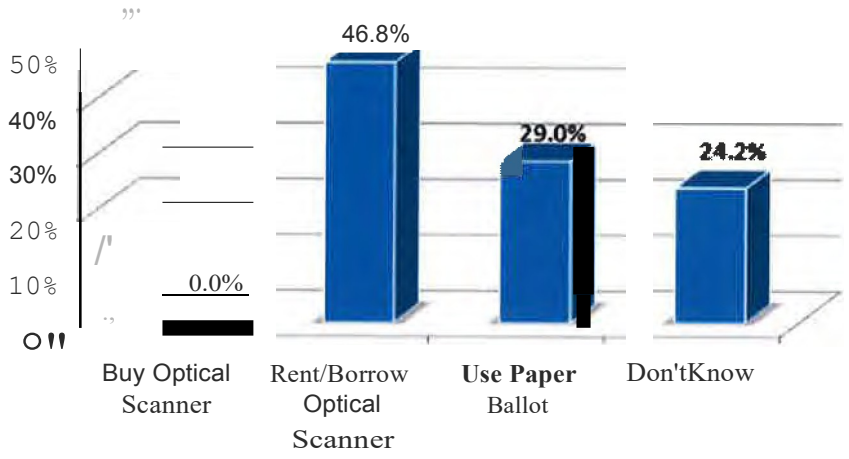
It is critical that schools have the information they need to prepare for the transition to new voting systems, 1he New York State School Boards Association looks forward to the report by the State Board of Elections as an important first step in this process< We hope this testimony helps provide insights to the myriad of issues school districts face during this complex time. NYSSBA stands ready to provide support and assistance to both the state and school districts to help ensure next steps are informed, timely, smooth and affordable.

Results of an Informal Questionnaire of Approximately 200 School Districts

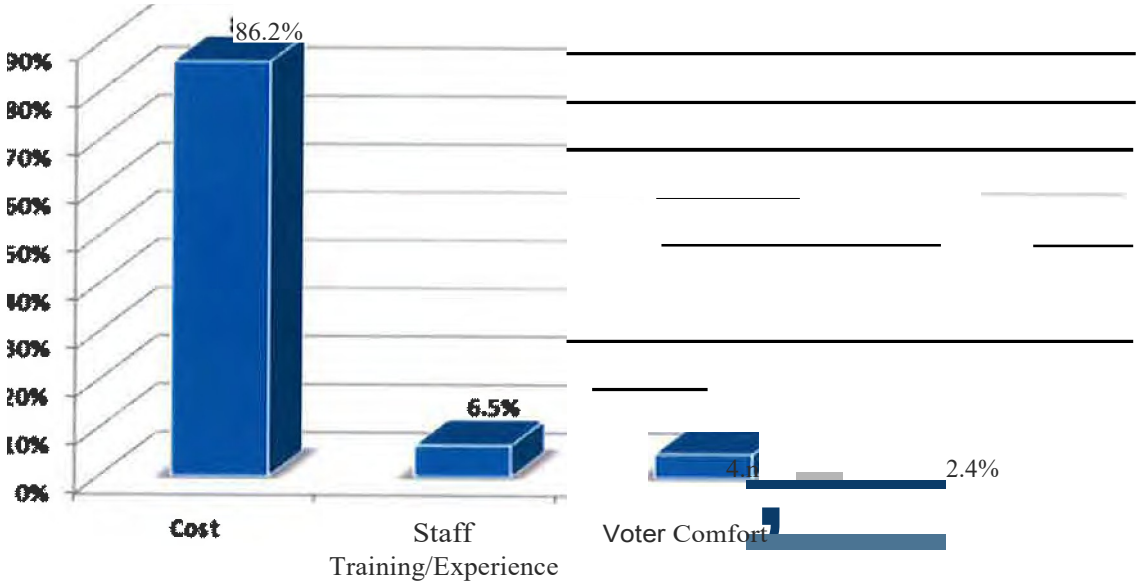




What will your district do in 2016?



What is your biggest concern **regarding** the transition to optical scanners?



Svizzero, Anna (ELECTIONS)

From: ele.sm.election_op s
Sent: Monday, November 17, 2014 3:37 PM
To: e!e.dl.eops.mbx.notify
Subject: FW: Revised impact statement please disregard previous statement from Susan Cohen
Attachments: impact letter on lever machine law to boe .docx; impact letter on lever machine law to boe.docx

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From: Susan Cohen
Sent: Monday, November 17, 2014 3:36:53 PM (UTC-05:00) Eastern Time (US & Canada)
To: ele.sm.election_ops
Subject: Revised impact statement please disregard previous statement from Susan Cohen

Nov 17'" 2014

Dear Commissioners,

New Yorkers for Accessible Voting {NYFAV) is a newly formed coalition comprised of individuals and community and disability organizations committed to promoting equal access to the electoral process for all New Yorkers.

As a coalition we strongly oppose the use of lever voting machines in any election and believe that the time to phase out of use these decades-old machines is long past due.

While many states and localities across the country have made significant strides in updating voting technology and improving the voting experience for Americans with disabilities, far too many New York state local elections remain stuck in the past. New York's repeated delays in phasing out of use the lever voting machine in elections held by villages, school districts, and other municipal corporations has left local elections across the state inaccessible to a wide range of New Yorkers with disabilities. Voters disenfranchised by the continued use of lever machines include, amongst others, those who are blind, visually impaired, have learning disabilities, cannot read, are short in stature and cannot reach the levers, and those who do not have use of their hands.

The United States Department of Justice has made it clear that federal law ensures the right of persons with disabilities to cast their votes privately, independently, and in a manner equal to that of voters without disabilities. For many New Yorkers with disabilities, lever machines do not provide a private, independent, and equitable voting experience. As such, the use of lever machines is in dear violation of Section 5D4 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, federal laws to which all local municipalities and voting districts are subject.

You will be receiving a series of emails from different members of the coalition. Those individuals and organizations will identify themselves possibly by using this letter as the cover letter but attached to the cover letter will be their own individual statement. Please review each statement carefully as it will give you a strong understanding of different aspects of the use of lever machines and their impact.

For further questions do not hesitate to contact me at 518-495-5787.

Thank you for your time and consideration,

Susan Cohen

Impact Statement and Solutions

To the New York State Board of Elections

Regarding the recent passage of a law that allows lever machines in non-federal local elections in **2014/15.**

From; Susan Cohen of Voting Access Solutions and

NYFAV, New Yorkers for Accessible Voting

Dear Commissioners,

My name is Susan Cohen and I am the Founder of Voting Access Solutions. VAS is a non-partisan consulting firm, established in 2008, committed to creating solutions so all eligible voters have equal access the ballot. I am also the Acting Director of NYFAV, New Yorkers for Accessible Voting, a newly formed coalition comprised of individuals, community organizations and disability organizations committed to promoting Equal Access to the Electoral process for all New Yorkers.

Many of you know me from attending NYSBOE meetings and election conferences over the years.

I am writing to say the impact of the new law passed which was sponsored by Schimmel/Martin and signed by Governor Cuomo in June of 2014 allowing lever machines in non-federal/local elections will have a devastating impact on the voting access of those who cannot vote independently and privately on lever voting machines. This will impact the following groups of voters: Those who are blind, visually impaired, have learning disabilities, can- not read, are short in stature and can cannot reach the levers, do not have use of their hands amongst others.

This sunset on using the lever machines was removed for one year came about because many of the administrators of local elections, school boards and fire districts throughout the state complained of the higher cost of operating the new voting systems and stated it as prohibitive and that is the primary reason for continuing using lever machines.

After careful study of the issues surrounding it-It is not truthful to say cost of the accessible electronic voting systems is the primary reason for the use of the levers.

The truth is: The lever machines are antiquated, they break down frequently and new parts are no longer made. Therefore, repairing these machines is VERY expensive and often impossible. That combined with the cost of storing these antiquated beasts will significantly reduce any possible cost benefit the lever machine can offer over the accessible electronic voting systems.

After close monitoring of the situation since 2008, the REAL reason for this law is many localities have not received the cooperation and training needed to effectively run accessible elections from their county BOE. It is this lack of support which has caused many localities to be terrified of using the new accessible voting technology and opt to use the dysfunctional lever machines.

The ridiculous and tragic part of this is the Civil Rights of many NV voters who need accessible voting systems are being violated for a problem that can be solved in a cost effective manner.

Their ate two solutions as I see it:

1. The problem could be solved if every election was administered by the county BOE's and not by School teachers, Mayors and Fireman none of whom are professionally trained in administering accessible elections. The county goE's are the trained and experienced election professionals who know how to administer accessible elections.
2. In the case where localities do not want to give up control of running their elections to the county goE choice is given either the locality seek out voting system training that already exists-from organizations such as mine, the manufacturer of the voting systems or the County goE's.

Either way: Lever machines should not be used under any circumstances.

I would like to add one other reason NOT to continue to use lever machines is puts into question the credibility of all the law makers and election administrators including the NVSBOE that urged the voters to use this very expensive voting equipment, to comply with the 2002 Help America Vote Act. By not requiring its use in all elections you are putting into question the reasons the equipment was purchased in the first place as well as the intent of the 2002 Help America Vote Act.

Our Democracy depends on the trust of the voters In the electoral process-by turning your back on previous decisions you begin to erode that trust.

Therefore I am calling on New York State to REQUIRE ALL COUNTY goE"S ADMINISTER ALL ELECTIONS FOR A REASONAGLE FEE or Require that all Local, School board, Village and Fire Oistrict, Election administrators get the necessary voting system training that is already available and that they be required to use the recently purchased voting equipment including the scanners and the ballot marking devices.

If you would like consultation in implementing these solutions I am happy to assist.

Thank You for our time and consideration,

Susan Cohen

Voting Access Solutions

New Yorkers for Accessible Voting

S18-49S-s7g7

votingaccesssolutions@gmaii.com

'Inc coalition of partners that comprise New Yorkers For Accessible Voting (NYFAV) designed and distributed an online **2014 New York Post Election Survey** via Survey Monkey. An accessible text option was also made available. A one week response time was given for participants.

RESULTS

Overall, there were **195 total respondents.** In terms of the demographic profile, **61%** were **female, 38% male,** and **1% Other. For age range participation:** 28°/c) were **48-57, 28% 58-67, 16% 38-47, 12% 28-37, 10% 18-27, 4% 68-77,** and **2% Above 77.** Regarding **race/ethnicity, 84%** were **White/Caucasian, 5% Black/African American, 4% Hispanic/Latino, 3% Multiracial, 2% Asian,** and 2°/o **Unknown. 97%** of the respondents **identified English as the language of preference to read the ballot. 50% self-identified as having a disability or disabilities.** Out of the sample:

- The following methods were used to cast ballots: **64% scanner, 27% Ballot Marking Device (BMD), 4% absentee ballot, 2% provisional ballot, 1% lever voting machine,** and **3% other** (Highlight'> below):
    - In-person absentee ballot, which should be an option in this question!
    - l requested the BMD and was told the worker who handles it was in the bathroom could I wait? They said I was the first to request it (7:.30pm)...I waited and he returned handed me a regular ballot and told me I could use the privacy area directly behind him. In that unit was a magnifier and that's all...never offered to explain how to use or use any other device.
    - Lever voting machine ·with care giver assistance.
    - **NOTE: A lever voting machine was reported used by a voter in a town in Suffolk County. Follow up needs to occur. This is a violation. 7-202 only allows lever voting machines for local elections.**

- Was individual able to vote by them self or did someone else have to assist them: **80% By myself without the use of assistive devices, 9% By myself with assistive technology on the voting devices, 4% With the assistance of a family member or friend, 2% With an accessible device (such as a magnifying glass), 2% With poll worker assistance,** and **3% Other** (Highlights below):
    - I voted in the privacy of my home with an absentee ballot.
    - I did it all by myself but worke.t kept touching form and looking at it!!!
    - Caregiver assistance.

- If individual didn't use BMD, explain why (select all that apply): **30% The poll site did not have a BMD available, 29%** I **prefer an alternative method of voting,** 27% I **was not given the option to use the BMD,** 5% **Poll worker was not knowledgeable/not able to assist me with the BMD, 4%** I **did not have enough time to use the BMD, 2% The BMD was not operational,** and **18% Other** (Highlights below):
    - I was out of town on Election Day and so had to vote via absentee ballot.
    - I didn't sec the BMD. . .the print was very tiny and a bit hard for me to read [on standard ballot]. J>d preferred the BMD and was a bit too shy to ask It was a large gym and l was surprised not to see any other equipment other than the scanners. However, to be fair they might have had this option and I just didn't see it.
    - I decided that since I am not able to independently vote to preserve the secrecy and privacy of my vote to vote by absentee ballot.
    - Transportation issue. Disabled person in a wheelchair and legally blind.
    - l never heard of a BMD.
    - Dependent on transportation and time limitation.

