

**United States Election Assistance Commission
Public Hearing**

RE: National Voter Registration Act (NVRA)

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Tuesday, September 21, 2010

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Hearing of the United States Election Assistance Commission ("EAC") held on Tuesday, September 21, 2010. The meeting convened at 1:34 p.m., EDT. The meeting was adjourned at 2:20 p.m., EDT.

PUBLIC HEARING

CHAIR DAVIDSON:

I'm going to call the public hearing to order. And first, I'll have Bill Boehm, which is the Deputy Director of the -- what is your title Bill?

MR. BOEHM:

Deputy Director...

CHAIR DAVIDSON:

Policy and...

MR. BOEHM:

...Division of Research, Policy and Programs.

CHAIR DAVIDSON:

Thank you, Research, Policy -- I guess I'd better get my book open so I have it down correctly. So, Bill would you open it up by giving the presentation that you've done at the other meeting, so that if the public hasn't heard that before we're bringing them up-to-date on why we're doing the update on the regulations and for the -- and the background and all of that? If you would give us a brief presentation on that, I would appreciate it.

MR. BOEHM:

Okay. Thank you, Madam Chair for this opportunity to testify today. Commissioners, Mr. Wilkey, and Counsel Nedzar, what I'd like to discuss, as the Chair has said, is the Notice of Proposed Rulemaking which contains EAC's proposals to amend its regulations applicable to the National Voter Registration Act of

1993, commonly known as the NVRA. As you know, the EAC authorized placement of the Notice of Proposed Rulemaking in the *Federal Register* via a tally vote on August 2, 2010. The Notice was subsequently published in the *Register* on August 9th. Let me just emphasize that none of the changes proposed in the NPRM will be considered before the November 2010 election, and there will be no changes to the national mail voter registration application form until after the November election.

As you know, the purpose of the NVRA is to expand access to voter registration for all American citizens. And in order to achieve this goal, the statute requires States to provide voter registration at motor vehicle agencies, at State public assistance offices, and other State agencies designated by each State, and through the mail. The Federal Election Commission, or FEC, had original responsibility for the NVRA and issued the first set of regulations for the NVRA on June 23rd of 1994. The regulations have not been updated since that time.

In 2002, the Help America Vote Act, or HAVA, transferred statutory responsibility for administering the NVRA from the FEC to the EAC, including authority under Section 9(a) of the NVRA, to issue regulations for developing a national mail voter registration form. In 2003, the FEC, prior to the formation of the EAC, incorporated the HAVA requirements into the national mail voter registration form. In 2006, EAC, in consultation with the States, updated the State instructions to reflect HAVA requirements that became effective that year. However, until the regulations were formally transferred from the FEC to the EAC, the EAC could not

propose any changes to the regulations. A lack of Commissioner quorum at the FEC delayed the transfer of regulations until 2009. Both Commissions published a notice in the *Federal Register* announcing the transfer on July 29, 2009, and they became effective in August of 2009.

The EAC, according to NVRA as amended by HAVA, is charged with three major responsibilities; for providing information to the States with regard to their responsibilities under the Act; developing a national mail voter registration form; and third, submitting a biennial report to Congress following each federal election, regarding the impact of the NVRA on the administration of elections for the two previous years. The NVRA limits EAC's regulatory authority to prescribing only those regulations as are necessary to design the national mail registration form and to submit that biennial report to Congress.

Let me now talk about the regulatory process that we're in the midst of. It's against that backdrop, that I just described, that EAC approved the NPRM in order to incorporate changes into the NVR regulations that are consistent with HAVA. Prior to the issuance of the NPRM, and in anticipation of its role related to updating the NVRA regulations, EAC held several public meetings and a public hearing from 2007 through 2010 on issues related to the NVRA. This is the second EAC public hearing on the Notice of Proposed Rulemaking.

EAC established a lengthy public comment period of over 90 days from the date of publishing the NPRM in the *Federal Register*. The deadline for comment is 5 p.m. Eastern Standard Time on

November 23, 2010. The extended comment period is based on the testimony received by the Commission at its NVRA public hearing in 2007. The majority of those testifying asked for a “robust” comment period. From the date of its publication in the *Register* until November 23rd, EAC invites input regarding the proposals and requests for comment contained in the NPRM from chief State election officials, local election administrators, advocacy groups, and the public.

