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Protecting the **Voter**

By Jeanette Senecal

Congress passed the Help America Vote Act of 2002 (HAVA) to help ensure that all eligible voters are able to cast their votes and have them counted. This law established important new federal requirements and authorized funds to help states meet the new requirements. Unfortunately, some

states are using this opportunity to make changes in election procedures that can result, deliberately or inadvertently, in voter disenfranchisement.

The League's "Public Advocacy for Voter Protection" project supports state-based advocacy by state Leagues to prevent the development of procedures that threaten citi-

zens' access to the vote. Underserved populations such as minorities, people with limited resources and the elderly are of particular concern. Leagues are working to ensure that all eligible voters' registration records are successfully included in the statewide voter registration database and to oppose the alleged need for photo identification at the polls.

Voter Registration Databases

States are grappling with the implementation of HAVA's requirement for a "single, uniform, centralized, interactive computerized statewide voter registration list [database]." This requirement grew out of the 2000 elections, when hundreds of thousands of eligible voters were disenfranchised because of faulty voter registration systems.

Because HAVA is silent on how the statewide lists are specifically managed, protocols across the states vary widely. There is reason for concern that procedures for managing the database, processing newly-registered voters, removing "duplicate" names and performing other administrative duties will not be carried out in a uniform and nondiscriminatory manner. As the nation prepares for the 2006 general elections, the patchwork implementation of HAVA requirements in individual state databases is cause for alarm.

To date, database implementation in states has suffered from a spectrum of problems:

- Rejection of voter applications because of a non-match.
- Use of matching protocols that do not account for typos, transposed letters and numbers, name changes and omitted information that are inherent in large databases.
- Failure to notify voters regarding the status of their registration application and to seek additional information from voters with incomplete voter registration applications.
- Failure to use purged voter lists or inactive voter lists when applying match protocols.
- Limited options for voters to check their registration status without going through a person in the elections office.
- Limited query of public assistance agencies to supplement voter supplied information.
- Minimal tracking and documentation of changes to voter records.

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The League has identified components of a good database. State and local Leagues need to work very closely with their elections officials to ensure the implementation of these model database practices.

1. *Clear and transparent lines of responsibility for adding, deleting and updating voter records.* Many different officials will have some responsibility for processing voter registration information, from updating addresses for previously registered voters to sending notices to registrants on their status, from checking and matching with regard to eligibility requirements to deleting the names of deceased voters. It is vital that each state assign specific officials responsibility for specific tasks to ensure orderly processes and correct, unambiguous decision making.
2. *Security measures that prevent unauthorized access to the database and require tracking and documentation of all transactions, including by whom and when.* States should create a protocol for access to voter records with hierarchical levels of access to the database, and assign authority to perform discrete

tasks to specific people. For example, very few users would have authority to remove names from the database.

3. *Electronic integration of agencies that engage in voter registration activities, including the Department of Motor Vehicles (DMV), disability agencies and public assistance agencies such as Medicaid.* Nearly 50 percent of all voter registrations, both new and updated, come through the DMV and other agencies designated under the National Voter Registration Act.
4. *Clear procedures for supplementing information provided by voters with information provided by other databases, such as DMV data.* Mistakes are often made in database administration and management. Applicants and officials transpose or forget numbers and letters, and commit other human errors. A well-run system will use a variety of information from a number of sources to create redundancy that can capture corrections instead of allowing the errors to disenfranchise voters. For example, if there is transposition in an applicant's driver's license number, a correction is made and the application is processed.
5. *Strong safeguards against erroneous list maintenance.* Uniform and nondiscriminatory practices are critical to prevent the erroneous deletion of registered voters. Equally important are processes that reduce subjective decisions not to add an applicant to the list of registered voters. Failure to match an applicant with another database must not result in rejection of that applicant. Only positive information of a disqualifying nature should result in a voter's rejection.
Before any voter's name is removed from the voter registration list, states must provide notice to the voter as well as an opportunity to correct any errors. Moreover, voters cannot be removed simply because they have not voted.
6. *Opportunity for voters to review and check their own voter record.* Modern



technology provides the means for voters to check their own records in a manner consistent with voter privacy.

