



## COMPARISON OF THE NYS ASSEMBLY BILLS TO NYS SENATE HAVA BILLS

The New York State Assembly and Senate both passed differing versions of legislation regarding state implementation of the Help America Vote Act (HAVA). This comparison study will aid in understanding the differences between the two packages and how they relate to Citizens Union Foundation's position on HAVA implementation in New York.

### STATEWIDE VOTER DATABASE & IDENTIFICATION REQUIREMENTS

**The Assembly and Senate both offer the following requirements for the Statewide Voter Database & Identification Requirements under HAVA:** (A08842, S.6201, S.6203, S.6205)

- Requires a comprehensive statewide voter registration list.
- Directs the State Board of Elections to maintain the database through coordination with the county boards.
- Provide immediate access by local election officials.
- Requires the State Board of Elections to assign unique identification numbers to voters who do not provide a drivers license or social security number.
- Requires the State Board of Elections to coordinate with the Department of Motor Vehicles and the Social Security Administration to verify and match information in the statewide voter list.

**The Assembly legislation goes further by:** (A08842)

- Protecting voters' rights by allowing first-time registrants to vote by affidavit ballot who do not provide proper identification when they register.
- Requiring boards of elections to contact new registrants who are missing information before Election Day.
- Offering a broad and expanded list of acceptable documents to be used for identification.
- Requiring affidavit ballots to be processed as voter registration applications.
- Putting protections in place to protect voters by protecting their individual information.

**The Senate further requires:** (S.6201, S.6203, S.6205)

- The New York State Board of Elections to establish a voter hotline for voters to verify their voting registration.
- Voters who knowingly submit false voter information to be guilty of a class E felony.
- Appropriating \$3 million to the State Board of Elections to implement the statewide voting list.

### UPGRADE OF VOTING MACHINES

**The Assembly and Senate both require the following upgrades to voting machines:** (A08847, A08833B, S.6207)

- Elimination of punch card ballots.
- The purchase of electronic voting machines with voter-verified audit trails that will be retained by the voting machine and to be used to ensure accuracy and reliability.
- Establishment of a citizens committee to make recommendations in machine selection.

**The Assembly goes further by stipulating:** (A08847, A08833B)

- Voting machines by 2005. It mandates that machines must be accessible to voters with disabilities and who speak languages other than English.
- A single, statewide voting machine to be purchased by the State Board of Elections.
- Requiring county board of elections control of voting machines.

**The Senate requires:** (S.6207)

- Voting manufacturers to supply copies of the source code for new machines to ensure system integrity.

Both bills create a citizens committee or group to assist in the selection of new machines. The Senate stipulates that the "Citizens Election Modernization Advisory Committee" be composed of eleven members: four representatives of boards of elections appointed by the governor and with approval of the senate; the director of the office of technology; two members appointed by the temporary president of the senate, two members appointed by the speaker of the assembly, the state advocate for persons with disabilities; and one individual with disabilities appointed by the governor.

The Assembly stipulates that the “Citizen Advisory Group” will include (but will not be limited to) representatives from boards of elections, members of the voting rights communities, civic organizations, and persons with disabilities. It does not place a specific number of members on the committee. The State Board of Elections would be responsible for the appointments of the group.

#### **POLL WORKERS & TRAINING**

**The Assembly offers changes to the poll workers and training requirements through the “Election Administration Consolidation and Improvement Act of 2004: (A08833B)**

- Requires county board of elections control of voting machines and poll workers.
- Gives authority to boards of elections to draw election districts and more flexibility in polling sites.
- Requires mandatory core curriculum and exams for election workers.
- Increases poll worker salaries.
- Requires new training materials and manuals for election day workers.
- Allows students sixteen or seventeen with written permission from parents or guardians to serve as assistant poll clerks to further their civic education.

#### **DISABILITY AND LANGUAGE ACCESS**

**The Assembly legislation requires full access to voters with disabilities at all polling sites around the state consistent with requirements mandated under the federal Americans with Disabilities Act. (A05473)**

#### **HAVA FUNDING**

**Both the Assembly and Senate offer bills that deal with the funding mechanism as prescribed by HAVA: (A08847, S.6202)**

- Establishes a fund under the custody of the Comptroller.
- Keeps the funds separate by making the federal funds appropriated for HAVA available to only the State Board of Elections.
- The fund would be accessed only by warrant and audit of the State Comptroller.

#### **ADMINISTRATIVE COMPLAINT PROCEDURE**

**The Assembly and Senate both deal with the requirement under HAVA to create an administrative complaint procedure for voters who have dealt with violations of HAVA: (A08841, S.6204)**

- Clearly defines that voters may file a complaint if there is a violation (that has occurred or is about to occur) of any provision of Title III under HAVA.
- Requires complaints to be notarized, signed, and sworn to by the voter filing the complaint.
- Allows the State Board of Elections to consolidate similar violations. All hearings will be on the record if requested by the complainant.
- The hearings will be staffed by staff members selected by the Board of Elections.
- Requires final determinations to be filed within 90 days of the complaint being filed unless otherwise the complainant agrees to a longer period of time to make the determination.
- If there is a failure to make a final decision by the 90 days, the complaint will be resolved within 60 days by an alternative dispute resolution procedure that will be provided and paid for by the State Board of Elections.
- Requires final determinations to be published and corrected by the State Board of Elections.
- Protects the complainant by not impeding judicial remedy.

**The Assembly bill also: (A08841)**

- Allows the State Board of Elections to delegate authority to non-employees it determines as proper to hear and determine complaints.
- Allows the complaint to be dismissed if the panel delegated to hear and determine complaints fails to reach a majority.

**The Senate bill goes further by: (S.6204)**

- Requiring the board of elections to assist disabled persons in making a complaint.
- The State Board of Elections will create a complaint form.
- Defines that final determinations must use the evidence standard.
- Mandating that voters who knowingly file a complaint that is false to be guilty of a class E felony.