EAC will receive comments received via regulations.gov, through e-mail and through postal mail. All submissions must include the Commission’s name, EAC, and the regulation title, EAC and the National Voter Registration Act, for this information and collection recordkeeping requirement. All comments received will be publicly posted, including any personal information provided. The EAC will post comments without change unless the comment contains profanity or material that is prohibited from disclosure by law.

Also, EAC will conduct at least one more public hearing, such as this one, during the comment period, at which the Commission can receive input from the public. The details of each hearing are made available on the EAC’s website as they become available. Public testimony received during the hearings will be posted on our websites as well as regulations.gov. Thus far, we have received no public comments on regulations.gov, but we have received testimony from at least four individuals or groups.

Once the comment period closes, all of the comments and testimonies that EAC has received will be reviewed and considered

as the Commission moves into the next phase of the process, which will end in the issuance of a Final Rule most likely in 2011.

As the NPRM indicates, EAC may consider the issuance of more than one Final Rule, one that pertains to HAVA requirements and an additional Rule pertaining to non-HAVA requirements.

After publishing the Final Rule, the Commission, based on public comments and available evidence, may consider modifications to the design of the national mail voter registration form. The Commission would consult with the chief State election officials in any redesign of the national form, as required by the NVRA.

So, what's exactly in EAC's Notice of Proposed Rulemaking? The NPRM includes several proposed changes to the NVRA regulations. The proposed changes are within the scope of authority granted to EAC and address HAVA-related requirements. To be clear, the proposed modifications to the regulations reflect changes to the federal form that the FEC made in 2003 to reflect HAVA's requirements.

The primary objective of the NPRM is to modify the NVRA regulations to make them consistent with HAVA requirements and the HAVA changes already made to the federal form. The proposed changes to the regulations fall into the following categories: HAVA requirements, HAVA-related requirements, and technical amendments. A secondary objective with the NPRM is to ask for public comment on other issues of interest to the EAC.

The HAVA requirements include, one, inclusion of questions and checkboxes asking applicants to indicate whether or not they

are U.S. citizens and 18 years of age, in accordance with Section 303 (b)(4)(A)(i); inclusion, also, of a statement advising applicants that if they checked “no” in response to either of those two questions that they should not complete the form; and finally third, addition of a statement informing applicants that if they’re registering for the first time, the required voter identification information should be submitted with the national mail voter registration form to avoid the additional identification requirements upon voting for the first time. All of the foregoing are specific requirements of the Help America Vote Act.

In addition to the statutory HAVA requirements addressing what must be on the federal form, there are procedures which result from other the HAVA requirements that EAC proposes to include in the regulations. These HAVA-related requirements include:

1. Authorizing in the regulations the statement now appearing under the question and checkbox pertaining to age. This statement appears on the form to alert applicants that their State might allow individuals under age 18 to vote in primaries that precede the general election or in those States that allow under age 18 pre-registration.

Secondly, a change in the format for the federal form. The current regulations prescribe a card format for the form that makes it impossible for voters to submit the HAVA-required identification documents via the mail. The NPRM proposes modifying the regulation to allow the form to be printed on paper stock and mailed in an envelope to the appropriate address. The proposal gives

voters the option of avoiding additional identification requirements upon voting for the first time by allowing them to mail the identification with the completed national form, which is consistent with HAVA. This practice, by the way, has been used for the last several years.

Third, clarification of the State-specific instructions regarding State voter identification requirements. HAVA exempts voter registration applicants, who will be voting for the first time and registering by mail, from enclosing identification documents under certain conditions that could vary from State to State.

The EAC is also proposing several technical amendments to update the regulations. These include ensuring that there are no existing references to the FEC in the regulations, adding references to HAVA where a requirement is contained in both the NVRA and HAVA, eliminating internal references to dates that no longer have any relevance, such as the beginning date for States to certify the information for the first biennial report to Congress, and adding an amendment that requires a Privacy Act notice on the national form.

Finally, there are some other issues that can be addressed in the regulations but are not required or addressed by the Help America Vote Act. But because they are not required by HAVA, EAC asks for public comment on them in the NPRM, but does not propose them as amendments to the NVR regulations in the Notice that EAC issued.