- Did individual experience any polling place access issues (HigWights below):

- For the first time since I started voting, my name was missing from the registrar at my polling site. I have lived in the same house for the last 19 years and my polling place has always been in Holland Patent. I was offered the option to vote by Affidavit ballot which I did.
- Threshold at doorway was too high about 1-2 inches on the inside-a problem for some potentially.
- Nearly an hour and a half after I arrived to vote I was able to cast my vote [extended narrative).
- The marker in my cubicle ran out of ink and I had to ask for a new one. There was a very long line waiting to vote and waiting to scan ballots.
- BMD was not set up. Poll worker had to refer to instruction book for set up. After voting, ballot would not print. Poll worker had to call for IT support to fix the problem. Problem took almost an hour to resolve.
- Access to any parking - reserved or otherwise.
- I took the polling place checklist with me. They were ready with the accessible machine, however., the door was too heavy (no electric door). Also, 2 voters parked in accessible parking spaces (who did not have permits). I 'ticketed' them.
- It said it was accessible but no handicapped parking and no curb cut or ramp.
- Inadequate lighting made it difficult to read the ballot. The accessible "booth [11] was against a wall in a dark area of the room. The inaccessible "booths" were located together in the main part of the room, which was fairly well lit.
- Door to accessible entrance locked on the outside. Entrance threshold not properly beveled for wheelchairs.
- There were no designated Handicapped parking spaces for my adapted van. I parked in a way as to occupy 2 regular spaces and parked on an angle.
- Yes. Problem with the [11]door bell[11] alert button outside of my polling place.

- <u>Did individual experience any attitudinal issues with poll workers</u> (Highlights below):
  - 'The poll workers were new and seemed astonished that I could sign my name.
  - 'The workers tried to be helpful but had little actual experience with voters using the BMD. She had a "deer in the headlights" look and she made a point to tell me that it was going to take at least twenty minutes.
  - Poll worker was asleep at the table when I arrived to sign the book and obtain my ballot.
  - They had not attended classes, unable to operate accessible Image Cast machine; no Braille accommodations were available.
  - A poll worker insisted on helping me when I told her I didn't need assistance. It was only after another poll worke1' who I knew from previous voting experiences interjected on my behalf [told] the first poll worker to back away from me and leave me alone because J knew how to operate the BMD, and I knew what to do.
  - One of the helpers was very rude and condescending- I have multiple disabilities. They corrected me out loud in front of others in the building.

- <u>For th method of voting used, explain any issue that prevented an individual from voting privately and independently</u> (Highlights below):
  - They continued to look over my shoulder asking if I needed help when I was voting using the headphones along with the remote button controller to cast my vote. I believe they may have thought they were being helpful but they could read the screen.... When asked to give them the ballot sheet so they could write spoiled on it I said but then they would see my votes. Tbey then said that I can write spoiled on it myself and fold it in half and hand it to them, I said that was still a confidential[ity] issue and they said they would not look at it. I told them I was not comfortable with that so another poll worker stated she would get me an envelope to put it into and seal it myself and said they will send it to board of elections. The screen of the machine that displays the ballot was facing the inside of the polling place where [everyone was] standing or walking by so voters and workers walking by could read the screen too with my ballot selections. I said they

should turn the machine the other way for confidentiality and they said thank you for the suggestion, but left it as was stating the cord wasn't long enough. When I finally finished and was leaving a poll worker asked me what my name was. I told them I already signed the book when I arrived and the poll worker stated they just wanted to note in the book that 1 need the handicapped machine. 1 shared that 1 did not think that was necessary (or legal).

- 1 did use the BMD but, it wasn't function properly. It ate my first ballot. Luckily they were able to print it again. I did wind up waiting over an hour because of operational issues.
- 'When I arrived the BMD machine was not set up at all. 1 didn't have the time to wait, so I had to return at 3:30 when it was operational.
- Voting required two visits. At 6:30AM the BMD was not operational. The screen was dark. I received a phone call at 9AM stating the technician had arrived and the machine was operational. Returned to vote at 2:30PM and was able to [v o t e]
- BMD malfunction caused much confusion and frustration among the poll workers. I had to rely on too much outside poll worker assistance to consider the experience private or independent.
- The way the scanner was, people lined up behind me; not giving me full privacy.
- No sleeves were available to were the ballot while carrying to the machine.
- First of all, this is my 3rd experience with these machines and each time has been very frustrating as the workers don't seem to know how to set it up. I have a physical disability and use a wheelchair. As I arrived there, the workers had to look for the key and read the instructions on how and where to turn it on which took 5..10 min. **1** started to vote and to go from one race to another you have to push the yellow fwd arrow. It took about 10-15 seconds to react each time I pressed this button. .At the end it asked me to push the red "X" to accept and print. I did this; and it took me back to the beginning. I told them **1** was done and how to print it out. They called Election headquarters and they were going to send someone. I was already late for an appt. and almost left with my ballot still not being printed. I went through all the races again and a poll worker had come over and saw my ballot, I may have asked her to though as I was getting more frustrated. I went through the ballot again and it asked me to push the red "X" again to accept & print. I hesitated and all the sudden it started printing as the poll worker and 1 observed this. I was so glad to be done with it. Total time 30-40 min to vote with no one ahead of me. Please educate these people and fix these machines. Thank You.
- The poll worker was not trained in how to operate the BMD-1 had to walk her through how to turn on an accessible session, I had to feed the paper into the printer, and I found where the ballot id **#** was to start the session. There were no privacy screens around the BMD.
- BMD was locked. Poll workers had called for assistance an hour prior but no one had come. Had to have my husband help me with the ballot.

- Overall, **89% did not feel that their voting rights were violated.** However, **3% believed that their voting rights were violated** and **8% were not sure.**

TREND ANALYSIS

A comparison of gender and voting method revealed nothing remarkable among the different options. However, machine choice compared to age range shows a increased use of the scanner by the 38-47 (J7%) and 58-67 (71%) age ranges and the BMD by the Above 77 age range 75%. Race/ethnicity appeared to have no impact on machine choice with the exception of Multiracial. 100% of respondents identified as multiracial opted to vote by scanner. Overall, 59% of people with disabilities voted by scanners, 32% by BMD, 3% provisional ballot, and 2% absentee ballot.

Nothing trends emerged related to voting and the level of support. However, it should be noted that 66% of people with disabilities voted without the use of assistive devices, 17% with assistive technology on the voting technology,

8% with the assistance of a family member or friend, 5% with poll worker assistance, and 4% with an accessible device (such as a magnifying glass).

One strong correlation spiked for the 18~27 age .range (75%) related to the choice "I was not given the option to use the BMD." Since we previously established that one-third of the people with disabilities in this sample voted via the BMD, the reasons their other peers did not use the BMD are delineated as follows : 26% I was not given the option to use the BMD, 26% I prefer an alternative method of voting, 19% other, 13% 'Ib.e poll site did not have a BMD available, 8% I did not have enough time to use the BMD, 6% Poll Worker was not knowledgeable/not able to assist me with the BMD, and 2% The BMD was not operational.

Last, for the respondents who answered the question, no males indicated that they felt their voting rights were violated but 7% were not sure. 5% of females felt their voting rights were violated with 7% not sure. Age range was inconclusive. However, 50% of Hispanic/Latino voters felt that their rights were violated and the other 50% were not sure. 5% of people with disabilities felt their voting rights were violated with 9% not sure.

Table 1.5A: State Institutionalized Population Ḅ County								
NYS County	DOH Nursing Home[1]	DOH Assisted Living[2]	OPWDD Developmental Center3	OPWDD All Other Group Home Care[4]	OMH Psychiatric Or RTF[5]	OMH All Other Community Care[6]	Correctional Facilities[7] *(Represents 31% of the total number/*	Total Institutionalized Popula tion[9] *(Top Ten Counties Hiahliahted in Bold)*
Albany	1,789	73		733	261	830		3,686
Allegany	304	2		75	3	41		425
Bronx	11,217	54210		1,779	976	2,736		**17,250**
Broome	1,439	77	183	374	173	417		2,663
Cattaraugus	527	27		**348**	32	112		1,046
Cavuaa	558	71		158	63	142	325	1,317
Chautauqua	1,006	212		431	46	222	268	2,185
Chemung	708	14		239	149	405	832	2,347
Chenango	520	2	47	102	22	37		730
Clinton	. 440	21		161	54	126	1,002	1,804
Columbia	630	17		218	24	37	118	1,044
Cortland	364	1		122	8	33		528
Delaware	324	6	116	130	2	26		604
Dutchess	1,795	197		928	152	710	1,608	5,390
Erie	5,675	260		2,303	552	1,638	1,079	11,507
Essex	291	12		236	5	8	166	718
Franklin	197		183	271	6	58	1,019	1,734

[1] This data was not available to the public. It was requested from the state agency and refused. Data obtained by formal FO!A request to NYS DOH. "Number of residents in Nursing Homes by County and Ownership.» It includes columns for State/County/Municipal nursing homes and Private nursing homes.

[2] This data was not available to the pub!ic. It was requested from the state agency and refused. Data obtained by formal FOIA request to NYS DOH. "NYS Medicaid Recipients in Assistant Living Programs Sy County of Fiscal Resp onsibilty, Calendar Year, 201\ (Claims as of April 2012).

[3] This data was not available to the public. It was requested from the state agency that has the primary authority NYS OPWDD and refused. It was further explained that such data would have to be obtained through a FOIA request to NYS DOH. The request was made and the data was obtained for only developmental centers, "Numberof Clients by County in NYS Development Center as of 1/1/ 2012."

[4] This data was not available to the public. Severa! requests were made by NYSILC by staff, a council member, and a consultant to the NYS OPWDD Commissioner's Office for the informati on.Eventually the request was honored by early July 2012, providing the breakdown of individuals living in all other OPWDD residential group home care sett ings by county (e)(cluding developmental centers) as of March 2012.

'This data was obtained via NYS OMH website at the following !ink htt p:/ /bi.omh.ny.gov/pc s/Summa ry%20Reports?page eva!=prog-re It consi ts of the following categories; Psychiatric Centers and Reside nti al Treatment Facillties (RTF' s).

• This data was obtained via NYS OMH website at the following link, http:/ /bi.omh.ny.gov/pcs/Summ ary%20Re ports?pagee val=prog-re. It consists of the following categories: Private Residences (which includesunlicensed supported housing, independent liVing and living with family), Licensed MH Housing, Adult Care, Foster Care, Youth-Community Based, Homeless, Youth Institution-Res!dential Treatment Center, Youth Institution-Juven ile Justice Facility , Nursing Home, Incarcerated, Inpatient or Residential Treatment Facility, and Other.

'This data was not available to the public. It was requested from the state agency and refused. It was explained that a FO!A request needed to be sent to the State Commission of Correction. The Office of Counsel responded back to the FOIA request that they had "no such documents responsive to the reque t." Outraged, NYSILC staff looked up state legislators with corrections committee assignments and found a local Assembly member . They were informed of the situation and provided with the documentation. The Assembly member's office investigated the situation and came up with the data that previously "didn't exist," NYS Department of Corrections and Community Supervision Daily Population Capacity Report {6/7/*12t* for all levels of correctional and treatment facl!ities in the State .

[11] The figures in this column have been prorated to 31% of the total amounts based on the following report. Research Brief; A Review of Disabil it y Data for the Institu ti onal Population, Cornell University Rehabilitation Research and Training Center on Disabilfty Demographics and Statistics, htt p:// digitalcommons.iJr. cornell.edu/cgi/viewcontent.cgi?arti cle=1205&context"€dico!!ect.u Disability in the Incarcerated Population: Based on data from three Department of Justice {DOJ) surveys .31 percent of state prison inmates...report a disability of some sort. Mental and !earning disabilities are particularly prevalent in the jail and state prison populations."

[9] The Total !nstitutiona!iied Population figures will be transferred over to the fourth column of Table 1.1 for the number of individuals institutionalized per county.

[10] Figure based on total number given for New York City prorated for each county/borough based on a percentage scale according to ACS disability statistics.

