**Fact Sheet: Update on MD Election Process**

updated June 2006

**Introduction**

Delegates to the LWVMD Convention 2005 adopted a program item to review and update the LWVMD Election Process positions, including compliance with the federal Help America Vote Act of 2002 (HAVA). There is no more timely issue. LWVUS has issued publications in a series on Helping America Vote. Several bills concerning elections passed the 2005 General assembly but were vetoed by Governor Ehrlich. In November, the Governor appointed a commission to examine election issues and it reported in January 2006 to uphold the Governor (SB287, SB478, HB622). Clearly, election procedures will be on the agenda for the General Assembly. Since this is an election year, every League member in the state should be informed and up-to-date on current election procedures and aware of League ositions that protect and facilitate every citizen's right to vote.

HAVA was signed into law by President Bush October 29, 2002. Its purpose is to improve the administration of elections in the U.S. To attain this goal it provides for:

* creating a new federal agency to serve as a clearinghouse for election administration information;
* providing funds to states to improve election administration and replace outdated voting systems;
* and creating minimum standards for states to follow in several key areas of election administration.

The LWVUS believes that voting is a fundamental citizen right that must be guaranteed. Based on this, LWVUS has supported very free access to registration and voting and opposed any proposals that might set up barriers to or promote discrimination in registration and voting.

**Voter Registration**

HAVA requires that voters must submit with their registration application a driver's license or state identification card or the last four digits of their Social Security number, which is verified by the Local Board of Elections (LBE) office. Voters applying by mail must submit a photocopy of the necessary ID, or provide it at the polls the first time they vote. The check-off boxes affirm that the applicant is a citizen and will be 18 years old before the next general election day, are duplicated by signing of the voter registration application. The LBE office should provide to a citizen notification of any incomplete information on the application. LWVUS lobbied against this ID requirement in HAVA because this has been used as a source of discrimination.

**Statewide Voter Registration Database**

By January 1, 2006 all states are to have a statewide voter registration database, as required by HAVA. Maryland has established such a system, which should improve the registration process and
reduce need for provisional ballots. LBEs will have a read-only access to the entire state database, but will be able to make changes only within their jurisdiction. The staff of the local election board office enters all data. The Motor Vehicle Administration and other agencies designated as voter registration agencies (offices that provide public assistance and services to the disabled and all public institutions of higher education) transmit original signed Voter Registration Applications by mail to the boards of election. The person interested in registering at these agencies must trigger the process as
employees are not supposed to ask if people want to register to vote.

If a voter moves and re-registers at a new location, information is deleted at the previous location, but the former address and voter history is transferred to the new location. Currently, a constant download from Dept. of Health death records is transferred to the State Board of Elections.

The State Board of Elections intends that the voter registration system will allow voters online access to their individual registration information before 2006 elections. Electronic poll books, which interface with the statewide database, are also intended but no vendor has been selected. The cost is estimated at $15-20 million.

**Voter Disqualifications and Re-Eligibility of Felons**

An individual is not qualified to be a registered voter if the individual has been convicted of theft or other infamous crime, unless the individual:

1. has been pardoned;
2. has completed the court ordered sentence, including: parole, probation, community service, and the payment of all restitution and fines;
3. for a second conviction, has completed the court ordered sentence and at least three years have elapsed since that completion.

In addition, an individual who is under guardianship for mental disability, has been convicted of buying or selling votes, or has been convicted of a second or subsequent crime of violence is not qualified to be a registered voter.

Currently, after LBEs are notified of criminal convictions, a “show-cause” letter is sent to the voter, which provides the voter with the opportunity to dispute the removal of their name.  However, there is no process in place for determining whether an individual has completed their sentence obligations, nor whether a conviction is a second conviction.  In fact, LBEs are prohibited by law from requesting this information from registrants.  LBEs implement current law by requiring a registrant to sign an oath, under penalty of perjury, that the registrant meets the registration qualifications.