These issues include asking for public comments on the use of an electronic web based form; a proposal to add additional information on the form such as the applicant's e-mail address and

boxes for the applicant to check to indicate whether the applicant is an overseas or military voter covered by the Uniformed and Overseas Citizen's Voting Act; and, changing the deadline for States to certify information to the EAC, for the NVRA report to Congress, from March 31st to 90 days after the date of each regularly scheduled general election for federal office. This is the deadline required by UOCAVA for the certification of UOCAVA information and obtained by the EAC through the same survey instrument.

That concludes my testimony. If you have any questions, I would be happy to answer them.

CHAIR DAVIDSON:

Any questions for Mr. Boehm? Commissioner Hillman?

COMMISSIONER HILLMAN:

Are you able to give us any sense of the comments that have been received, so far, through the testimony that you referred to?

MR. BOEHM:

Sure. As you'll remember, Connie Schmidt did testify in Orlando. She suggested -- she's the former election director from Johnson County Kansas. She encouraged EAC to consider, seriously, a web-based form type of wizard, where it would be easy for applicants to get on the form to fill out.

There were three other ones that were submitted in writing as of the close of the hearing in Orlando. One was submitted by a number of various groups, including -- this particular testimony was submitted by the American Association of People with Disabilities, Demos, Lawyers' Committee for Civil Rights Under Law, the

League of Women Voters of the United States, and Project Vote. They all submitted one testimony that made various recommendations regarding the biennial report -- or the content of the biennial report that we send to Congress, asking that we include additional information such as implementation compliance problems that the States might have had in the two years preceding that report, any litigation which might be pending, and some additional information. We also got separate testimony from Project Vote. They made comments on the regulations. They applauded the EAC for doing a couple things, question -- had a couple questions about the voter ID instruction that's currently on the form. They also submitted -- I'm sorry, supported the addition of e-mail address on the form and they approved the use of some type of electronic based form.

And then finally, we received an e-mail testimony from Deborah Clark, who was the -- or is the supervisor of Pinellas County Board of Elections in Florida. She raised a couple questions about the content of the form related to HAVA age requirement, wanted some further clarification on the identification number instructions, ID number instructions and another -- it was more or less a technical amendment. Wherever the term "political party" -- we used the term "parties" she suggested we use "political party."

That was pretty much the extent of the testimony that we've received so far. And we did post that on our web as well as regulations.gov.

COMMISSIONER HILLMAN:

On the issue of the age eligible to register to vote, if you can refresh my memory since I don't have the complete form in front of me, are there State-specific instructions that would allow somebody under the age of 18...

MR. BOEHM:

Yeah.

COMMISSIONER HILLMAN:

...to submit the form? Because doesn't the checkbox say you have to be 18?

MR. BOEHM:

Yes, it does.

COMMISSIONER HILLMAN:

And does that mean that people under age 18, who could otherwise register in their State, cannot use the national form?

MR. BOEHM:

Well, we've sort of followed the lead of the -- I believe the FEC made this decision, but underneath the specific instruction, which is required by HAVA, we have, "If you check no in response to either of these questions, do not complete the form," that's the HAVA instruction, we do have an instruction on the form that says, "Please see State-specific instructions for rules regarding eligibility to register prior to the age of 18." There are States -- actually there's a lot of States that allow pre-registration for -- before the age of 18. And there's a number of States that allow you to vote in the primary before an election at which you turn 18.

So, we have put that in the instructions. It's been there for seven years. We're proposing that we include that amendment in the regulations to -- more or less to authorize that instruction.

COMMISSIONER HILLMAN:

So, in essence, if you're not 18 you cannot use the Federal form?

MR. BOEHM:

We've advised -- we basically have allowed them to do that, yes.

COMMISSIONER HILLMAN:

We have allowed them to?

MR. BOEHM:

We -- well...

COMMISSIONER HILLMAN:

It says if you don't check off this box, stop, do not complete.

MR. BOEHM:

I understand...

COMMISSIONER HILLMAN:

Do not pass go.

MR. BOEHM:

...there's a contradiction there.

COMMISSIONER HILLMAN:

Yes, yeah, big contradiction.

MR. BOEHM:

Yes.