Fulton	321	43		395	9	99	163	1,030
Genesee	465			121	5	71		662
Greene	248	34		87	4	30	812	1,215
Hamilton		1		75	0	0		76
Herkimer	490	5		212	5	47		759
Jefferson	517	2		205	56	157	444	1,381
Kings	9,965	715[11]	265	2,935	1,370	3,871		19;121
Lewis	153	0		88	1	7		249
Livingston	338	1		284	5	14	579	1,221
Madison	377	7		166	2	27		579
Monroe	4,995	159	122	1,735	471	1,545	24	**9,051**
Montgomery	526	44		219	30	167		986
Nassau	6,831	198		1,770	1.469	4,169		**14,437**
New York'	6.410	468[12]		1,022	1,695	4,619	560	**14,774**
Niagara	1,344	167		420	74	281		2,286
Oneida	2,465	186		944	355	647	1,389	**5,986**
Onondaga	**2,828**	338		641	265	693		4,765
Ontario	559	28		368	20	122		1,097
Orange	1,331	70		866	266	641	177	3,351
Orleans	281	6		73	7	23	577	967
Oswego	585	14		119	32	85		835
Otsego	375	31		245	45	69		765
Putnam	285	13		246	3	164		711
Queens	11,477	616[13]	79	1,963	1,342	4,725	83	**20,285**
Rensselaer	1,194	75	40	309	83	267		1,968
Richmond	2,896	123 [14]	40	1,006	457	1,060		5,582
Rockland	1.551	148		1,095	451	1,067		4,312
Saratoga	758	8		419	167	220	130	1,702
Schenectady	1,014	18	46	431	100	250		1,859
Schoharie		34		102	1	22		159
Schuyler	119	30		64	3	30	63	309
Seneca	271	7		132	4	373	244	1,031
St. Lawrence	650	41		355	239	397	690	2,372
Steuben	639	12		213	51	155		1,070

[11] !bid.
:, !bid,
TI Ibid.
[14] Ibid.

Suffolk	8,115	444		2,949	1,059	2,914		**15,481**
Sullivan	416	9		793	22	226	350	1,816
Tioga	251	21		74	0	20		366
Tompkins	428	2		201	32	148		811
Ulster	1,180	82		601	54	226	905	3,048
Warren	378	6		193	49	114		740
Washington	502	3		175	8	52	737	1,477
Wayne	512	26		376	7	77	89	1,087
Westchester	6,079	83		1,580	1,140	1,925	843	**11,650**
Wyomino	188	1		96	21	48	1,177	1,531
Yates	191	2		84	4	58		339
TOTALS	108,282	5,855	1,121	35,055	14,011	39,500	16,453	220,277

TIIE Council of
SCHOOL SUPERINTENDENTS
LEADERS • EDUCATORS • ADVOCATES

November 17, 2014

New York State Board of Elections
40 North Pearl St., Suite 5
Albany, New York 12207

RE: Comments on Chapter 273 of the lows of 2014 - stakeholder input on transition from use of lever voting machines

Dear New York State Board of Elections Members:

The New York State Council of School Superintendents (THE COUNCIL) submits these comments in response to a request seeking stakeholder input regarding chapter 273 of the laws of 2014.

THE COUNCIL supported the subject legislation and supports continued use of lever voting machines in New York State beyond 2015.

Many school districts own lever machines and utilize them for annual budget votes, school board elections, and special district votes. These machines serve their intended purpose well.

A limited ability to raise funds locally due to the state's property tax cap combined with a finite amount of state aid create an inability for school districts to afford any added costs to their budget, most especially in areas outside of basic operations.

This means that replacement of existing lever machines or increased costs for a different voting method are not feasible in most school district budgets. Any replacement of the existing lever voting method would need to be cost-neutral to be viable for most school districts to implement.

The preference of THE COUNCIL would be further extension of the law authorizing use of lever voting machines beyond December 31, 2015.

In response to the request for comment by the Board of Elections, THE COUNCIL surveyed a regionally balanced subgroup of its members to determine:

1) Current use of lever voting machines;
2) Current use of electronic voting machines;
3) Relative added costs of switching to use of electronic voting machines;
4) Likelihood of switching to electronic voting versus paper ballots upon expiration of lever authorization; and

S) Disabled voting population and use of special access accommodations.

Compiling superintendent responses, a few key findings emerged:

Counties are currently determining which school districts have access to electronic voting

The results of our survey were ultimately tied exclusively to the County(s) in which a school district was located. Currently, school districts are placed in considerably different situations depending upon the discretion of their county Boards of Elections to provide access to existing electronic machines.

Under the Help America Vote Act (HAVA), county Boards of Elections received funding to purchase electronic voting machines. They own, maintain and program these machines, utilizing them in general elections. County Boards of Elections are required by law to conduct certain elections using these electronic machines. Without similar financial support, it is unlikely that most school districts would be able to afford the expense of purchasing electronic machines. This leaves them currently at the mercy of the local county Board of Elections,

Specifically, superintendent responses to our survey broke down into 3 distinct categories in this area:

1. ***A* Few County Boards of Elections Provide Electronic Machines at Reasonable Cost or No Cost to School Districts**

Some superintendents responded that their local county Boards of Elections provided use of electronic voting machines at little or no cost to the school district. Modest added costs associated with a "low cost" option were tempered by school district savings by requiring less staffing and voting locations, as well as less maintenance required by not owning the machines.

Some county Boards of Elections are currently providing the machines absolutely free of charge.

Other county Boards of Elections will provide the machines to districts, but tend to require the school district to pay for the cost of compatible ballots (the quoted costs were in the $600 range for a medium sized school district, but rose closer to $1,000 total with the addition of machine programming costs). These counties are voluntarily doing this, as they own the electronic machines, are not utilizing them at the time of school votes, and already maintain the staff and infrastructure to operate the machines.

The !ow-cost options were not cited by school districts as a deterrent to electronic machine usage. All superintendents who responded stating that their county required this level of payment, were in fact currently utilizing the option. These counties tended to be near the state's larger population centers.

Superintendents in both categories (no cost or low cost) reported no negative issues with the circumstances and have already transitioned to electronic voting, prior to expiration of the lever machine law.

2. **Some** County **Boards of** Elections **Allow** Loan **of Electronic Machines, but at Unaffordable Cost to School Districts**

Several superintendents responded to our request stating that they were currently still utilizing their lever machines, but had attempted to switch to electronic voting machines. These superintendents requested to rent or loan electronic machines owned by their local county Board of Elections.

The responses stated that school districts were asked to pay amounts ranging from $1,000-$7,000. These were flat fees quoted by county BOEs for the use of one machine. Other counties would have required school districts to pay costs they claimed were associated with expenses for machine maintenance, programming, delivery & removal, as well as maintaining a technician on site during polling hours. The exact costs of these expenses varied, but were seen as prohibitive by school districts.

This experience appears to be prevalent in upstate rural counties. While a rental quote of $1,000 per day falls closer to the scenario in the previous category in terms of dollars, that amount may not be as cost-effective for a smaller school district in a rural area as it might be for a larger suburban district. There is a relative scale of affordability.

Superintendents saw these quoted costs as unaffordable for their school districts. They will continue to utilize lever machines at a significantly lower cost- as long as that is an option - or unless costs to utilize electronic machines decrease.

These superintendents stated that they are likely to use paper ballots should lever machines no longer be an option. 0nly one superintendent stated that their school district was too large to utilize a paper ballot option, even if !ever machines were outlawed.

3. **Many County Boards of Elections Refuse to Loan Electronic Machines to School Districts at any Cost**

This was a common response by superintendents. Many county Boards of Elections did not allow school districts to use the county's electronic machines when requested, regardless of the cost Again, this appeared to be a common response in upstate rural counties.

This left school districts in these co unties with the sole option of purchasing their own electronic machines. Only one superintendent responded with an actual quoted cost for the machines. Their cost would be an $11,500 initial purchase cost, plus an unknown amount in ongoing labor costs for machine programming, maintenance and operation, as well as costs to format and print ballots. The district in question found this cost to be unaffordable.

Likewise, other districts in th is category, while not giving an express cost, found this option out of their reach, and have continued to use lever machines or paper ballots.

Many school districts are likely to resort to use of paper ballots upon expiration of the lever machine law

It was made clear by our members that, absent financial assistance, use of paper ballots would be the most likely resort for most school districts currently unable to afford electronic machines. This was the sentiment of the majority of districts surveyed.

Given current budgetary restraints, many school districts would have little choice but to resort to low-tech options, as op posed to transferring to the higher-tech electronic machines, as the New York State Board of Elections has expressed a desire to accomplish by eliminating the use of lever machines.

Without so me type of additional financial support or low-cost use of electronic machines from county Boards of Elections, these school districts will not utilize electronic voting upon expiration of lever machine authorization.

Use of alternative voting methods by disabled voters receives customized attention in many places

The understanding of the intent behind the current New York State Board of Elections report and expiration of the lever voting machine law was a desire to provide greater accessibility to disabled voters. This is a cause that superintendents are already addressing on a local level.

Some larger school districts expressed that there were disabled voters utilizing their handicapped-accessible voting methods. However, some respondents stated that their disabled voters tended to request paper ballots for mail-in rather than physically coming to the polls.

One school district owned a height-adjustable lever machine, which they were able to lower for access by wheelchair-bound voters. Another district was given access to a special electronic voting machine used solely for handicapped access by the county Board of Elections. Several districts stated that no voters utilized (available) alternative voting methods.

Superintendents support equal ballot access for all voters, and in a fashion that makes it as easy as possible for all voters to make their voices heard. This includes all of our disabled and handicapped voters. This group of voters may be better served by the continued or improved availability of individualized voting means rather than by a blanket transition to electronic machines.

Closing Analysis

lever voting machines currently serve many school districts well. They provide a cost-effective means to tally votes and smoothly read results. Are electronic machines a more technologically-advanced option? Perhaps, but lever machines are currently the best way for many school districts to perform a necessary function with the resources available. THE COUNCIL therefore supports extension of the option for school districts to continue use of lever voting machines beyond 2015.

As expressed in detail above, if the law authorizing lever machines is allowed to expire, county Boards of Elections appear to hold the key to this issue. Those Boards that are sharing electronic machines with school districts at little or no cost are seeing successful use at the school district level. The school districts in these counties have voluntarily chosen to make the switch to electronic machines, even prior to the exp'1ration of authorization for lever machines.

These factors lead The New York State Council of School Superintendents to the conclusion that any transition to electronic voting machines in school district elect'1ons would require: 1) financial support from the state in providing funds for school districts to purchase or rent electronic machines and/or 2) logistical support for school districts in those counties that are refusing to provide electronic

machines at an affordable cost, specifically the requirement that counties provide the electronic machines and accompanying services to school districts at an affordable cost.

Should the Board have any questions regarding this matter, please feel free to contact me,

Very Truly Yours,

Terrance **N.** Pratt, Esq.
Assistant Director for Government Relations

PLAINVIEW **WATER** DISTRICT

10 Manetto Hill Road• PO Box 9113 • Plainview, New York 11803
Telephone: (51.6) 931-6469 • Fax: (516) 931-8683
Web Site: plainviewwater.org

November 10, 2014
Via Mail and **E-Mail**

New York State Board of Elections
40 North Pearl Street - Suite S
Albany, New York 12207

Re: Lever Voting Machines

Dear Members of the Boar d:

At the request of both Assemblywoman Schimel and Ms. Anna Svizzero of your office, the undersigned Commissioners of the Plainview Water District offer the enclosed in support of the report that State Board will be submitting to the Governor and the Legislature regarding a potential permanent exemption for Commissioner Elected District s and sister municipalities from the use of electronic voting machines. Specifically, we write concerning the fiscal impact a transfer from lever type to electronic voting machines would have on the District.

For decades, the District has relied upon the lever voting machines for their annual elections. The machines are maintained and managed by the Nassau County Board of Elections. The current rental for a lever voting machine is approximately $150.00 per election. Our informal communications with the Nassau County Board of Elections indicates that the rental for an electronic voting machine would be substantially higher as each machine must be programmed by a computer specialist for each election. Consequently, we urge the Board of Elections to fully analyze the cost of electronic voting machines to small local governments as it prepares its report for the Governor.

Should the actual cost of lever voting machines prove exorbitant and access to lever type machines be denied in the future, it is likely that the District s would turn to paper ballots as authorized under the Town Law Section 212.

Respectfully submitted,

Joel R. Kessler

Chairman

JRK:ma

c/letters/levervotlngmachlnes

New York State
School Boards Association
Better School Boards Lead to Better Student Performance

24 Century Hill Drive, Suite 200
Llrham, New York 12ll 0-2125
Tel: 518,783.0200 | Faxi 518.783.0211
www.nyssba.org

1. How does your school district vote on board elections and the budget (ex. optical scanners, lever machines, paper ballots)?

   We currently use lever machines.

2. If your district uses optical scanners, how do they access them (ex. own, rent, borrow)?

   N/A

3. If your district rents optical scanner machines, how much does it cost?

   N/A

4. If your district does not use optical scanner machines, why?

   We currently use lever machines, which are stored in our school building.

5. If your district is currently using lever voting machines for your elections, approximately how much does it cost to run the May budget vote and board elections?

Election Management System	*$4621*
Technicians on call (2)	*$600*
Election Inspectors	*$865*
TOTAL	***$5507***

6. In 2016, when lever voting machines are no longer an option to use for school elections, what will yol.lr district **do** (ex. buy our own optical scanner, rent optical scanner, borrow optical scanner, use paper ballots, we don't know,other)?

   We will either rent or borrow optical scanner machines. However, it depends$ on how the process works for renting or borrowing. At this point, I am unsure of what the process is. Not too much information has been shared other than we CANNOT use the lever machines after December of 2015.

