

STATEMENT  
BY  
NANCY TATE, EXECUTIVE DIRECTOR  
LEAGUE OF WOMEN VOTERS OF THE UNITED STATES  
ON  
THE ROLE OF THE ELECTION ASSISTANCE COMMISSION  
REGARDING  
THE NATIONAL VOTER REGISTRATION ACT IMPLEMENTATION

Public Comment for the Election Assistance Commission  
September 6, 2007

The League of Women Voters of the United States appreciates the opportunity to provide our views on the role of the Election Assistance Commission regarding implementation of the National Voter Registration Act (NVRA).

The League is a nonpartisan, community-based political organization that has worked for more than 87 years to educate the electorate, register voters and make government at all levels more accessible and responsive to citizens. Organized in more than 850 communities and in every state, the League has more than 150,000 members and supporters nationwide. The League has been a leader in seeking improvements in systems of election administration at the state, local and federal levels for many decades.

We believe that the voter registration process is one of the most important issues in election administration, and we believe that it needs improvement. The Help America Vote Act (HAVA) transferred to the Commission the authorities under the NVRA previously held by the Federal Election Commission. As a result of that transfer and because of registration-related issues that have emerged in recent years, we believe that there are some important issues regarding the voter registration process that the Commission should review. The League urges the Commission to look carefully and comprehensively at voter registration systems as a whole in determining what steps to take to improve implementation of the NVRA. When the needed improvements are identified, the Commission can better assess its responsibilities and authority under the NVRA and HAVA to implement them.

As you consider voter registration systems, we ask that you provide ample opportunity for the public to participate. In a democracy, election systems need to have the support of the public. Because voter registration impacts every voter, it is especially important throughout your considerations that the public be involved, including interested organizations and individuals representing the diversity of our country.

HAVA and the NVRA provide the Commission with authority to improve voter registration systems. Under HAVA, the Commission can act “only with the approval of at least three of its members.” (Section 208.) This precludes any action by staff of the

Commission or by individual commissioners, unless explicitly authorized. But the authority for the Commission as a whole to act by issuing guidance, best practices, and other statements, as well as by commissioning studies and convening meetings, provides important authority.

The Commission as a whole also has formal regulatory authority under the NVRA, pursuant to the Administrative Procedures Act, to develop the mail voter registration application form for elections for federal office. In so doing, the public notice and public participation provisions must be followed in making changes to the regulatory system of the NVRA. We see no legitimate reason for not following that important public input process.

The League strongly urges the Commission to develop internal procedures for invoking its authorities under HAVA and the NVRA. At a minimum, these procedures should be made public and provide for public participation at appropriate steps in the decision-making process. They should provide clear direction to staff, and they should be consistent with the Administrative Procedures Act and the procedures of similarly-situated agencies. The Commission has now reached the point in its development that clear and public procedures are needed.

In our view, the NVRA has not fulfilled all its promise because of the ways in which it is being implemented, or not implemented, across the country. We believe the Commission has a critical opportunity to ensure better voter registration opportunities for all citizens and to ensure that voter registration rolls are properly maintained.

There are three issues we would like to bring to your attention. First, we believe there is room for improvement in the management of statewide voter registration databases. As technology develops, it should be possible to better integrate registration databases with those of other agencies, especially including those that provide registration opportunities such as the departments of motor vehicles. It should be possible to develop more accurate matching systems for data from a variety of sources. And it should be possible to guard against erroneous purging. The Commission might engage in a process of looking again at these issues, with broad public and election official participation.

Second, several states have imposed severe restrictions on third-party voter registration efforts. In 2005, the League of Women Voters of Florida was forced to stop all its voter registration activities in that state because of burdensome restrictions that could have resulted in bankrupting that League. The Florida League was able to block this unreasonable restriction in the courts, but, unfortunately, this is not an isolated example of a state acting in a way that undermines voter registration.

Organizations such as the League are crucial to assuring that voter registration is available to EVERY voter. The facts also show conclusively that the League and others are key to assuring that minority voters have access to registration. In 2004, approximately 8.5 percent of registrants had been registered by the efforts of third party organizations, according to the Bureau of the Census. The data also make clear who is

impacted by restrictions on third-party voter registration efforts. In 2004, 15 percent of African-American and Hispanic registrants had been registered to vote as a result of an organized drive – a rate much higher than the 8.9 percent rate for Whites. (See “The Politics of Voter Fraud,” by Dr. Loraine Minnite)

We are also concerned with burdens on the mail registration process. In the November 2004 through November 2006 period, more than twenty percent of registrations were through the mail. Restrictions on the use of the federal mail form, over which the Commission has authority, is an important issue.

Third, the League is deeply concerned that the NVRA is not being implemented in social service agencies. As you know, the law requires states to carry out voter registration at public assistance, disability and other agencies. The numbers suggest that this is simply not happening. The Commission might investigate this situation and bring officials and the public together to seek ways to improve registration processes.

As the Commission considers its next steps regarding implementation of the NVRA, we ask that you keep these three substantive concerns in mind. We urge that you develop public procedures to ensure clear and consistent implementation of the Commission’s responsibilities.

Thank you for this opportunity to share our views.