COMMISSIONER HILLMAN:

Any recommendations will be forthcoming? Let me just put it this way. Let me turn it around and say, it might be useful to get some recommendations, to receive some recommendations from you or

others about this, because things are different now than they were seven years ago. Were it not for the testimony, and that's one of the things I appreciate about groups writing in, I hadn't really focused on the increasing number of States who are allowing people to register before age 18, and what the restriction is on the Federal form.

MR. BOEHM:

Um-hum, okay.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Commissioner Bresso, any questions?

COMMISSIONER BRESSO:

Yes, I have some. Mr. Boehm, for clarification purposes, the public comment period that we're having, and the hearings, is how EAC will fulfill its obligations to consult with the chief election officials of each State as required under NVRA?

MR. BOEHM:

Yes.

COMMISSIONER BRESSO:

Okay. And with that, and I guess we discussed a little bit this morning, the Executive Director's report, with the timing, when we were talking about the logic and accuracy NOFA, that we have out, that would complete in February. I'm concerned that we may not get meaningful comment from election officials because of the timing, because their focus, right now, is on administering elections, not on necessarily comments for the proposed regs. And, in fact, I

have spoke with several election officials, including members of the Standards Board, who expressed that concern. So, I would just like to put out to my colleagues that we may want to consider extending the deadline for comment, just so they have time, also, because I believe it ends November...

MR. BOEHM:

November 23rd, yes.

COMMISSIONER BRESSO:

23rd. And I believe some States are still in their canvassing process at that time. And I want to make sure, because NVRA does require us to consult with election officials that they have ample time to do so. Thank you.

MR. BOEHM:

Just a note. If the EAC wants to extend that timeframe, we probably will have to know two weeks before the close of that deadline, so that we can get a notice in the *Federal Register* at some point before the 23rd.

COMMISSIONER BRESSO:

Okay, thank you.

COMMISSIONER HILLMAN:

I have a follow-up question for Commissioner Bresso. Did the election officials say that they would comment if we extend the period of time?

COMMISSIONER BRESSO:

They said that they would like to comment, but they weren't sure if they could given the parameters, because their focus, right now, is on the administration of their respective elections. And this is the

only form that we're reaching out to election officials. We're not, you know, commencing any roundtables or anything. We're specifically asking people to come to EAC, or another location, to devote time. They are given the same opportunity as everybody else, but certainly I would like to know, since they are the ones who are going to be administering the form, if they have a position or not.

COMMISSIONER HILLMAN:

I would too, and that's why I was wondering if they're saying, "We will comment, give us more time" or are they just saying, "Gee, we wish you had given more time." I will be disappointed if we extend the period of time and there's no...

COMMISSIONER BRESSO:

Right.

COMMISSIONER HILLMAN:

...comment from election officials, I guess, is what I'm saying.

COMMISSIONER BRESSO:

Okay.

CHAIR DAVIDSON:

Okay, I appreciate that. We do have one individual that has signed up. And Bill, if you would remain there, there may be questions with the testimony that is forthcoming that you may be able to help the Commissioners with.

So, I want to invite up to the table, Brian Siebel.

MR. SIEBEL:

Yes.

CHAIR DAVIDSON:

And I appreciate you -- really do appreciate you coming today and spending some time to testify before the Commission. It's very important that we hear from the public, and certainly, we appreciate you coming in. Thank you.

MR. SIEBEL:

Thank you so much. My name is Brian Siebel. I'm the Legal Director at Fair Elections Legal Network. FELN is a national non-partisan advocacy organization based in Washington, D.C. Its overall mission is to remove barriers to registration and voting for traditionally underrepresented constituencies and to improve election administration through administrative, legal and legislative reform.

Now, FELN has submitted longer testimony, written testimony, that, I think you have before you, but I would like to -- I'm going to give you an abbreviated version of that in my public, spoken testimony here. And I want to focus my spoken remarks on, EAC has an invitation in the Notice to comment on how EAC's regulations may be amended to accommodate the use of new technologies to facilitate applicants' use of the Federal voter registration form.