7. If your district does not currently use optical scanner machines, **what is** your district's biggest concern regarding transitioning to them?

   The costs associated with the optical scanner machines.

8. Has your district estimated the cost of transitioning to the optical scanner machines? If so, please provide any information on cost factors {machines, ballots, staff, etc.).

Election Management System	*$4541*
Moving company to transport machines	*$1500*
Technicians on call from county (2)	*$400*
Ballots at $.55 (1500)	*$825*
County trained inspectors for machines (2)	*$500*
Inspectors for the books	*$865*
TOTAL	***$8731.***

District Name (required): Pocantico Hills Central School District

Name (optional): Gina L Downes

Title (optional): Confidential Secretary to the Superintendent/District Clerk

Email Address (optional): gdownes@pocanticohills.org

RESOURCE CENTER FOR ACCESSIBLE LIVING, INC.
Opening the Doors of Opportunity

727 Ulster Avenue
Kingston, NY 12401

TTY: (845) 331-4527
Fax: (845) 331-2076
Main: (845) 331-0541

New York State Board of Elections
Elections Operations Unit

As a 23-year-old and an individual with a disability living in New York, I have, for the past five years pursued an active role in my community towards advancing the democratic principle of independent and private voting for all eligible citizens. Ironically, only three months after my 18th birthday that solidified my voter eligibility, I sustained a severe spinal injury leaving me unable to move my arms or legs amongst many other complications. After finally returning home in February of 2010, after six months of inpatient rehab far from home, I was able to settle in and begin focusing on everyday activities and interests a young adult my age should be able to enjoy. Of particular interest to me were civil rights and other related political matters. The following year, after having been able to gain an understanding of local politics I became interested in election matters and adamant on participating in the next voting opportunity. The Kingston City School District (in Ulster County) annual budget was up next. lJnfortunately, upon my arrival and after entering the elementary school where I was to vote I realized I would not be doing so myself. Adding insult to injury, what I had anticipated would be my first independent and private vote as a New York resident turned out as what became a charade between my caregiver and I trying to fit my wheelchair close enough to .the lever voting machines for my face to be close enough to the device so that the curtain did not close in front of me. The ensuing budget, candidates for the school board, and ballot proposals, had to be read to me by my caregiver as they were far too distant for me to read myself. Afterwards I directed him to select my choices. Finally, I was finished speaking aloud my voting choices and my caregiver moved the lever to lock in my decision, uncovering the curtain from behind my head and exposing to me what wa3 a small crowd of onlookers beside me.

What I had anticipated to be an exciting initiation of sorts, to vote for the first time after overcoming so much adversity and struggle for the past year and a half, turned out to be a reminder of the overwhelming level of indignities and barriers l had to look forward to in this new life post injury. The purpose of my testimony today in regards to the continued use of lever voting machines for the administration of elections by villages, school districts, and the other local elections, is not only to point out the brazen violations of the Americans with Disabilities Act and the Rehabilitation Act, but also to provide a glimpse of the personal impact delaying accessibility in local elections has on individuals with disabilities. What is meant to be an empowering expression of one's citizenship and civil rights can easily become a demoralizing and discouraging effort to have one's voice equally heard. As such, I strongly urge the New York State Board of elections to enforce and uphold state and federal election law by insuring an accessible alternative during elections administered by villages and local jurisdictions in cooperation with County Board of Elections.

Keith Gurgui
Systems Advocate
Resource Center for Accessible Living, Inc.
727 Ulster Avenue
Kingston, NY 12401
845-256-8928

10 November 2014

Southern Tier Independence Center

Access your world

STIC

January 23, 2015

NYS Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Dear Members of the NYS Board of Elections:

Southern Tier Independence Center, Inc. (STIC) is a Center for Independent Living located in Binghamton, NY. We have provided programs, supports and services for people of all ages with all kinds of disabilities across the South-Central counties of the state for more than thirty years. The majority of our board members and a preponderance of upper-level management staff are people with disabilities. Our services and programs also touch families, friends, and other community members. Throughout our history we have worked toward community inclusion and access in all aspects of life: education, employment, housing, transportation, civil rights, healthcare, voting rights, etc. Last year we served more than 2800 people.

I am writing to oppose the use of old-style lever machines by local municipalities, fire districts and school districts in non-federal/state elections. For the last two sessions of the legislature a law was approved that allows the use of these antiquated and inaccessible machines.

The Help America Vote Act passed in 2002. HAVA requires at least one accessible voting machine at each poll site for state and federal elections. NY was the last state to come into compliance (2010). We have not forgotten the years of advocacy and the lawsuit on the way to NYS compliance to voting rights.

Use of inaccessible machines forces voters with disabilities to rely on the assistance of another person, taking away the right to a private, independent vote. The legislation that was passed last year (and signed by the Governor), requires the NYS Board of Elections to submit a report by January 31, 2015, to the Governor, the Speaker of the Assembly, the President of the Senate, and the legislative chairs of the Elections Committees of the legislature. As part of the report, the Board of Elections is required to "solicit and take into consideration recommendations from stakeholders." The people who work and are served by STIC consider themselves to be stakeholders.

135 East Frederick St.• Binghamton, New York •3904 607-724-2111 (voice/TIY) 607-ffl-J600 (fax)

The lever bill should expire at the end of this year. **End it, end it, end it!**

Villages, districts, and municipal corporations should be required to use accessible voting machines. New York State should defray the cost for purchase and training in the use of such machines, The ImageCast system has had many, many problems while the DS200 Ballot Scanner (used in ten counties) has proven more reliable and easier to use, The Board of Elections should use the experiences from elections held over the last four years when making recommendations about which systems to suggest to municipalities for purchase, Or better yet, pick one system (preferably not the ImagaeCcast) for the whole state so all voters will learn the one system,

Use of lever machines discriminates against voters with disabilities, We have the right to vote privately and independently, the same way as other voters. A single statewide voting system should be used for ALL elections and by ALL voters, And the system should be accessible, allowing for private and independent voting,

I very strongly encourage you to provide a statewide plan to make every election accessible to every voter. Thank you,

Susan Ruff
Advocacy Director, STIC

INCORPORATED

Village of Atlantic Beach

GEORGE J PAPPAS
MAYOR

EDWARD A SULLIVAN
ANDREW J. RUBIN
LINDA BAESSLER
DANAE A. MUDDIMAN
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www.VOFAB.org

CHARLES S. KOVIT
VILLAGE ATTORNEY

HERBERT A. KLIBANOFF
TREASURER

EMILY SINISCALCHI
CLERK

November 17, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Atlantic Beach, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

George J. Pappas, Mayor

INCORPORATED VILLAGE OF BELLEROSE

50 SUPERIOR ROAD
BELLEROSE VILLAGE, NEW YORK 11001-4125
TELEPHONE: (516) 354-1000
FAX: (516) 354-1033
WWW.BELLEROSEVILLAGE.ORG

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Bellerose, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and

program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Henry J. Schreiber
Mayor
Inc. Village Of Bellerose

DANIEL H. SEROTA, MAYOR

TRUSTEES
ROBERT C. ANTONUCCI
CAROLINE Z. BAZZINI
EDWARD J. CHESNIK
ROBERT D. SPINA

THE INCORPORATED VILLAGE OF BROOKVILLE

18 HORSE HILL ROAD
BROOKVILLE, NEW YORK 11545
(516) 626-0973

WINSOME CITARELLA
CLERK & TREASURER
PH: 626-1792 FAX: 626-7621

TIMDTHY H. DOUGHERTY
SUPERINTENDENT OF BUILDING DEPT. & ADMINISTRATOR
PH: 626-0973 FAX: 626-7621

JOHN M. CHASE, ESQ.
VILLAGE ATTORNEY
PH: 671-5880 FAX: 671-0740

November 19, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detalling the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Brookville, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Daniel H. Serota
Mayor

Incorporated Village of Cove Neck
P.O. Box 299
Cove Neck, New York 11771
Phone: (516) 922-1885
Fax: (516) 922-2590

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Cove Neck, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can he accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

, Mayor
THOMAS R. ZOLLER

INCORPORATED VILLAGE OF EAST HILLS

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of East Hills, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

Telephone 516-621-5600 209 HARBOR HILL ROAD, EAST HILLS, NEW YORK 11576 Fac.imllc 516-625-8736
www,villagcol'casthills.org E-mail:mayor@villagcofcasthills.org

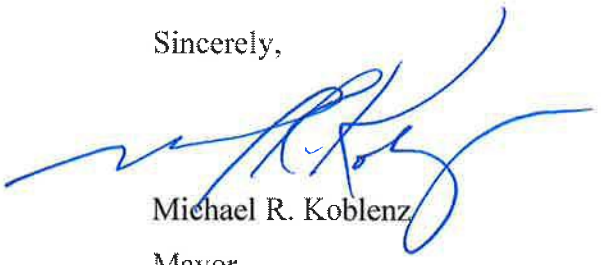
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,



Michael R. Koblenz
Mayor

INCORPORATED VILLAGE OF
EAST ROCKAWAY
P.O. BOX 189
EAST ROCKAWAY, N.Y. 11518-0189
PHONE (516) 887-6300
FAX (516) 887-6305
WWW.VILLAGEOFEASTROCKAWAY.ORG

December 4, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Incorporated Village of East Rockaway is a member of The Nassau County Village Officials Association (NCVOA), which represents all 64 incorporated villages in Nassau County and its 450,000 residents. For nearly five years, NCVOA has been attempting to have Albany address the serious issues presented to Nassau's villages (and special districts, school districts and other local municipal authorities) as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections. The effective date of this unfunded mandate has been extended twice by the New York State Legislature and governor as a result of its unfair application to villages and other local voting districts. It is incumbent on the State Board of Elections, in its report to the Governor, Speaker of the Assembly, temporary president of the Senate and the chairs of the committees on Election laws of both Houses of the Legislature, due by January 31, 2015 (the "Report"), to make clear that New York State government needs to finally provide relief to the State's villages and other local voting districts from the impacts of this law.

The Nassau County Board of Elections, in testimony to Assemblywoman Michelle Schimel on May 12, 2014, made it clear that the Nassau Board of Elections is physically unable, with the resources that it has, to provide electronic voting machines in all of the village, school district, special district and other local elections that take place each year.

In fact, they have explicitly stated that unless the State provides additional funding to purchase additional machines (estimated several years ago to be approximately $5 million) the Nassau Board of Elections will be unable to accommodate the needs of our members. In addition, the Nassau Board of Elections has stated that, even if it could provide the machines to villages and other local government units for their elections, the cost of doing so to the recipient villages and governments would be nearly ten times the current cost of the mechanical voting machines. It would be an additional costly unfunded mandate that local governments and districts would have to confront under the already difficult state tax cap constraints currently in place.

With the prospect of the County Board of Elections not being able to provide these machines, or the cost of doing so being prohibitive or unreasonable, there will be no alternative but that many of these local elections would be conducted by paper ballot. This would be the exact opposite result Section 7-702 of the Election Law (and the federal law that prompted its adoption) was intended to accomplish: more accountable, reliable and verifiable elections. The absurdity of that result is obvious, yet no clear or definitive solution has been provided to date, and time is running out.

The Village of East Rockaway urges that the State Board of Elections include in the Report the following recommendations:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similarly situated) sufficient time to purchase the machines and have village personnel trained properly in their use;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Without these and other appropriate remedies, dire consequences are sure to result in future village and other local elections. As has been generally noted, paper ballot voting carries with it enhanced uncertainty as to the integrity of the ballot count, increased potential for fraud and human error, difficulty by village and district officials in complying with state mandated timeframes for the certification of election results, as well as other consequences. As the most current extender bill (2014 A9321-A, S7371-A) sunsets in early 2015, all local elections that take place after December 31, 2015 will be in peril. It is irresponsible for New York State to leave local officials unable to administer local elections in a reliable and secure manner. Immediate action is required, and the State Board of Elections must advocate for these changes.

Finally, should these remedial changes not be successfully made, it is critical for the Legislature and State Board of Elections to adopt legislation and/or regulations that clarify the rules that pertain to village and other local paper ballot elections. The uncertainties and ambiguities that are inherent in the current law and rules, coupled with the need for local governments to resort to paper ballots, will even further erode the integrity of these elections. The Nassau Village Officials Association stands ready to work with the State Board of Elections, the Legislature and other stakeholders in this process to ensure the appropriate corrective legislation is crafted and adopted. Please advise us as to anything else that Nassau County Village Association can do to assist in this important process.

Thank you.

Francis T. Lenahan Jr.