**Voting Machines**

The LWVUS adopted a general statement at its 2004 Convention that states "In order to insure integrity and voter confidence in elections, the LWVUS supports the implementation of voting systems and procedures that are secure, accurate, recountable, and accessible." These criteria are not code words for any particular voting technology therefore the League neither supports nor opposes any type of technology per se, such as Direct Recording Electronic voting machines (DREs), Voter Verified Paper Trails (VVPT), or optical scan.

In 2002, Maryland chose the Diebold DRE machines under court order to provide privacy at the polls for visually impaired voters. Numerous problems were pointed out with regard to the optical scan system including - voters circling instead of connecting the arrow, voters using their own pen or pencil which was not read by the machines, and paper not calibrated to the machines would not work. At the time there was no electronic system with a paper trail available. The use of these machines statewide was implemented in 2004. The state purchased the machines, then leased them to the local jurisdictions. The Diebold machines have become controversial. The SBE has entered into contracts with UM Baltimore County (UMBC) and UM College Park (UMCP) to evaluate the audit technology devices of several companies devices that are compatible with the present Diebold system used in Maryland. UMBC will assess these technologies and conduct public opinion polling to assess the
public's confidence in today's system. UMCP will assess the technologies in a laboratory setting as well as by random individuals. LWVMD recently testified with regard to the machines currently used in Maryland: they may be secure, accessible and accurate but they are not recountable and that a voter-verified independent dual verification system of votes cast is needed.

**Recruiting and Training of Election Judges**

Based on interviews with staff of six local Boards of Elections (LBEs) (from small. medium. and large counties), it appears that there are great variations in the turnover rates and difficulty of recruiting election judges, and therefore in the approaches to recruitment. Two counties had no significant problems in recruiting. Three have utilized the State's "Become a College Poll Worker" program: the Baltimore City LBE recruited over 600 students from 4 colleges for the 2004 election; Baltimore County also found the program very helpful and plans to expand its effort; Howard County LBE reported limited success but will continue to work with colleges. The committee also asked about encouraging employers to provide paid time off (and public service credit) for poll workers; “Adopt a Polling Place” by organizations is another recruitment tool. Federal, state and some local government employees can use administrative leave to serve as poll workers; the LBEs in Baltimore City and Howard County reported that they were discussing with the Mayor and County Executive the possibility of giving local employees paid leave if they worked at the polls. Montgomery County LBE has several recruitment initiatives underway, including outreach to the bilingual community, county and state employees, and local corporations; they would like to see election judge duty treated by
employers in the same way as jury duty.

Training is somewhat uniform throughout the state since all local LBEs base their training on the State Election Judge Manual, but they are permitted to adapt their training to local needs. All election judges are required to participate in training; LBEs interviewed reported that judges who did not participate in training would not be utilized at the polls, except in a very unusual emergency. Localities provide reimbursement for training. Chief judges and assistant chief/provisional ballot judges receive specialized training; other election judges generally are trained for their specific assignments. All LBEs offer the training at different times and dates; none has training available online. No LBEs require passage of a test at the completion of training, but several include "hands on" practice and provide a checklist for each job.

**Voter Information**

All voters in Maryland receive a specimen ballot in the mail a week or so before each election. It not only shows the ballot the voter will receive, it shows the polling place where the voter is to vote. Some LBEs have on their web site where a people can find out where their polling place is. All boards will provide that information by telephone.

**Facilitating the Vote**

When asked for ideas for expanding the ways and times people may vote, some local election officials suggested early voting/vote centers, no-excuse absentee voting and voting by mail. Some others said that under the current system voters now have every opportunity to vote. When asked if election day should be a holiday, half of the local election officials said "Yes" and half said "No".

**Non-English Speaking Voters**

Montgomery County is the only county in Maryland which is covered by Section 203 of the Voting Rights Act because, as of 2004, its voting population has reached 5% Spanish speaking. The ballot and all related materials - signs, instructions, etc. are provided in Spanish. All voter registration materials, the Board of Election web site, the telephone system, and voting machine instructions are provided in Spanish. Voting instructions for the voting units are also available in Korean, Vietnamese and Chinese languages. The Board of Election staff is multilingual and bilingual election judges are provided at every polling place. None of the other local Boards of Election provide election materials in languages other than English.