Now, the specific technology I'm talking about is touchscreen technology, now included on many mobile devices, such as this phone and millions of other phones that are currently out there, and other web accessible touch screen devices like iPads and so forth. This technology is widespread, even among voters with below-average incomes, and is projected to dominate the market in the next few years. It would enable voters to provide a handwritten

electronic signature on the Federal form in the same way that signatures are captured on electronic keypads throughout the commercial world. Use of this technology would greatly benefit both election officials and voters.

So, FELN is proposing that the EAC amend its regulations to expressly permit an electronic version of the Federal form to be filled out and signed by hand, electronically, and then e-mailed to the appropriate State election officials. This would be a great innovation, but it's not that radical of an idea.

Santa Clara, California, has accepted Federal voter registration forms submitted this way. And, at least two States have already asked voters to sign voter registration forms on an electronic keypad at their State motor vehicle agencies. And others are moving in this direction, all designed to eliminate paper, frankly. States also digitize voter registration signatures, turning paper signatures into electronic files.

State election officials would benefit. The electronic forms offer the same benefits that online voter registration offers to a State. Cost savings could be significant. In Arizona, for example, an online form costs 3 cents to process, versus 83 cents for a paper form.

Errors would be eliminated. Officials in Arizona found that paper-based forms were five times more likely to introduce errors, versus paperless registrations.

And these forms could be processed much more rapidly with fewer personnel, because data upload is, essentially, instantaneous.

Voters would benefit because they would be able to complete a voter registration application at anytime and at virtually anyplace. They would not need a printer or a stamp. If they don't own a touchscreen mobile device, they could borrow one to register to vote. Third-party voter registration organizations are already using touchscreen computers to register voters, although they have to do it through a State that has online voter registration. This would not -- this would open that up much more widely. And voters could know immediately if their voter registration has been received instead of waiting days or weeks. This would allow for electronic registration in all NVRA States, not just the eight that currently offer online registration. Moreover, it would allow all voters to take advantage of electronic registration, not just those with current in-State driver's licenses. That limitation leaves out thousands and thousands of voters in every State, a disproportionate number of whom are youths, seniors or minorities.

Electronic signatures are secure. Touchscreen technology collects data points throughout the signing process like a mini video and encodes this data into the electronic file sent to election officials. Officials can examine this data for verification purposes, if they need to. The signature can also be rendered tamper proof.

And electronic signatures will allow for comparison matching. A handwritten electronic signature will compare well with handwritten ink signatures, when States match signed mail-in ballots with signatures on file, for at least two reasons.

First, voters control their signature. If they do not like the appearance of an electronic signature, they can erase it and start

over before they submit it to election officials. So, it's not like at the grocery store where you're signing and you go, "That doesn't look like my signature." If they want to -- if you don't think it does, then start over and do it again.

And, second, handwritten signatures will be more current than the signature captured by online registration systems from driver's licenses which may be years old. We give an example, Arizona, you sign when you're 18. You never have to resign to get an updated driver's license in Arizona. So, the signature literally could be dozens of years old.

And electronic signatures, we believe, are consistent with Federal law. The NVRA requires States to accept Federal voter registration forms. Moreover, the Federal form "may require only such identifying information, including the signature of the applicant, as is necessary to enable the appropriate State election official to assess the eligibility of the applicant." The Federal form also "requires the signature of the applicant under penalty of perjury."

So, a handwritten electronic signature meets both of these elements just as well as a signature inked on a piece of paper.

That's the end of my spoken testimony. I want to thank you for the opportunity to testify and would be happy to answer any questions you or your staff may have. And I'm happy to work with you, going forward.

CHAIR DAVIDSON:

Commissioner Hillman, questions?

COMMISSIONER HILLMAN:

One question comes to mind. Did you see anything in the National Voter Registration Act, as it pertains to the form, that would have to be changed in order for your suggestion to be implemented?

MR. SIEBEL:

No, it's our view that the NVRA, as written, would accept this form of signing of the Federal form because it meets the only two requirements, which are identifying information and signing under penalty of perjury. Electronic signatures meet both of those requirements. And I'm not talking about, and this is in my longer testimony, there's a case in the Supreme Court of Utah that allowed for electronic signatures to get a person on the ballot. And that was actually a mouse click type of electronic signature, but a person already had to have a key number and had to, basically, have an in-State driver's license.