Mayor, Inc. Village of East Rockaway

Cc: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Thomas O'Mara
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel
Senator Jack Martins

INC. VILLAGE OF EAST WILLISTON

2 PROSPECT STREET, EAST WILLISTON, NY 11596
(516) 746-0782 • FAX (516) 746-3130

"I like to see a man proud of the place in which he lives." Lincoln

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of East Williston, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

David E. Tanner/bdk
Mayor

Village of Farmingdale

P.O. Box 220 • 361 Main Street • Farmingdale, New York 11735
Tel: 516-249-0093 • Fax: 516-249-0355
www.farmingdalevillage.com

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Farmingdale, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Incorporated Village of Floral Park

ONE FLORAL BOULEVARD, P.O. BOX 27, FLORAL PARK, N.Y. 11002
TELEPHONE 516-326-6300
VILLAGE HALL FAX 516-326-2734 PUBLIC WORKS FAX 516-326-6435
WWW.FPVILLAGE.ORG

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As Mayor of the Village of Floral Park, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Thomas J. Tweedy
Mayor

VILLAGE OF
FLOWER HILL

1 BONNIE HEIGHTS ROAD, MANHASSET, NY 11030
(516) 627-5000 FAX: (516) 627-5470
WWW.VILLAGEFLOWERHILL.ORG

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Flower Hill, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Mayor Elaine Phillips

INCORPORATED
VILLAGE OF FREEPORT
Phone: 516-377-2252

46 NORTH OCEAN AVE
FREEPORT, NY 11520
Fax: 516-377-2323

ROBERT T. KENNEDY
MAYOR

December 2, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) represents all 64 incorporated villages in Nassau County and its 450,000 residents. For nearly five years, NCVOA has been attempting to have Albany address the serious issues presented to Nassau's villages (and special districts, school districts and other local municipal authorities) as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections. The effective date of this unfunded mandate has been extended twice by the New York State Legislature and governor as a result of its unfair application to villages and other local voting districts. It is incumbent on the State Board of Elections, in its report to the Governor, Speaker of the Assembly, temporary president of the Senate and the chairs of the committees on Election laws of both Houses of the Legislature, due by January 31, 2015 (the "Report"), to make clear that New York State government needs to finally provide relief to the State's villages and other local voting districts from the impacts of this law.

The Nassau County Board of Elections, in testimony to Assemblywoman Michelle Schimel on May 12, 2014 made it clear that the Nassau Board of Elections is physically unable, with the resources that it has, to provide electronic voting machines in all of the village, school district, special district and other local elections that take place each year.

In fact, they have explicitly stated that unless the State provides additional funding to purchase additional machines (estimated several years ago to be approximately $5 million), the Nassau Board of Elections will be unable to accommodate the needs of our members. In addition, the Nassau Board of Elections has stated that, even if it could provide the machines to villages and other local government units for their elections, the cost of doing so to the recipient villages and governments would be nearly ten times the current cost of the mechanical voting machines. It would be an additional costly unfunded mandate that local governments and districts would have to confront under the already difficult state tax cap constraints currently in place.

With the prospect of the County Board of Elections not being able to provide these machines, or the cost of doing so being prohibitive or unreasonable, there will be no alternative but that many of these local elections would be conducted by paper ballot. This would be the exact opposite result Section 7-702 of the Election Law (and the federal law that prompted its adoption) was intended to accomplish: more accountable, reliable and verifiable elections. The absurdity of that result is obvious, yet no clear or definitive solution has been provided to date, and time is running out.

The villages of Nassau County urge that the State Board of Elections include in the Report the following recommendations:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have village personnel properly trained in their use;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis.

Without these and other appropriate remedies, dire consequences are sure to result in future village and other local elections. As has been generally noted, paper ballot voting carries with it enhanced uncertainty as to the integrity of the ballot count, increased potential for fraud and human error, difficulty by village and district officials in complying with state mandated timeframes for the certification of election results, as well as other consequences. As the most current extender bill (2014 A9321-A, S7371-A) sunsets in early 2015, all local elections that take place after December 31, 2015 will be in peril. It is irresponsible for New York State to leave local officials unable to administer local elections in a reliable and secure manner. Immediate action is required, and the State Board of Elections must advocate for these changes.

Finally, should these remedial changes not be successfully made, it is critical for the Legislature and State Board of Elections to adopt legislation and/or regulations that clarify the rules that pertain to village and other local paper ballot elections. The uncertainties and ambiguities that are inherent in the current law and rules, coupled with the need for local governments to resort to paper ballots, will even further erode the integrity of these elections. The Nassau Village Officials Association stands ready to work with the State Board of Elections, the Legislature and other stakeholders in this process to ensure the appropriate corrective legislation is crafted and adopted. Please advise us as to anything else that Nassau County Village Association can do to assist in this important process. Thank you.

Very truly yours,

Robert T. Kennedy
Mayor

C/c Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Deputy Speaker of the Assembly Earlene Hooper
Assemblyman Brian Curran
Senator-Elect Michael Venditto

pl

INCORPORATED
VILLAGE OF GARDEN CITY
351 STEWART AVENUE
GARDEN CITY, L.I., N.Y. 11530-4528

TELEPHONE (516) 485-4000
FAX (516) 742-5223

December 12, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, New York 12207-2729

Dear Mr. Walsh:

On behalf of the Village of Garden City and the Board of Trustees, we support the Nassau County Village Officials Association (NCVOA) letter recently sent to you detailing the serious, ongoing challenges villages, school districts and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines. The estimated cost to Garden City would be over $8,000 rather then the several hundred dollars spent using the lever style voting machines.

I am joining all Nassau County Village Mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other countres similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated.

- Implementation period of several years to enable the Nassau County Board of Elections (and others similarly situated) sufficient time to purchase the machines and have personnel trained.

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost effective basis.

Thank you for your consideration.

Sincerely,

John J. Watras

John J. Watras
Mayor

JJW:kma
cc:: Governor Andrew M. Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Kemp Hannon
Senator Jack M. Martins
Senator Carl Marcellino
Senator Thomas O'Mara
Assemblyman Edward Ra
Assemblyman Charles Lavine
Assemblyman Michael Montesano
Assembly Michael Cusick
Assemblywoman Michelle Schimel

Village of Great Neck

61 Baker Hill Road, Great Neck, NY 11023
Tel: 516-482-0019 Fax: 516-482-2606

November 17, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Dear Mr. Walsh,

The Nassau County Village Officials Association recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local special districts are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Great Neck, I am joining Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similarly situated) sufficient time to purchase machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost effective basis.

Thank you for your consideration.

Very truly yours

Ralph Kreitzman

Ralph J. Kreitzman
Mayor

RJK/ko

CC: Hon Andrew Cuomo, Governor
Hon Jack M. Martins, New York State Senator
Hon. Michelle Schimel, New York State Assemblywoman
Warren Tackenberg, Executive Director, NCVOA

Village of Great Neck Estates

INCORPORATED 1911
Village Hall – Atwater Plaza
4 Gateway Drive
Great Neck, New York 11021
Phone (516) 482-8283
Fax (516) 482-5572
website: vgne.com

MAYDR
DAVID A. FOX

DEPUTY MAYDR
WILLIAM D. WARNER

TRUSTEES
SIDNEY KRUGMAN
HOWARD S. HERSHENHDRN
LANNY OPPENHEIM

VILLAGE ATTDRNEY
A. THDMAS LEVIN, ESQ.

CDDE OFFICIAL
BARBARA DZIDRNEY

ADMINISTRATOR
KATHLEEN L. SANTELLI

Decemher 3, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) represents all 64 incorporated villages in Nassau County and its 450,000 residents. For nearly five years, NCVOA has been attempting to have Albany address the serious issues presented to Nassau's villages (and special districts, school districts and other local municipal authorities) as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections. The effective date of this unfunded mandate has been extended twice by the New York State Legislature and governor as a result of its unfair application to villages and other local voting districts. It is incumbent on the State Board of Elections, in its report to the Governor, Speaker of the Assembly, temporary president of the Senate and the chairs of the committees on Election laws of hoth Houses of the Legislature, due hy January 31, 2015 (the "Report"), to make clear that New York State government needs to finally provide relief to the State's villages and other local voting districts from the impacts of this law.

The Nassau County Board of Elections, in testimony to Assemhlywoman Michelle Schimel on May 12, 2014 (a copy of which is annexed hereto for your reference), made it clear that the Nassau Board of Elections is physically unable, with the resources that it bas, to provide electronic voting machines in all of the village, school district, special district and other local elections that take place each year.

In fact, they have explicitly stated that unless the State provides additional funding to purchase additional machines (estimated several years ago to be approximately $5 million), the Nassau Board of Elections will be unable to accommodate the needs of our members. In additioD, the Nassau Board of Elections has stated that, even if it could provide the machiDes to villages and other local government units for their elections, the cost of doing so to the recipient villages and governments would be nearly ten times the current cost of the mechanical voting machines. It would be an additional costly unfunded mandate that local governments and districts would have to confroDt under the already difficult state tax cap coDstraints currently in place.

With the prospect of the County Board of ElectioDs not heing able to provide these machines, or the cost of doing so heing prohibitive or unreasonable, there will be no alternative hut that many of these local elections would be conducted by paper ballot. This would he the exact opposite result Section 7-702 of the Election Law (and the federal law that prompted its adoptioD) was intended to accomplish: more accouDtable,

reliable and verifiable elections. The absurdity of that result is obvious, yet no clear or definitive solution has been provided to date, and time is running out.

The villages of Nassau County urge that the State Board of Elections include in the Report the following recommendations:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have village personnel properly trained in their use;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Without these and other appropriate remedies, dire consequences are sure to result in future village and other local elections. As has been generally noted, paper ballot voting carries with it enhanced uncertainty as to the integrity of the ballot count, increased potential for fraud and human error, difficulty by village and district officials in complying with state mandated timeframes for the certification of election results, as well as other consequences. As the most current extender bill (2014 A9321-A, S7371-A) sunsets in early 2015, all local elections that take place after December 31, 2015 will be in peril. It is irresponsible for New York State to leave local officials unable to administer local elections in a reliable and secure manner. Immediate action is required, and the State Board of Elections must advocate for these changes.

Finally, should these remedial changes not be successfully made, it is critical for the Legislature and State Board of Elections to adopt legislation and/or regulations that clarify the rules that pertain to village and other local paper ballot elections. The uncertainties and ambiguities that are inherent in the current law and rules, coupled with the need for local governments to resort to paper ballots, will even further erode the integrity of these elections. The Nassau Village Officials Association stands ready to work with the State Board of Elections, the Legislature and other stakeholders in this process to ensure the appropriate corrective legislation is crafted and adopted. Please advise us as to anything else that Nassau County Village Association can do to assist in this important process. Thank You.

Very truly yours,

David A. Fox
Mayor

cc: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Thomas O'Mara
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel
Senator Jack Martins

GREAT NECK PARK DISTRICT
Robert A. Lincoln, Jr., Commissioner
5 Beach Road
Great Neck, New York 11023

Park Tel: (516)-482-0181 Park Fax: (516)-829-1190
Home Tel: (516)-487-4107 Home Fax: 487-4083
E-Mail: ralxx838@aol.com

Inter-Office Memo

DATE: November 14, 2014

TO: New York State Board of Elections

CC: Hon. Michelle Schimel
Hon. Jack Martins

FROM: Robert Lincoln, Jr.,
Commissioner

RE: Impact of Transition away from lever voting machines

My name is Robert Lincoln, Jr. I am a commissioner of the Great Neck Park District on Long Island. I wish to address the impact to our district and it's voter/taxpayers which will result from the transition away from lever type voting machines to electronic scanners.

Each year one of our 3 commissioner positions is up for election to a 3 year term. As required by Town Law, the election is conducted by the Park District. Requests to the Nassau County Board of Elections for them to conduct the election for us have been unsuccessful. However, they do provide the rolls of registered voters for our district, and we rent the lever type machines from them. We also pay the cost for transportation to and from the polling places.

For your information, we have four polling places serving specific geographic zones. We do two mailings to each household in the weeks prior to the election. We take extensive measures to advertise the election in order to promote participation. We permit absentee ballots, and we accommodate people who have any handicap.

Our total annual expense to conduct the election, including election workers, is approximately$10,000.00. We have more than 22,000 registered voters within the Great Neck Park

District; the normal voter turnout is under 2,000.

This year we will vote for 2 positions of commissioner, one for a 3 year term, the other for the remaining 2 years of a term vacated due to resignation. Voters will be entitled to vote for 1 candidate for each position. There are a total of 7 candidates running, each of whom has identified which position they seek. Although this may be unusual, it certainly is not unique.

We are already receiving questions concerning how winners will be determined (i.e. by specific position vs. those 2 candidates receiving the most votes, similar to certain other local elections). Although every effort is being made to be as clear as possible, we foresee confusion among some voters as inevitable.

Fortunately, this year we will be permitted to use the mechanical lever machines which do not permit more than one vote per position, thus avoiding ineligible ballots.

