



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Honorable Thomas Cane, Chairman and Members  
Government Accountability Board  
17 West Main Street, Suite 310  
Post Office Box 2973  
Madison, WI 53701-2973

Dear Judge Cane and Government Accountability Board Members:

I am writing to express my concern over issues relating to Wisconsin's voter registration process, including the performance of voter registration information verification under the Help America Vote Act (HAVA) and the certification of special registration deputies.

It is my understanding that the Government Accountability Board (GAB) will be addressing the issue of voter registration information verification (HAVA checks) at its meeting on August 27 and 28, 2008. Specifically, the GAB has tentatively decided to require that municipal clerks conduct HAVA checks on certain voter registrations received on or after August 6, 2008.

In 2002 Congress enacted HAVA. In part, HAVA requires states to create a computerized statewide voter registration list that contains the name and registration information of every legally registered voter. 42 U.S.C. § 15483(a)(1)(A). HAVA also provides that all voter registration information shall be entered into the voter registration system on an expedited basis at the time it is provided to the municipal clerk for entry. 42 U.S.C. § 15483(a)(1)(A)(vi).

Under HAVA, the municipality receiving voter registration information is to submit that information through the voter registration system to verify that the information submitted matches information in drivers license or social security databases. 42 U.S.C. § 15483(a)(5)(b).

HAVA also provides that the voter registration system was to be functional by January 1, 2004, with a possible extension (via a waiver application) to January 1, 2006. 42 U.S.C. 15483(d)(1). Wisconsin did receive a waiver, but its system was not fully functional until August 6, 2008. I am informed that implementation of the HAVA-compliant system was delayed due to computer software problems.

I strongly urge the GAB to require a process whereby HAVA checks are conducted for voter registrations occurring before August 6, 2008 and as close as possible to the January 1, 2006 date by which Wisconsin was required to create its statewide voter registration

list. I am mindful that there may be various practical impediments to conducting such checks and that many of the voters registered since January 1, 2006, have subsequently voted in elections. I also understand that since 2006, the state has provided municipal clerks with lists of felons and deceased persons to maintain the integrity of voter lists. However, regular maintenance of the statewide voter registration list is necessary to remove convicted felons who are still serving a sentence, deceased voters and ineligible voters as required by HAVA. 42 U.S.C. § 15483(a)(2).

A related concern that has recently been brought to my attention is the possibility that special registration deputies who are not qualified electors have been registering voters. Wis. Stat. § 6.26(2)(am) requires that a special registration deputy be a qualified "elector". An "elector" is a U.S. citizen, 18 years or older, who has resided in an election district for 10 days before an election. Wis. Stat. § 6.02(1). An elector's residence is "the place where the person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return." Wis. Stat. § 6.10(1). Thus, felons currently serving a sentence and persons who do not meet the definition of a Wisconsin resident are ineligible to serve as special registration deputies. However, it appears that current application forms and training materials may not adequately prevent the appointment of such deputies. I therefore request that the GAB take whatever steps are necessary to strengthen the appointment process for special registration deputies to ensure that only qualified electors are serving in that capacity.

My goal, and one that I know is shared by the GAB, is to ensure that only eligible electors are registered to vote so that the public may have confidence that every election is conducted according to the law. My request for expanded HAVA checks is motivated by my desire to ensure Wisconsin complies with federal law, as well as to address reports of alleged improper or illegal registrations by certain special registration deputies in Milwaukee. It appears that many of these questioned Milwaukee registrations may pre-date the currently proposed date of August 6, 2008 for required HAVA checks. Therefore, it appears that there have been fraudulent voter registrations that would not be the subject of a HAVA check. The only way to assist in ensuring a fair and reliable election process under law is to take all reasonable efforts to perform HAVA checks on as many registrations as feasible that occurred on or after January 1, 2006.

I appreciate the opportunity to bring these issues to the attention of the Government Accountability Board and look forward to working with you and your staff on these important matters.

Sincerely,



J.B. Van Hollen  
Attorney General

JBV:RPT:RRK/pss

Cc: Kevin J. Kennedy, Government Accountability Board  
Nathaniel E. Robinson, Government Accountability Board