What I'm talking about is, you know, taking a pen or a stylus of some kind, and basically, signing your name right on the keypad. And that's exactly what's being done at motor vehicle places in a few States, I think more States are going to that, because then, once that is signed, while you're there at the motor vehicle agency, it's sent off electronically to the voter file and uploaded instantaneously. This is basically the same thing, except that it's coming from the voter directly into the State election officials. It's really, in our view, no different than a paper form, it just happens to be electronic.

And right now, the EAC has the Federal form on its website, it's there electronically and certainly, you know, State agencies receiving these could, if they wanted to, print them out onto pieces

of paper. But we think there would be obviously no use in that, because the advantages to this is instantaneous upload of the data and the signature and, you know, it's quick and easy, and really a cost-saving measure.

But we think -- to go to your question -- the Federal law and the federal law allows it. And we make a few suggestions in here, in the longer testimony, of things that could be done in the regulations. For example, there's formatting items in the regulations that suggest this has to be in a certain size and what not, and we think those could be slightly adjusted. But the Federal law does not mandate those format regulations. There's a few other little things. On the cover, it says, "This postcard form" for example. You don't have to have the word "postcard" on there. Where it says, mail, you could also say e-mail. But these are things that are not mandated by the NVRA, these are things that are in the current regulations, which you are considering amending anyway.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Commissioner Bresso?

COMMISSIONER BRESSO:

I have a follow-up on that question. If the EAC were to allow or require electronic signature for the Federal form, would that then put a requirement on States that have to, then, offer an electronic signature or have some sort of electronic form, then, because they would have to comply with our Federal form as a mandate or, no, in your legal opinion?

MR. SIEBEL:

It's our view that the States have to accept the Federal form. They wouldn't have to set up their own State form that way.

COMMISSIONER BRESSO:

Okay.

MR. SIEBEL:

But they would have to accept the Federal form that we send to them.

COMMISSIONER BRESSO:

Right, so it wouldn't be a requirement on them to change their own State form, then?

MR. SIEBEL:

Correct.

COMMISSIONER BRESSO:

Okay.

MR. SIEBEL:

But anyone who would then -- certainly anyone offering this, whether it's a third party organizations or the voters themselves, they would just simply use the Federal form. That would allow all voters in the all the NVRA States to start doing this, and we think this would expand rapidly. I said that this is going to dominate the market, and there's some data in our footnotes here, but in a couple years, 80 percent of the mobile phones will have touch screen technology. Already, basically, 50 percent of them do. So we're talking 100 million units a year. I mean, most people are on two-year plans and they're going to recycle these phones, so I think

within a few years touchscreen technology is going to be on almost every mobile device out there.

And certainly, it's just a tremendous benefit for voters. And again, it's the same cost savings as online systems. The difference is, all the online systems require you to have a pre-existing signature on file. This allows you to give your signature just like you would on a paper form, except you're doing it electronically. That's where I think we are.

I mean, the commercial world was there last century. I think it would be nice if we -- if voting came into the digital world, as well.

CHAIR DAVIDSON:

I've got a question. I'd like to kind of follow-up on this same thing. The technology, I think, is where mine comes in. I thought I had one of the most updated phones, there is no, and there's no place for me to sign on my telephone.

MR. SIEBEL:

All you need is the software to do it. I mean, in other words, you're not called to sign on your phone, because you're not given an application that allows for you to sign something.

CHAIR DAVIDSON:

So, all I have to do is get the application to be able to sign my name to documents that...

MR. SIEBEL:

Yes.

CHAIR DAVIDSON:

And then, you see the States or the counties being able to either take this document that would come to them online, and they could

scan that -- I mean, it could -- they wouldn't have to scan it, but they could accept the data and the signature without printing any paper. But they also could, I see in my eyes, is they could almost scan that as it came in and it would look exactly like what they filled out. It would be electronic, but that's what they would keep on record.

MR. SIEBEL

Correct, yes. I mean, I'm not a technical expert, but I've talked to the company that devised this that was, the version that was accepted by Santa Clara County earlier this year, and they tell me that it's -- that the electronic data is stored in a PDF file. Now, most people are familiar with PDF files.

CHAIR DAVIDSON:

Right, that's what I was speaking to.