In analyzing the change to electronic scanners we see an impact in 3 areas, as follows:

Cost:
The use of electronic scan type voting machines, will require printing a paper ballot for each registered voter plus the necessary additional reserve for potential errors. Based on information available, we estimate the printing expense for the ballots would be in excess of $11,000. Clearly, this would double the cost of the election to our taxpayers. It would also leave us with more than 20,000 unused ballots to be destroyed.

The ability to print ballots "in house", and on a "demand" basis could alleviate this concern, thus saving significant cost, especially when considering the large number of agencies statewide which will be printing ballots.

Availability:
The Nassau County Board of Elections has made no statement concerning the availability of electronic scanners for local special district elections. Our elections occur approximately 5 weeks after the general election in November. There is concern that it will not be possible to re-program the scanning equipment in time for the second Tuesday in December. Note that the window is actually smaller when considering the time required for delivery to the polling places (as well as pick-up after the general election).

There has been discussion that local boards of elections will need to purchase more machines and hire additional personnel to meet the requirements of multiple elections (including primaries) during the first half of the year. The need for those additional machines will repeat at the end of the year

as well. There is also the question of how the cost for additional equipment and personnel will be funded.

Undesirable Alternatives:
Should neither electronic scanners nor mechanical machines be available, the use of paper ballots, manually counted at the close of polls would be required. While this might be attractive for elections where a very a small number of voters consistently turn out, any ballot incorrectly completed would not be identified until after the polls close and ballot boxes are first opened. The only choice at that point would be to reject any such vote, and those votes would not be counted at all. This could affect the outcome of the election. And it would disenfranchise voters from voicing their choice in an important local election simply because they made an error.

Given low voter turnout at recent elections, we need to have a voting system that is user friendly, and dependable with unquestionable integrity. We all want to see voters participate in every election. I believe that local governments simply want a system that works and is available to us. We are actually the end users, and it is up to the Boards of Elections, starting at the State level, to provide the necessary resources.

I urge you ensure that our goals and needs are met.

Very truly yours,

Robert A. Lincoln, Jr.
Commissioner, Great Neck Park District

Village of Great Neck Plaza, Inc.

GUSSACK PLAZA • P.O. BOX 440 • GREAT NECK, NY 11022 • (516) 482-4500 • FAX (516) 482-3503
Website: greatneckplaza.org

Via email election_ops@elections.ny.gov
and mailed via U.S.P.S.

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local special districts are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Great Neck Plaza, I am pleased to join all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

JAC:bh

Jean A. Celender, Mayor

Copies sent to:
Hon. Andrew Cuomo, Governor
Hon. Jack Martins, Member of the State Senate, 7th District
Hon. Michelle Schimel, Assemblywoman, 16th District
Warren Tackenberg, Executive Director, NCVOA

WAYNE J. HALL SR.
MAYOR

99 NICHOLS COURT
HEMPSTEAD, NEW YORK 11550
(516) 489-3400
FAX: (516) 483-4313

INC. VILLAGE OF HEMPSTEAD

December 3, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) represents all 64 incorporated villages in Nassau County and its 450,000 residents. For nearly five years, NCVOA has been attempting to have Albany address the serious issues presented to Nassau's villages (and special districts, school districts and other local municipal authorities) as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections. The effective date of this unfunded mandate has been extended twice by the New York State Legislature and governor as a result of its unfair application to villages and other local voting districts. It is incumbent on the State Board of Elections, in its report to the Governor, Speaker of the Assembly, temporary president of the Senate and the chairs of the committees on Election laws of both Houses of the Legislature, due by January 31, 2015 (the "Report"), to make clear that New York State government needs to finally provide relief to the State's villages and other local voting districts from the impacts of this law.

The Nassau County Board of Elections, in testimony to Assemblywoman Michelle Schimel on May 12, 2014 made it clear that the Nassau Board of Elections is physically unable, with the resources that it has, to provide electronic voting machines in all of the village, school district, special district and other local elections that take place each year.

In fact, they have explicitly stated that unless the State provides additional funding to purchase additional machines (estimated several years ago to be approximately $5 million), the Nassau Board of Elections will be unable to accommodate the needs of our members. In addition, the Nassau Board of Elections has stated that, even if it could provide the machines to villages and other local government units for their elections, the cost of doing so to the recipient villages and governments would be nearly ten times the current cost of the mechanical voting machines. It would be an additional costly unfunded mandate that local governments and districts would have to confront under the already difficult state tax cap constraints currently in place.

With the prospect of the County Board of Elections not being able to provide these machines, or the cost of doing so being prohibitive or unreasonable, there will be no alternative but that many of these local elections would be

conducted by paper ballot. This would be the exact opposite result Section 7-702 of the Election Law (and the federal law that prompted its adoption) was intended to accomplish: more accountable, reliable and verifiable elections. The absurdity of that result is obvious, yet no clear or definitive solution has been provided to date, and time is running out.

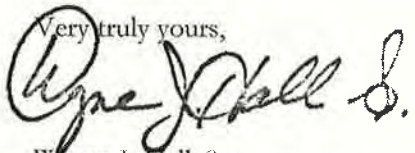
The villages of Nassau County urge that the State Board of Elections include in the Report the following recommendations:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similarly situated) sufficient time to purchase the machines and have village personnel properly trained in their use;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis.

Without these and other appropriate remedies, dire consequences are sure to result in future village and other local elections. As has been generally noted, paper ballot voting carries with it enhanced uncertainty as to the integrity of the ballot count, increased potential for fraud and human error, difficulty by village and district officials in complying with state mandated timeframes for the certification of election results, as well as other consequences. As the most current extender bill (2014 A9321-A, S7371-A) sunsets in early 2015, all local elections that take place after December 31, 2015 will be in peril. It is irresponsible for New York State to leave local officials unable to administer local elections in a reliable and secure manner. Immediate action is required, and the State Board of Elections must advocate for these changes.

Finally, should these remedial changes not be successfully made, it is critical for the Legislature and State Board of Elections to adopt legislation and/or regulations that clarify the rules that pertain to village and other local paper ballot elections. The uncertainties and ambiguities that are inherent in the current law and rules, coupled with the need for local governments to resort to paper ballots, will even further erode the integrity of these elections. The Nassau Village Officials Association stands ready to work with the State Board of Elections, the Legislature and other stakeholders in this process to ensure the appropriate corrective legislation is crafted and adopted. Please advise us as to anything else that Nassau County Village Association can do to assist in this important process. Thank you.

Very truly yours,



Wayne J. Hall, Sr.
Mayor

Cc: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Majority Coalition Leader Dean Skelos
Deputy Speaker of the Assembly Earlene Hooper
Senator Thomas O'Mara
Senator Jack Martins
Assemblyman Michael Cusick

INCORPORATED

VILLAGE OF HEWLETT BAY PARK

30 PIERMONT AVENUE, HEWLETT N.Y. 11557

TELEPHONE 516.295.1400

FACSIMILE 516.295.1406

ALEX SALOMON, DEPUTY MAYOR
JAY LEVY, TRUSTEE
JOEL SCHNEIDER, TRUSTEE
GAIL RUBEL, TRUSTEE

STEVEN KAUFMAN, MAYOR

MICHELLE BLANDINO, VILLAGE CLERK
A. THOMAS LEVIN, VILLAGE ATTORNEY
STEVEN CHERSON, BUILDING INSPECTOR
ANDREA POLSKY, TREASURER

November 19, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would he nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Hewlett Bay Park, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Steven Kaufman, Mayor

INCORPORATED VILLAGE OF
KENSINGTON
FOUNDED 1909

November 14, 2014

2 NASSAU DRIVE • GREAT NECK, NY 11021
(516) 482-4409 (Phone)
(516) 482-2866 (Fax)
http://villageofkensingtonny.gov

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Kensington, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Susan Lopatkin, Mayor

Inc. Village of Kensington

C/c: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Jack Martins
Assemblywoman Michelle Schimel

INCORPORATED VILLAGE OF LAKE SUCCESS

318 LAKEVILLE ROAD • LAKE SUCCESS, NY 11020
TEL: (516) 482-4411 • FAX (516) 482-1536

SETTLED IN 1783 • INCORPORATED IN 1927

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Lake Success, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained; State funding for the additional software licenses and personnel necessary to maintain and program the additional machines; State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Ronald S. Cooper
Mayor

The Incorporated Village of Lattingtown
299 Lattingtown Road
P.O. Box 488
Locust Valley, New York 11560
Phone 516-676-6920
Fax 516-676-8220

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Lattingtown I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Clarence F. Michalis

Clarence F. Michalis

Mayor

INCORPORATED VILLAGE OF LAUREL HOLLOW
1492 LAUREL HOLLOW ROAO
SYOSSET, NEW YORK 11791-9603
TEL (516) 692-8826 FAX (516) 692-4198
mayordevita@laurelhollow.org

November 17, 2014

Commissioners, Board of Elections
New York State
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

RE: Village use of Lever Style Voting Machines

Dear Commissioners:

It is my understanding that, on or before January 31, 2015, the State Board of Elections shall submit a report to the Governor, Speaker of the Assembly, Temporary President of the Senate and the Chairs of the Committees on Election Law of the Senate and the Assembly concerning the administration of elections by village, among other entities.

This report is to include recommendations and guidance for districts to migrate to the use of voting systems which are compliant with section 7-202 of the Election Law.

Please be aware that requiring the Village of Laurel Hollow to migrate from lever style machines to electronic voting systems would impose an extreme undue financial hardship on the taxpayers of the Village.

Sincerely,

Daniel F. DeVita
Mayor, on behalf of the Board of Trustees

cc: Assemblywoman Michelle Schimel, schimelm@assembly.state.ny.us

INCORPORATED
VILLAGE OF LAWRENCE

December 4, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

As Mayor of the Incorporated Village of Lawrence and a member of the Nassau County Village Officials Association, I am writing to express my concern about the negative impact §7-202 of the Election Law poses to the efficacy of Village elections which to date have benefited from the reliability and convenience of current machines.

I join the Association in urging the State Board of Elections to include in its Report to the Governor and other State officials the following recommendations:

- State Funding for Nassau County to purchase enough voting machines to ensure the accommodation of all local elections, as well as funding for additional software, licenses and staff.
- An extended implementation period.
- State limits on the costs to Villages to use County-owned machines.
- And, in the event these recommendations are not enacted, then revised legislation and/or regulations to clarify the operation of paper ballot elections.

Thank you for your assistance and support in ensuring that those governmental entities closest to the people, hear the people through their votes, through a process most efficient, effective and reliable.

Very truly yours,

Martin Oliner
Mayor

OFFICE OF THE
MAYOR
INCORPORATED VILLAGE OF LYNBROOK

WILLIAM J. HENDRICK
MAYOR

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Lynbrook, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

> State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
>
> Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

William J. Hendrick,
Mayor

Cc: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Thomas O'Mara
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel

SCOTT P. STRAUSS
MAYOR

OFFICE OF THE MAYOR
INCORPORATED VILLAGE OF MINEOLA
155 WASHINGTON AVENUE
MINEOLA, NY 11501
516-746-0750

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5,000,000. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Mineola, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Scott P. Strauss
Mayor

INCORPORATED VILLAGE OF MUNSEY PARK

Incorporated 1930

1777 NORTHERN BOULEVARD • MANHASSET, NY 11030

TEL (516) 365-7790 FAX (516) 365-2235

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

December 3, 2014

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) represents all 64 incorporated villages in Nassau County and its 450,000 residents. For nearly five years, NCVOA has been attempting to have Albany address the serious issues presented to Nassau's villages (and special districts, school districts and other local municipal authorities) as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections. The effective date of this unfunded mandate has been extended twice by the New York State Legislature and governor as a result of its unfair application to villages and other local voting districts. It is incumbent on the State Board of Elections, in its report to the Governor, Speaker of the Assembly, temporary president of the Senate and the chairs of the committees on Election laws of both Houses of the Legislature, due by January 31, 2015 (the "Report"), to make clear that New York State government needs to finally provide relief to the State's villages and other local voting districts from the impacts of this law.

The Nassau County Board of Elections, in testimony to Assemblywoman Michelle Schimel on May 12, 2014 made it clear that the Nassau Board of Elections is physically unable, with the resources that it has, to provide electronic voting machines in all of the village, school district, special district and other local elections that take place each year.

In fact, they have explicitly stated that unless the State provides additional funding to purchase additional machines (estimated several years ago to be approximately $5 million), the Nassau Board of Elections will be unable to accommodate the needs of our members. In addition, the Nassau Board of Elections has stated that, even if it could provide the machines to villages and other local government units for their elections, the cost of doing so to the recipient villages and governments would be nearly ten times the current cost of the mechanical voting machines. It would be an additional costly unfunded mandate that local governments and districts would have to confront under the already difficult state tax cap constraints currently in place.