**Provisional Voting and Voting Information Requirements for Federal Elections**

Beginning January 1, 2004, HAVA requires state and local election officials to permit an individual, whose name does not appear on the official registration list for the polling place, or whose eligibility is called into question by an election official, to cast a provisional ballot. The individual must attest in writing that he "is a registered voter in the jurisdiction in which he desires to vote and that he is eligible to vote in an election for Federal office." He may cast a ballot but the ballot will be considered provisional until the voter's eligibility is verified. Although the legislation governs who must be allowed to vote by provisional ballot in Federal elections, it does not determine whether the provisional ballot must be counted. As long as they do not conflict with federal standards for federal elections or result in a denial or abridgement of the right of any citizen to vote on account of race or color, state election laws govern the rules for deciding whether to count the provisional ballot.

In addition to notifying the individual that he may cast a provisional ballot under the conditions described above, HAVA requires election officials at the polling place to give written information on how to find out if his vote was counted and, if it was not counted, why. States and/or appropriate localities must, according to this legislation, establish a "free access system (such as a toll-free telephone number or internet website) that any individual who casts a provisional ballot may access." HAVA also states that "an election official at the polling place must transmit the ballot or voter information" to the "appropriate State or local official for prompt verification" as to the individual's eligibility to vote.

**Provisional Voting and Voting Information Requirements for Maryland Elections**

HAVA's requirements regarding provisional ballots are mandatory requirements for Federal elections only. Some states and localities have chosen to expand the provision to all political contests. When Maryland first started to provide provisional ballots, the procedure was to count all federal, state, and local races which were voted, based on the correct, current address of that voter. Subsequently, an informal opinion was issued by the Maryland Attorney General’s office which stated, "A provisional ballot must be provided to an individual who does not reside in the particular precinct in which he or she attempts to vote, but only the votes for federal office will be counted. " Given some of the information gathered from our interviews with LBEs, it seems this rule was implemented differently in various localities.
In addition, Maryland requires that in order for a provisional ballot to be counted, it must be filed in the jurisdiction in which the individual currently resides. In 2005, the Maryland Legislature, with LWVMD support, passed the Voter Rights Protection Act of 2005; since its veto was overridden, a provisional ballot will be counted as long as the individual was registered to vote in the State of Maryland. It also means votes for all races will be counted for which the individual was eligible to vote, based on his precinct of residence.

**Absentee Voting**

Oregon conducts all elections solely by mail ballot. Many states require that a witness or notary public sign an absentee ballot. In these states, ballots that are returned without the required signature are not counted. Maryland and five other states require a witness only if the voter was assisted in filling out the absentee vote. Other states, including Maryland, permit voters to vote absentee only under a limited set of circumstances.

Until 2006 Maryland was one of those states, only allowing registered voters to apply for an absentee ballot by mail, fax, or in person if they were unable to go to the polls on election day for any of
seven reasons, such as confinement due to illness, death or illness in the family or being absent from the county.

After both houses of the General Assembly overrode a gubernatorial veto at the beginning of the 2006 legislative session, Maryland joined 26 other states in offering "no-excuse" absentee voting, allowing any registered voter to do so without stating a reason.

Under the federal Uniformed and Overseas Citizens Absentee Voting Act, military and overseas voters can vote by absentee ballot.

**Early voting**

The 2005 bill that provides for early voting in Maryland for the first time was vetoed and overridden.  In 2006 another bill, again vetoed and overridden, requires early voting from Tuesday to Saturday
before Election Day, between the hours of 7:00a.m. and 8:00p.m. and specifies early voting locations throughout the state.  Voters can cast their ballots at any early voting location in their county. The LBE will need to ensure that every ballot style used in the jurisdiction is available at each early polling
place and assure using the same method (including provisional), supervision, privacy, and security as Election Day - and that ballots would be counted on Election Day.

In the 2001 LWVMD study of ways to increase voter participation, members reached a position supporting early voting, but at a limited number of sites in order to assure ballot security. Therefore, we testified in favor of early voting during the 2005 General Assembly session and in January ’06 urged the override of the Governor’s veto. The LWVMD stated it encourages early voting over absentee voting because early voting assures privacy in voting, guarantees the absence of intimidation and provides the same kind of equipment as is provided at the polling place on election day which notifies the voter of over-voting errors.