MR. SIEBEL:

Yeah. And in that PDF file, would be the little mini video, that I talked about, which captures the actual process of signing the form. So, it's not just the end product, you actually get, you know, how it works to sign, dot your i's, cross your t's and so forth. And also, in there is the data that you've typed in.

One other advantage is the voter -- you could set this up so that, one way to eliminate mistakes, the form couldn't be sent if you don't check a box, for example. Just like on a lot of online systems you fill it out, and if you haven't given your credit card, for example, okay, it's going to reject you and say, "Oh by the way," it's going to give you a little red highlight, "you missed this box." This would allow voters, then, to make sure that they're filling in the entire form before it's submitted, so you wouldn't have that problem. I didn't

mention it in the oral testimony, but in our written testimony, we noted that five percent in California and Florida forms get accepted even though they're missing information. That information then gets missing and some of those people end up not being able to vote. So this would correct that problem, as well.

And I think that the EAC would not have to, necessarily, go through the electronics of establishing the form. I'm sure third-party vendors would quickly make the applications necessary to allow this to go forward for the many different phones that are out there, as soon as this form was accepted.

You look like you have more questions.

COMMISSIONER BRESSO:

Yeah, I'm -- I guess, I want maybe some additional clarification.

So, I have my phone.

MR. SIEBEL:

Yes.

COMMISSIONER BRESSO:

I fill in everything, and then, I use an electronic signature. Now, you're saying, in lieu of printing out that form and sending it by mail, there would be some sort of synchronization to an elections office where that information that would be sent directly to the elections office?

MR. SIEBEL:

Yes, I mean, we suggest that...

COMMISSIONER BRESSO:

So, we're doing online registration at EAC?

MR. SIEBEL:

No, no, we just suggested...

COMMISSIONER BRESSO:

Okay.

MR. SIEBEL:

...an example in the State instructions, every State just give an e-mail address...

COMMISSIONER BRESSO:

Okay.

MR. SIEBEL:

...where it can be sent, and then the voter would e-mail it.

COMMISSIONER BRESSO:

And then EAC would be responsible then for sending it or...

MR. SIEBEL:

No, no, no. The voter would send it.

COMMISSIONER BRESSO:

Okay.

MR. SIEBEL:

The voter would type in the e-mail address and would send it probably as an attachment to an e-mail. And it would then -- the attachment to the e-mail would be, it's my understanding -- again, I'm not the technician -- it would be an attached PDF file that could be electronically uploaded. I mean, States would have to make some minor tweaks to be able to accept the data that's in there, the typed name and address and all of that. And they would -- but it would automatically be able to upload onto their systems. And all that the Federal form would need would be e-mail addresses added

at the end of each State instructions, in addition to the mail addresses that currently exist.

COMMISSIONER BRESSO:

Okay.

CHAIR DAVIDSON:

So my -- my question is, if they didn't have the capability of accepting it electronically, though, they could open that document as an attachment and print that and have that on file?

MR. SIEBEL:

That's correct. If they want -- correct. You could have it so that they could print it out on paper. That's actually what Santa Clara did to begin with. You could print it out on paper and it would look just like a paper form, because it would have the typed in information and the signature would appear there on a paper document. States could do that. They would, obviously, not want to do that because that would be back to them having to re-keystroke the data in and so forth. They would have a great incentive to immediately begin -- as these started coming in to set up a system that would accept them and allow them to upload it directly.

CHAIR DAVIDSON:

My concern is, is every State with a statewide voter registration system is built with different software. I mean, obviously we're getting into the technical aspects of it and don't know that much about it, but I was afraid that the software that we would have would not be compatible with what the State has.

MR. SIEBEL:

Again, I think that -- it's my understanding that these are standard PDF files, which is a universally accepted type of technology, and so I can't imagine that that would be a significant obstacle. Again, EAC does not have to mandate a particular technology, it simply has to say -- really, I think you could very easily say that, you know, you can sign a Federal form, electronically, and I think the rest kind of would begin to take care of itself. I think it's not -- all of those technical issues would be resolved because, again, the States would have this huge cost incentive to start doing it this way to turn paper forms into electronic forms, the voters would have the incentive to do it this way and -- just as online systems are moving forward because of these cost savings, this system actually could accelerate that process and institute the same types of savings.