With the prospect of the County Board of Elections not being able to provide these machines, or the cost of doing so being prohibitive or unreasonable, there will be no alternative but that many of these local elections would be conducted by paper ballot. This would be the exact opposite result Section 7-702 of the Election Law (and the federal law that prompted its adoption) was intended to accomplish: more accountable, reliable and verifiable elections. The absurdity of that result is obvious, yet no clear or definitive solution has been provided to date, and time is running out.

INCORPORATED VILLAGE OF MUNSEY PARK

Incorporated 1930

1777 NORTHERN BOULEVARD • MANHASSET, NY 11030

TEL (516) 365-7790 FAX (516) 365-2235

The villages of Nassau County urge that the State Board of Elections include in the Report the following recommendations:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have village personnel properly trained in their use;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis.

Without these and other appropriate remedies, dire consequences are sure to result in future village and other local elections. As has been generally noted, paper ballot voting carries with it enhanced uncertainty as to the integrity of the ballot count, increased potential for fraud and human error, difficulty by village and district officials in complying with state mandated timeframes for the certification of election results, as well as other consequences. As the most current extender bill (2014 A9321-A, S7371-A) sunsets in early 2015, all local elections that take place after December 31, 2015 will be in peril. It is irresponsible for New York State to leave local officials unable to administer local elections in a reliable and secure manner. Immediate action is required, and the State Board of Elections must advocate for these changes.

Finally, should these remedial changes not be successfully made, it is critical for the Legislature and State Board of Elections to adopt legislation and/or regulations that clarify the rules that pertain to village and other local paper ballot elections. The uncertainties and ambiguities that are inherent in the current law and rules, coupled with the need for local governments to resort to paper ballots, will even further erode the integrity of these elections. The Nassau Village Officials Association stands ready to work with the State Board of Elections, the Legislature and other stakeholders in this process to ensure the appropriate corrective legislation is crafted and adopted. Please advise us as to anything else that Nassau County Village Association can do to assist in this important process. Thank you.

Very truly yours,

Frank J. DeMento
Mayor

Village of North Hills

(516) 627-3451
Fax (516) 627-0703

One Shelter Rock Road, North Hills, N.Y. 11576

www.villagenorthhills.com

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As Mayor of the Village of North Hills, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Marvin Natiss
Mayor

Village of Old Brookville
201 McCouns Lane, Old Brookville, NY 11545
Tel. (516) 671-4664 Fax. (516) 671-4725

November 17, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As Mayor of the Village of Old Brookville, I am joining all Nassau Count Village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

- Implementation period of several years to enable the Nassau County Board of Elections (and others similarly situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost effective basis.

Thank you for your consideration.

Sincerely,

Bernie Ryba
Mayor – Village of Old Brookville
2nd Vice President, NCVOA

cc: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Carl Marcellino
Senator Thomas O'Mara
Assemblyman Edward Ra
Assemblyman Charles Lavine
Assemblyman Michael Montesano
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel

Mayor
Rosemary Bourne
Deputy Mayor
Charles Goulding
Board of Trustees
Ralph Fumante
Richard MacDougall
George J. Sheehan

INCORPORATED VILLAGE OF OYSTER BAY COVE
#25B-Route 25A
OYSTER BAY, NY 11771
Phone: (516) 922-1016
Building Dept: (516) 922-1071
Fax: (516) 922-1761
www.oysterbaycove.net

Village Clerk
Joanne A. Casale

Building Inspector
CGA Consulting, Inc.

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Oyster Bay Cove, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

Mayor
Rosemary Bourne
Deputy Mayor
Charles Goulding
Board of Trustees
Ralph Fumante
Richard MacDougall
George J. Sheehan

INCORPORATED VILLAGE OF OYSTER BAY COVE
#25B-Route 25A
OYSTER BAY, NY 11771
Phone: (516) 922-1016
Building Dept: (516) 922-1071
Fax: (516) 922-1761
www.oysterbaycove.net

Village Clerk
Joanne A. Casale

Building Inspector
CGA Consulting, Inc.

- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Rosemary Bourne

Rosemary Bourne, Mayor

INCORPORATED VILLAGE OF
Plandome Heights
37 Orchard Street, Manhasset, New York 11030
Tel: (516) 627-1136 Fax: (516) 627 1393
www.plandomeheights-ny.gov

November 14, 2014

Governor Andrew Cuomo
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Plandome Heights, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis.

Thank you for your consideration.

Sincerely,
INCORPORATED VILLAGE OF PLANDOME HEIGHTS

Kenneth C. Riscica

Kenneth C. Riscica
Mayor

Incorporated Village of
PLANDOME
MANOR

55 Manhasset Avenue
Plandome Manor, NY 11030
(516) 627-3701
Fax (516) 627-7067
PlandomeManor@optonline.net

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Plandome Manor, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

BARBARA C. DONNO
Mayor

C/c: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Thomas O'Mara
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel

VILLAGE OF ROCKVILLE CENTRE

ONE COLLEGE PLACE
P.O. BOX 950
ROCKVILLE CENTRE, N.Y. 11571-0950

OFFICE OF THE MAYOR

516/678-9260
FAX #: 516/678-9225
email: fxmurray@rvcny.us
www.rvcny.us

November 18, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Rockville Centre, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;

- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;

- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Francis X. Murray
Mayor

Village of Russell Gardens

Incorporated 1931
6 Tain Drive, Great Neck, NY 11021- 4423
(516) 482-8246/fax# (516) 482-8259
www.russellgardens.com

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Russell Gardens, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

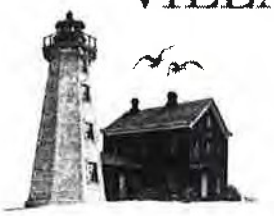
- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and other similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis.

Thank you for your consideration.

Sincerely,

Steven B. Kirschner
Mayor

VILLAGE OF SANDS POINT



26 Tibbits Lane
Sands Point, NY 11050-1135
516-883-3044 www.sandspoint.org

November 18, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Sands Point, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Edward A. K. Adler, Mayor
Incorporated Village of Sands Point

INC. VILLAGE OF SOUTH FLORAL PARK

383 ROQUETTE AVENUE
SOUTH FLORAL PARK, NEW YORK 11001
www.southfloralpark.org

Mayor
GEOFFREY N. PRIME

Trustees:
GEORGE L. INGRAM

ELTON McCABE

GARY R. McCOLLIN

KATHLEEN SHARKEY

Telephone: (516) 352-8047
Fax: (516) 352-0651

SALLY PONCE
Administrator/Clerk-Treas.

MARLENE MELENDEZ
Deputy Clerk-Treasurer

ROBERT J. PAPE, JR.
Village Attorney

PAUL L. HUNT
Building Inspector

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA) recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of South Floral Park, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Geoffrey N. Prime
Mayor

VILLAGE OF STEWART MANOR

120 COVERT AVENUE, STEWART MANOR, NEW YORK 11530
516-354-1800 FAX: 516-354-1825

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As Mayor of the Village of Stewart Manor, I am joining all Nassau County Village Mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Gerard S. Tangredi, Mayor

CC: Governor Andrew Cuomo
Speaker of the Assembly Sheldon Silver
Senator Dean Skelos
Senator Thomas O'Mara
Assemblyman Michael Cusick
Assemblywoman Michelle Schimel

INCORPOR[illegible] VILLAGE OF UPPER BROOKVILLE
P.O. BOX 548
OYSTER BAY, NY 11771
www.upperbrookville.org
Phone: 516 624 7715
Fax: 516 624 7137

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:
The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would he nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Upper Brookville, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Terry L. Thielen

Terry L. Thielen
Mayor, Village of Upper Brookville

516-334-1700
FAX 516-334-7563

Office of the Mayor

VILLAGE OF WESTBURY
235 LINCOLN PLACE, WESTBURY, NY 11590

PETER I. CAVALLARO
MAYOR

November 14, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Westbury, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in the NCVOA's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties *similarly situated) to purchase* adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;

- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,

Peter I. Cavallaro

Village of Woodsburgh

30 PIERMONT AVENUE • HEWLETT, NEW YORK 11557
TELEPHONE (516) 295-1400 • FACSIMILE (516) 295-1406
LEE A. ISRAEL, MAYOR

November 19, 2014

Mr. James Walsh, Co-Chair
New York State Board of Elections
40 North Pearl Street
Albany, NY 12207-2729

Dear Mr. Walsh:

The Nassau County Village Officials Association (NCVOA), recently sent you a letter detailing the serious, ongoing challenges villages, school districts, and other local municipalities are facing as a result of the adoption of Section 7-202 of the Election Law, requiring the use of electronic voting machines in all local elections.

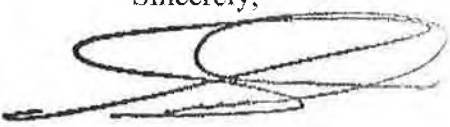
The Nassau County Board of Elections, with its current resources, is physically unable to provide electronic voting machines in all of the annual village and other local elections. It estimates the cost to purchase additional machines to exceed $5 million. Even if it could provide these machines, the cost to local governments would be nearly ten times the current cost of the mechanical machines.

As mayor of the Village of Woodsburgh, I am joining all Nassau County village mayors in urging the State Board of Elections to adopt in its upcoming report to the Governor and State Legislature the recommendations outlined in Mayor Cavallaro's November 12, 2014 letter to you, namely:

- State funding for Nassau County (and other counties similarly situated) to purchase adequate additional machines to ensure all local elections can be accommodated;
- Implementation period of several years to enable the Nassau County Board of Elections (and others similar situated) sufficient time to purchase the machines and have personnel trained;
- State funding for the additional software licenses and personnel necessary to maintain and program the additional machines;
- State limits on the costs to use the County-owned machines to ensure the machines are available on a cost-effective basis

Thank you for your consideration.

Sincerely,



Lee A. Israel, Mayor

Voting Access Solutions votingaccesssolutions@gmail.com 518-495-5787 and the New York State Independent Living Council(NYSILC)

111 Washington Ave, Albany, NY , Bradw@nysilc.org 427-1060

MEMO OF OPPOSITION

A.9321-A (Schimel)

AN ACT to amend Chapter 359 of the laws of 2010 amending the education law relating to use of lever voting machines; to amend chapter 3 of the laws of 2011 amending the election law relating to the number and use of voting machines in village elections; and to amend chapter 170 of the laws of 2011 amending the town law relating to the types of voting machines used in certain elections, in relation to extending the provisions of such chapters

Summary of Provisions

This legislation would permit the use of lever voting machines for school district, town, village and special districts for a one-year period and require the New York State Board of Elections to submit a report to the Governor and Legislature by January 31, 2015, concerning the administration of these elections and to include recommendations and guidance on how these jurisdictions can migrate to the use of voting machines that are compliant with section 7-202 of the NYS Election Law. The bill requires the participation of certain stakeholders, but does not include persons with disabilities who are regularly disenfranchised by the continued use of lever voting machines.

Statement of Opposition

This legislation is a huge step back-words and a showing of disregard for the civil rights of all individuals who desire a private and independent vote in all elections as the 2002 Help America Act intended. In fact the need for this legislation is a demonstration of pure failure of leadership and problem solving in an area that is so vital to so many New Yorkers who are regularly disenfranchised by the continued use of lever machines.

New York State has had many years to migrate the use of voting systems that are compliant with section-7-202 of the NYS Election Law and failed to do so. The continued use of lever machines conveys to the voters that HAVA was unnecessary, costly, and another intrusion of big government.

The County Board of Election's need to be given the proper resources to operate all Elections not just certain elections. That way the outdated, inaccessible and unreliable lever machines will be unnecessary and all elections will use the same voting system.

For all these reasons and more Voting Access Solutions and NYSILC urges you to vote NO to A.9321-A (Schimel).

www.wilc.org

Westchester Independent Living Center, Inc.

200 Hamilton Avenue, 2nd Floor
White Plains, NY 10601

914-682-3926 (Voice)
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914-682-8518 (Fax)

New York State Board of Elections
Elections Operations Unit
40 North Pearl Street, Suite 5
Albany, NY 12207

November 17, 2014

Re: Report concerning the administration of elections by villages, school districts, fire districts, library districts and other municipal corporations required to hold elections required by Laws of New York 2014, chapter 273

Dear Commissioners,

Westchester Independent Living Center (WILC) is nonprofit, community-based provider of advocacy, services and supports to people with disabilities of all ages which are controlled by and primarily staffed by people with disabilities.

WILC opposes the use of lever voting machines in any election and we believe that the time to phase out the use these decades-old machines is long past due.

The use of lever machines is in clear violation of Section 504 of the Rehabilitation Act, NY Election Code-Section 7-202 "e" and Title II of the Americans with Disabilities Act, to which all local municipalities and voting districts are subject. Lever machines are not accessible to voters with varying types of visual, mobility and cognitive disabilities. Voters with visual disabilities are not able to read the ballot; voters with limited mobility capacity are not able to reach and/or operate the levers; and voters with certain cognitive limitations are not able to visually focus on the current ballot style associated with the old system.