**Candidates Personal Financial Disclosure**

The Maryland Ethics Law requires candidates for elective office to file personal disclosure forms similar to the state forms, but modifiable locally. The 14-page state form covers real property; interests in corporations and partnerships; and interests in business entities doing business with the state, including gifts, employment, directorships or debts. The Board of Elections at which a candidate files distributes these forms to the candidates when they file, but their responses are transferred to the local or state ethics agency of the office for which the candidate is running. The ethics agency is responsible for ensuring office holders recuse themselves from participation when a conflict of interest occurs.

**Administrative Complaint Procedures**

Section 402 of HAVA requires each state that receives funding under the act to "establish and maintain State-based administrative complaint procedures under which any person who believes that
there is a violation of any provision of Title III of HAVA may file a complaint." Title III includes voting system standards, provisional voting, voting information, computerized statewide voter registration and requirement for those who register by mail. These complaint procedures must be uniform and non-discriminatory, in writing, sworn and notarized. The person making the complaint may request a hearing. If the State determines that there was a violation under HAVA, the State shall provide the appropriate remedy. If the State finds there is no violation, the State shall dismiss the complaint. The State is required to make a determination on a complaint within 90 days of its being filed but if it fails to do so the complaint should be resolved within an additional 60 days under an alternative dispute resolution procedure.

The purpose of this provision is to make it clear that complaints about the issues set forth in Title III of HAVA are to be handled administratively, rather than through the Court system. It is important to note that some voting issues, including ID requirements, are NOT covered by this procedure. In Maryland, there is no appeal of a State decision made through these administrative procedures.

**LWVUS Activity**

A March 2005 LWVUS forum concluded "that the government at all levels should ensure that all eligible Americans who want to vote are able to do so freely and efficiently - with full confidence that their votes will be counted as they intended." To achieve improvements in the voting process the forum called attention to

1. professionalization, meaning uniform standards, training to the standards and accountability;
2. a new focus on service;
3. wide-ranging research and development effort engaging the nation's colleges and universities;
4. new federal resources and commitment.

Committee members: Eleanor Bunker, Jennifer Collins-Foley, Carole Conors, Kitch Eisenman, Carol Filipczak, Marian Fox, Annette Funn, Jessa Goldberg. Becky Goode, Judith Lipman, Grace Kubofcik, Judy
Miller, Judy Morenoff, Lu Pierson, Barbara Sanders, Myrna Siegal, Barbara
Steckel, Joan Trafton.

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**LWVMD ELECTION CHECKLIST
2006**

(legal requirements and other elements that would make for a good voting experience)

Registration:

* \* Registration applications must contain valid driver’s license number or last four digits of Social Security number.
* \* Affirmation of citizenship and age with signature, if boxes are unchecked.
* \* BOE must provide written notification of incomplete voter registration application, allowing opportunity to correct errors or provide missing information.
* \* Only voter who registered by mail, without a qualifying document, must show photo ID or proof of residency at poll.

Polling Place:

* \* Accessible to individuals with disabilities and visual impairments.
* \* Spacious, well-lit, welcoming physical facility.
* \* Enough machines to accommodate the number of voters
* \* Language accessibility if non-English speaking population exceeds 5%.

Information at Polls:

* \* Sample ballot
* \* Voting instructions, including provisional voting instructions.
* \* General voting rights information, including information on complaint procedures.
* \* Friendly, well-trained, helpful and efficient judges.

Voting:

* \* Voter able to independently and privately verify ballot before casting.
* \* Voter notified of over-voting.
* \* Voter able to change ballot or correct any error.

Provisional Ballots:

* \* Provisional ballots available and broadly, versus narrowly, used.
* \* Provisional ballot used as registration form.
* \* Voter privacy and ballot confidentiality exercised with provisional ballots.
* \* Ballot counted, if verified.
* \* Voter notified if ballot not counted and reason it was not verified.