But again, it has the tremendous added benefit that it's bringing in all the voters who may not already have in-State driver's licenses; just the people who don't drive, students, for example, who just come to school in the State, but want to register to vote there. A lot of different people would be brought in. And there's, right now, thousands of people excluded from the current online voter registration systems that exist.

CHAIR DAVIDSON:

I could see us possibly, I'm not speaking for the Commission, but having like, you said something in there that says electronic means -- meet the electronic means, because we don't know what technology is going to be tomorrow.

MR. SIEBEL:

Exactly.

CHAIR DAVIDSON:

And then, we start with just linking them to the State. And if they have electronic capability they are really going right to the State for their website and using their system and then moving forward to something like this in the future, I mean, because you don't want to hold up process on one hand, because you're developing something in-house. And I don't know how long that would take, you know. There's a lot of questions, obviously.

MR. SIEBEL:

Well, the company that did this in Santa Clara County said this would be -- the commercial world is already there. So really, this is adapting commercial type systems to the voter registration form. This is not inventing something new, it's already there. It's been there for really a couple of decades. And so, it's just bringing this into the voter registration world.

And so, you know, we think it would be of great benefit and would move along the process. It would make the Federal form, really, very usable and very friendly to millions of voters. And again, not only does it penetrate down -- I actually would note that people with lower income, actually, tend to have more of these devices in part, because they aren't able to afford a PC and Internet access on their PC, so they, basically, use this device as their Internet access device. So, it's actually kind of interesting. This actually would help close the digital divide, in some respects, and it would certainly enable people -- if only one person in the family had this device, well they could certainly have other members of their family all register to vote this way.

So, I mean, I think that the -- one other thing I was going to say. I mean basically, what the States are looking for, here in their online systems, is a signature. And what I'm saying is handwritten electronic signatures are readily available, can be captured and are just as good for the State as the signature they're already wanting for their voter registration forms.

CHAIR DAVIDSON:

Other questions, Commissioners?

COMMISSIONER BRESSO:

No.

COMMISSIONER HILLMAN:

No, but I just -- just to restate the obvious. Irrespective of how a potential voter accesses the form, once they complete it and sign it, whether digitally, or the old fashioned way, it's still their form. I mean, they're transmitting it directly, whether through e-mail or postal mail. That's part of your recommendation.

MR. SIEBEL:

Yes, correct.

COMMISSIONER HILLMAN:

I mean, the form belongs to the person filling it out and signing it.

MR. SIEBEL:

Absolutely.

COMMISSIONER HILLMAN:

Right.

MR. SIEBEL:

Yeah. We did have, by the way, comments on other issues but I'll leave my written comments to address those.

CHAIR DAVIDSON:

All right, we appreciate you coming, as we said. And thank you very much for answering our questions. Thank you.

MR. SIEBEL:

Thank you very much for your time.

COMMISSIONER BRESSO:

Thank you.

CHAIR DAVIDSON:

We had sign-up until 12 noon and nobody else signed up. But is there anybody in the audience that came, that think that they might get a chance to testify?

Okay, then, I would just like to remind everybody that our next hearing will be in the Sheraton Hotel in Palisades (sic), California. And that will be October 14th. And as I said before, we'll have the information up on our website for the public to be able to look at anything that they would like to see. And, obviously, all of the testimony and comments are up on the website, currently. So, please go to www.eac.gov and make your comments to this, the Federal voter registration regulations, and please make comments of any issues that you would like to.

Is there any closing remarks that any of the Commissioners would like to make at the hearing?

COMMISSIONER BRESSO:

No, I don't have any.

CHAIR DAVIDSON:

Commissioner Hillman?

COMMISSIONER HILLMAN:

No, thank you.

CHAIR DAVIDSON:

Thank you very much. Do we have a last one?

MR. WILKEY:

Pasadena.

CHAIR DAVIDSON:

What did I say?

MR. WILKEY:

I don't know.

CHAIR DAVIDSON:

I don't know. Pasadena, it's the Sheraton at the Pasadena Hotel. I don't know what I said. But anyway, it's the Pasadena Hotel in California. So, please be there. This is not my day, obviously. So, if you can be there, people from California, we'd love to have you in attendance.

So, thank you so much. The hearing is adjourned.

[The public hearing of the EAC concluded at 2:20 p.m. EDT]

bw/add