The antiquated lever voting machines Lever machines have no fewer than 28,000 moving parts. They are sensitive to humidity and they break down frequently. In their 2009 position paper on the lever voting machines, the League of Women Voters (LWV) noted that the machines do not provide a verifiable record of the individual ballot, nor do they include a record that can be tallied or audited to verify the totals. If totals are discovered to be wrong, as they have been on occasion, there is no way to re-count the votes in contrast to the optical scanning system, which leaves a paper trail.

Those who favor maintaining the use of the lever machines counter that Ballot Marking Devices (BMDs) can continue to be available to those who cannot use the lever voting system. There are several flaws in this approach.

First, surveys have shown that individuals are frequently not aware of the availability of the BMD, and that poll workers are reluctant to make it available. Indeed there have been reports of poll workers actively discouraging the use of these devices.
Second, the BMD serves only to mark the ballot, not to count it. The actual tallying is done by an optical scanner or by hand. If the lever system returns, it is highly unlikely that there will be optical scanners available to read those ballots in real time. Thus it is conceivable the votes of those citizens using the BMD will not be counted immediately. Rather, they will be treated as absentee ballots or affidavits.
Third, as the LWV points out, the issue of anonymity should be considered. If most voters are using the levers, the anonymity of the few using the BMD can be compromised during a hand count. If an optical scanning system is in place, the paper ballots of all voters will be treated together and in the same manner. Persons with disabilities have the right to cast their vote with the same privacy and independence as other citizens.

It should also be noted that surveys have shown that a significant number of voters who do not have disabilities use the BMD to mark their ballot, indicating that the optical scanner system with an adequate number of BMDs would be beneficial for all voters.

Finally, apart from accessibility issues, the general electorate as well as poll workers will likely be confused by this two-tiered system: optical scanners for federal elections and lever machines for local elections. The process of learning about and transitioning to an electronic system employed by most of the other states will be severely impeded. Indeed, USA Today reported that as of the 2008 election, only 7% of the electorate used lever machines to cast their ballots and that 7% was comprised solely of New Yorkers.

It's time for New York to join the rest of the nation in the move toward a unified, inclusive electoral system.

Lisa Tarricone

Director, Systems Advocacy

Svizzero, Anna (ELECTIONS)

From: ele.sm.election_ops
Sent: Monday, November 17, 2014 5:22 PM
To: ele.dl.eops.mbx.notify
Subject: FW: Lever Machine Usage

From: George Latimer
Sent: Monday, November 17, 2014 5:21:45 PM (UTC-05:00) Eastern Time (US & Canada)
To: ele.sm.election_ops
Subject: Lever Machine Usage

Dear State Government Colleagues,

I am writing to express my concerns over the implementation of plans to mandate optical scan machines for all village and school board elections. As we move to require this technology for all village and school elections, I am concerned over the cost impact for those local budgets that are required to transition to new equipment, or to pay for this election equipment as a service fee eacb election, especially with those entities having to work under the spending constraints of the property tax cap. I'm sure all involved agencies will make a strong, good faith effort to make the transition as seamlessly as possible, but I can foresee where the political calendar - with the proximity of one electoral cycle to another - could play havoc on the availability of machines.

The Senate bas passed legislation on this issue, which I have supported, but it does not appear that legislation has any chance to become law. Therefore I commend to your attention the generic concerns expressed by a number of local officials, and encourage the Board of Elections to cast a wide net of input from those familiar with the choices and the capital expenditures at hand, before taking any final action.

I would be happy to speak with anyone to share more detailed comments at any time of mutual convenience. My District Office is at (914) 934-5250.

Warmest wishes for the Thanksgiving season at hand.

Regards,

GEORGE LATIMER
New York State Senator - 37th S.D.

THE SENATE
STATE OF NEW YORK

JACK M. MARTINS
SENATOR
7TH DISTRICT

CHAIRMAN
COMMERCE, ECONOMIC DEVELOPMENT
& SMALL BUSINESS
LOCAL GOVERNMENTS

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ROOM 946
LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
PH: (518) 455-3265
FAX: (518) 426-6739

DISTRICT OFFICE
252 MINEOLA BLVD
MINEOLA, NEW YORK 11051
PH: (516) 746-5924
FAX: (516) 746-0439

November 19, 2014

New York State Board of Elections
Election Operations Unit
40 North Pearl Street, Suite 5
Albany, New York 12207

To whom it may concern:

Pursuant to chapter 273 of the laws of 2014, the Board of Elections was directed to prepare a report concerning the administration of elections by villages, school districts and special districts and other municipal corporations required by law to hold elections. Since being elected to the Senate in 2010, I have sponsored a number of bills, some of which have become law, extending the use of lever voting machines in these local elections. To be clear I am an advocate for the use of lever voting machines in those elections where the county Board of Elections has determined that it cannot (or will not) provide the new scanner machines. In such an event, it would be appropriate to require that the locality include a readily available ballot marking device at each polling place.

Although the stated New York State policy is to require elections on scanner machines, the reality is that there are counties that are unable or unwilling to provide these machines for local elections including school district elections. Given the logistics of programming the machines pre-election and the potential for post election impounding of the machines for verification of a close election when overlayed on an election calendar which includes elections almost every month, the need for an alternative to the scanner machines is clear.

Unfortunately, the law as revised to provide for the scanner voting machines did not contemplate such an alternative, leaving localities with the sole option of conducting elections hy paper hallot. It is respectfully suhmitted that there is nothing that would undermine the credihility and integrity of the election process more quickly or more decisively than a system that would rely on paper hallots for elections. I remind you that many of these local elections involve literally thousands, and some tens of thousands, potential voters. In my own home county of Nassau, there are many villages and school districts for which this caution would apply including the Villages of Hempstead, Freeport, Mineola, Garden City, Massapequa Park, Lynbrook and many others as well as any one of the 56 school districts in the county. Simply, where the county cannot provide scanner voting machines, the use of paper ballots in such elections would he disastrous to the integrity of our electoral process and nothing less than a tremendous step hackwards.

With thousands of voters in these elections, how are these localities to preserve the integrity of the paper ballot under those circumstances? Frankly, I can think of no easier way to create a sense of disenfranchisement in voters than hy asking them to cast their ballot on an unsecured piece of paper. We should he hetter than this.

While the federal and state election reforms of the Help America Vote Act (HAVA) are meritorious, they did not fully contemplate the consequences of their application to these local elections. Chapter 273 of the laws of 2014 will hopefully allow us the time, working together, to come up with a permanent solution, but such a solution starts with your report.

I urge you to consider an alternative where the county Board of Elections certifies that it cannot provide scanner voting machines for local elections or school district elections, that the locality or school district he given the option to conduct the election utilizing lever type voting machines with the added proviso that in such event, the locality or school district must also ensure that there is a ballot marking device readily accessihle and available at each polling place. As such option would only apply where the county cannot provide the scanner voting machines, its scope would he limited hut the result for the integrity of our electoral process cannot he overstated.

Thank you for your courtesy and cooperation hercin. Kindly feel free to contact me should you have any questions or wish to discuss this matter further.

Sincerely,

JACK M. MARTINS
Senator

cc: Governor Andrew M. Cuomo
Senate Majority Leader Dean G. Skelos
Assembly Speaker Sheldon Silver
Assemblywoman Michelle Schimel

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

MICHELLE SCHIMEL
16th Assembly District

COMMITTEES
Environmental Conservation
Governmental Operations
Local Governments
Transportation
Veterans' Affairs

November 17, 2014

BY EMAIL and
FIRST CLASS MAIL

election_ops@elections.ny.gov

New York State Board of Election
Election Operations Unit
40 North Pearl Street
Suite 5
Albany, New York 12207
ATTN: Robert Brehm and Todd D. Valentine

Re: Cost and Fiscal Impact of
Transition from Lever Machines

Dear Election Operations Unit:

The irony of your deadline for commentary due November 17th did not go unnoticed. I am scrambling to write this letter in little more than a week after my own re-election for Assembly. Many close election results are still being decided around the state, even as I write this letter to you.

It is my hope that you can help us arrive at solutions that have evaded the New York Conference of Mayors, the New York School Boards Association, the New York School Superintendents Association, the New York Association of Counties, the Association of Fire Districts of the State of New York, and me. I have carried three separate bills, each of which has been signed into law, to extend use of lever voting machines for "non-partisan" elections, namely school boards, villages, fire and special districts.

It has been my fear that suburban counties of over one million or more in population—with their commensurate higher number of school districts, (there are 125 on Long Island), higher number of villages (64 in Nassau County alone), and special districts—will be faced with the logistical and fiscal dilemma of providing optical scan voting machines for myriad local elections throughout the calendar year without the necessary increase in manpower, machines, and budget.

ALBANY OFFICE: Room 702, Legislative Office Building, Albany, New York 12248 • 518-455-5192, FAX 518-455-4921
DISTRICT OFFICE: 45 North Station Plaza, Suite 203, Great Neck, New York 11021 • 516-482-6966, FAX 516-482-6975
EMAIL: schimelm@assembly.state.ny.us

As a resident of Nassau County, and a former Town Clerk of North Hempstead, I had to subcontract several elections with the Nassau County Board of Elections, including an election to establish councilmanic districts in a Town with a quarter of a million residents. I believe I am uniquely attuned to the intricacies of running a large, local election, which brings me to the reality of the sunset date of the current law, December 31, 2015, in which all New York State elections will be required to use either the optical scan voting machine or a paper ballot, which your report is asked to address.

Elections in Nassau County are held almost monthly, with village elections held in three different months. Elections for school boards held in May, cut very close to Congressional primaries held in June. The competition will be fierce for securing these optical scan voting machines from a county board of election when several elections are competing for attention.

In an attached letter dated January 25, 2013, from the Suffolk County Board of Elections, there is a paragraph in the Guidelines for Board of Education Services: Voting Machine and Telephone Restrictions for 2013.

> ***"The rental of voting machines and telephone coverage will have to be restricted this year in order for the Board to prepare for the Primary and the November General Election. The voting machines will be available for rental until two weeks before the Primary Election and may be rented again two weeks after the General Election..."***

If a school budget fails, and a second vote for a school budget is required, the school may be unable to secure an optical scan voting machine from their county board of election because of an upcoming Congressional Primary Election.

The DS200 Machines require a lengthier preparation process leading up to each election than the lever voting machine due to more specific requirements of pre-election testing, sealing, specific canvass and re-canvassing, and audits post-election. These machines, therefore, may be unavailable for an upcoming election during this preparation and post-election timeframe.

If villages and schools purchase their own optical scan voting equipment, the cost is an enormous consideration as the software preparation and transportation have more intense and specialized requirements than those for lever voting machines. In addition to the more labor intensive software preparation, storage space for these machines require a specialized environment tailored to the more delicate electronic optical scan voting machines, presumably at a much higher cost.

Over the past six years, I have attended numerous public hearings and meetings on the subject of optical scan voting machine use and its impact on local suburban municipal elections and school elections. Frankly, I have yet to hear any response other than, "Don't worry, the county boards of elections can handle it."

This response is cold comfort for local governments and schools that have been pushed up against a tax cap for their budget. And this is not an answer for the county boards of elections when schools, villages, fire districts, library districts, and special districts start clamoring for these machines to satisfy their election requirements.

Some entities have said they will revert to paper ballots. Paper ballots are the most frightening alternative of all—as they can certainly lead to litigation, especially in hotly contested elections. In larger elections such as in the Village of Hempstead, with 55,000 residents, or the Village of Freeport, with a population of 43,000, or even my own Village of Great Neck with 10,000 residents, the use of paper ballots should be out of the question.

I have been assured that many counties, like Saratoga County, have successfully transitioned to the optical scan voting machines. Saratoga County has a population of 219,000, 12 school districts and 8 villages. Nassau County has a population of 1.3 million, 56 school districts, and 64 villages. Suffolk County has a population of over 1.4 million people, 69 school districts, and 33 villages. It is difficult to consider that the transition for Nassau County and Suffolk County to optical scanner voting machines will be as seamless as it was for Saratoga County.

I do not think it is simply a case for more money, although that would certainly help secure the added machines and personnel needed to offset the more intense Election Day requirements. The law to transition all New York State elections to optical scan voting machines was conceived without considering the logistics of the elections that suburban counties with populations of over one million residents face.

Once again, the counties, local governments, and schools are left to pick up the pieces of another state mandate. With counties, villages, and school districts pushed to their budget limits, and pushed against a property tax cap, it was my goal to assemble the municipal and school board stakeholders to seek solutions, not simply wait for failure.

I hope your report will assist in seeking answers to a potentially untenable situation for some counties.

Yours truly,

Michelle Schimel
Member of Assembly

Cc: Governor Andrew Cuomo
Speaker Sheldon Silver
Senate Majority Leader Dean Skelos
Senator Jack Martins