

Res. No. 228-A

Resolution urging the Board of Elections in the City of New York to take various measures to ensure public input and inspire public confidence in any election systems procured pursuant to the Help America Vote Act of 2002.

By Council Members **Jackson, Arroyo, Barron, Brewer, Clarke, Comrie, Dickens, Foster, Gennaro, James, Koppell, Liu, Mark-Viverito, Mendez, Nelson, Palma, Seabrook, Stewart, Martinez, McMahon, Monserrate, Avella, Vacca, Katz, Addabbo Jr., Sanders Jr., Lappin, Vallone Jr., Garodnick, Yassky, Gonzalez, Gioia, Recchia Jr., Gentile, Mealy, Weprin, Reyna, Gerson, DeBlasio, Felder, Fidler, Vann and Oddo**

Whereas, The federal Help America Vote Act of 2002 ("HAVA") requires the Board of Elections in the City of New York ("Board") to modernize elections; and

Whereas, One substantive aspect of election modernization entails the procurement of new voting machines to replace the mechanical lever machines that are currently in use throughout the city; and

Whereas, Transparency, accountability, and public input are hallmarks of democratic government; and

Whereas, Free and fair elections are best accomplished when members of the public participate in and observe all aspects of the conduct of elections, as this protects the accuracy and integrity of the election and instills confidence in the outcome; and

Whereas, Notwithstanding the preceding, the Board has yet to hold public hearings regarding election modernization or conduct public tests of any of the new voting systems that may be under consideration; and

Whereas, The Board has not yet published a cost analysis of the acquisition, transition, and continuing costs of new voting systems; and

Whereas, Citizens continue to advocate for transparency in the process of selecting and testing new voting equipment; and

Whereas, Public participation and confidence in the selection process, and confidence in the equipment selected, would be improved if the Board undertook the following measures, for each system under consideration, prior to selection of new machines:

1. Conduct public hearings in each borough, during both day and evening hours;
2. Publish an analysis of the acquisition, transition, and continuing costs;
3. Avoid using paper for the voter verified paper audit record of a quality that fades during the time that such records are required to be kept, and that requires climate-controlled storage;
4. Conduct a Mock Election Public Test with the objective that such Mock Election Public Test would demonstrate that:
 - a. Vendor documentation, training materials, and the ability to train election staff are effective, such that the vendor can train Board staff so that Board staff can: (i) independently perform all tasks to prepare the test machines for the test, including ballot programming, (ii) train election inspectors for the test, and (iii) perform all post-election tasks to canvass the votes;
 - b. Votes displayed on screens and voter verified printouts, tallies, and activity and event logs for all systems under consideration are accurate;
 - c. Tabulating equipment associated with each system under consideration is accurate;

5. Conduct hacking tests, including a Professional Hacking Test or a Public Hacking Test;

6. Confirm publicly that any voting systems equipment purchased and delivered for use in New York City elections are correctly configured and consist of exactly the same components as the system of that type that was certified for use in New York State by the State Board of Elections, including a demonstration of an easily-used inventory list of all system components in each state-certified voting system under consideration by the Board, which includes all hardware, programming, files, file system structures, documentation, accessories, and all other components, and a demonstration that all components are safe and proper for inclusion in a voting system in New York State, and that no components would allow for illegal voting-related activities such as tampering through the use of wireless communications;

7. Enable all parties currently permitted to be poll watchers pursuant to the State Election Law to examine the voting system, during the hours specified by the State Election Law, to verify that the machines used are correctly configured, contain exactly the same components as the system of that type that was certified for use in New York State, and do not contain illegal communication capability, whether hardware, software, firmware, or any other type;

8. Ensure that the testing of voting systems that includes the entry of test ballots uses ballots entered through the same methods as used by voters on Election Day, including the use of all accessibility attachments, minority language displays, DRE voter verified printouts; and extraction of end-of-day results;

9. Insist that the New York State Office of General Services include in the contract for procurement the posting of a bond or letter of credit so that vendors can remedy the problems that occur, and reimburse the additional expenses that are incurred, due to the determination that systems upon delivery, or after vendor access to systems, are corrupt or different from the state-certified version of the system; and

Whereas, If the Board adopted these measures, it would further enhance the democratic process and ultimately improve voter participation once the new voting systems are in place; now, therefore, be it

Resolved, That the Council of the City of New York urges the Board of Elections in the City of New York to take various measures to ensure public input and inspire public confidence in any election systems procured pursuant to the Help America Vote Act of 2002.