Photo Identification

The other issue that demands immediate attention concerns questionable voter identification proposals. HAVA requires first-time voters who register by mail to show identification. It provides a menu of options including a current utility bill, bank statement, paycheck, government check or other government document. Provisional voting is allowed for those voters who cannot meet HAVA's identification requirements.

Recently, however, several states have enacted burdensome identification requirements. The League, along with other voting rights advocates, is concerned that these burdensome identification requirements will disenfranchise a disproportionate number of the underserved population that have alternative identification documentation.

Cost can be a significant barrier to obtaining a photo ID. Even when the ID card itself is free, there are hidden costs such as transportation to various agencies and fees related to acquiring supporting documents like birth certificates. Opponents of photo ID requirements believe that minorities, people with limited resources and the elderly will be disproportionately affected by this requirement.

A comprehensive analysis of Georgia's statewide voter registration database, conducted by the Georgia Secretary of State's office in June 2006, confirms these fears. The analysis revealed that nearly 700,000 registered voters are potentially at risk because they lack a valid driver's license or state-issued identification card. Nearly one quarter of all registered voters age 65 and older do not have an ID issued by the Georgia Department of Driver Services (DDS); and, while African Americans currently represent 27.8 percent of registered voters in Georgia, they represent 35.6 percent of those without DDS issued identification.

State Leagues in Action

FLORIDA

- Filed lawsuit to suspend onerous registration drive requirements.
- Educating policymakers on the need to count provisional ballots cast anywhere in the state.
- Educating voters on new election rules and procedures.

GEORGIA

- Filed lawsuit to block implementation of onerous new photo ID requirement.
- Educating voters on current ID requirement.

MISSOURI

- Fighting to minimize the impact of the new onerous photo ID requirement.
- Working to ensure good statewide registration database maintenance procedures.

OHIO

- Working to correct purging/matching errors in registration database.
- Educating voters on how to ensure correct individual registration status.

PENNSYLVANIA

- Successfully fought onerous photo ID requirement.
- Working to ensure good statewide registration database maintenance procedures.

WISCONSIN

- Successfully fought onerous photo ID requirement.
- Working to ensure good statewide registration database maintenance procedures.

Several states now require photo ID at the polls and reject other forms of identification. Opponents believe that other forms of identification are sufficient. Eligibility to vote should not be dependent upon one's ability to produce a photo ID; and such a requirement will not combat existing election problems. In states that have passed

particularly onerous ID requirements, advocates are challenging the laws in the courts. The League's most recent victory came in the Georgia Supreme Court. The Court upheld a lower court's order blocking enforcement of the state's voter photo ID law just days before the primary election. Voting rights advocates expect to face this issue again next year.

Finally, photo ID requirements are predicted to depress voter turnout. Voters without photo ID may stay away from the polls to avoid the fees and inconvenience. Those voters who go to the polls without their photo ID will be able to cast a provisional ballot, but they must produce a photo ID usually within two or three days after Election Day for their vote to count.

The Challenge

The 2000 Presidential Election sounded the alarm for change in how states register voters and count ballots. With change comes challenge. Policymakers and voting rights advocates have developed recommendations to meet the challenge of counting every eligible vote.

Citizens must now work to ensure that these policies empower the voter as intended. Any variations that disenfranchise the voter must be vigorously and diligently opposed. Leagues nationwide can make elections work for the voter by ensuring the inclusion of eligible voters in their state's databases and opposing burdensome identification requirements at the polls. This good work must continue until all Americans can vote with confidence for the candidates of their choice. ■

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VOTER LINKS

- www.brennancenter.org
- www.projectvote.org
- www.lwv.org