

Date: July 14, 2008

To: Members, Wisconsin Government Accountability Board

From: Paul Malischke

Subject: Agenda Item H, Emergency Rule for Provisional Ballots

This emergency rule would establish a new class of provisional ballots for those who are snagged by the HAVA check. It's good to have this available as a safeguard, but it is imperative that efforts are made to keep the quantity of these ballots low.

The US Election Assistance Commission says on their website:

“Reduce the need for provisional ballots. **Find a way to reduce the need for this safeguard by addressing registration problems ahead of time** and”

Here are reasons why voters should be given every chance to cast a regular ballot before being put into provisional status:

- A high percentage of provisional ballots are never counted. In November 2006, 34% of Wisconsin's provisional ballots were not counted.
- A provisional ballot erects an additional barrier for the voter.
- Candidates concede or claim victory on election night. If a voter's ballot is not part of the election night count, the voter feels his vote might as well be in the wastebasket.
- Provisional ballots impinge upon the secrecy of the ballot. A serial number is recorded on the provisional ballot, and the same number is recorded on the poll list by the voter's name. This links a specific ballot to a specific person.

The following must be added to the rule, and carried out before Election Day:

- Election administrators shall resolve match results that are not a complete match.
- A letter shall be sent to the voters whose non-match cannot be resolved, notifying them that they can resolve this before the election, or present proof of residence on election day.

At your May 5 Board meeting, proposed administrative rules for voter registration were presented. They included the wording below. **Add this wording or equivalent to the emergency rule** to ensure that procedures are carried before Election Day out so that voters have the best chance to cast a regular ballot.

“(2) HAVA Check. Reliers, self-providers and providers shall perform the following duties necessary to properly conduct HAVA checks:

(c) Resolve all voter match results that are not a complete match provided by the voter in accordance with instructions provided by the board.

(d) Contact voters who do not receive a complete match using the DMV ping notification letter, and resolve the matching issue by any means available.”

It is not enough to give verbal assurances that these will be carried out. The Legislative Audit Bureau and Legislative Audit Committee is insisting that procedures be documented in administrative rules.