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Sub Advisory 07-003-B Maintenance of Effort Funding
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Dear Commissioners,

I appreciate the opportunity of addressing the issue of HAVA funds and "maintenance of effort" as it applies to Counties. While realizing that men and women of goodwill can honestly disagree about such issues, I feel compelled to share my experiences regarding the implementation of the Help America Vote Act in Oregon. My perspective is admittedly narrow but it is based upon my experience as the County Clerk of Linn County and my membership on Oregon's HAVA Steering Committee, as well as a member of its Finance Subcommittee. I am, in fact, the last of the County election representatives whose membership on those committees extends from the creation of those committees up until today. For the record, however, I make no pretense of representing Oregon's Counties or any Committee upon which I serve – I only represent the Linn County's Clerk's Office, a position I have had the honor of being elected to for twenty-four years.

While maintenance of effort is a sound principle as it applies to the states under HAVA, the discussion as it relates to counties is counter-productive and lamentable for those of us who have labored to implement both the spirit and the letter of that Act. As one who continuously guards against the inappropriate intrusion of the federal government into the area of local elections and the very real possibility of the large-scale corruption such intrusion could bring, it was necessary for me to suspend that concern and trust the expressed goals and language of the HAVA legislation.

However, the attempt to include counties in the maintenance of effort requirement clearly is not in keeping with the expressed language of the Act and the only argument that can be made is that "it is implied" which, against the backdrop of the history of HAVA, is a bootstrap argument at best. For those who are displeased with the clear meaning of HAVA's language and who claim – inaccurately - that obedience to the language of the law will allow federal funds under HAVA to be substituted for expenditures historically made by local and county governments; their remedy lies with Congress and not the EAC. Otherwise, the result is an uncomfortable reality that the EAC has set a course on redefining the meaning of HAVA's language in relation to the counties and thereby reinventing its role and exceeding its authority.

My experience as a member of Oregon's HAVA committee is that the methodology utilized by Oregon with respect to the use of HAVA funds by our counties can best be described as one of "close scrutiny." My experience as the Linn County Clerk overseeing our County's election budget for many years convinces me that no federal HAVA funds have been wrongfully used to supplement Linn County election responsibilities - but that tens of thousands of Linn County tax dollars have been expended over the past six years to supplement the daily activities and requirements of HAVA for which there is no reimbursement available.

Based upon the foregoing, I would support not encumbering Counties with maintenance of effort reporting.

Again, I appreciate the opportunity of addressing this issue and I wish all of you well.

Best Regards,

steve druckenmiller