

LCDC Resolution

A RESOLUTION FOR THE RESPONSIBLE CONVERSION OF THE LANCASTER COUNTY VOTING SYSTEM TO COMPLY WITH THE HELP AMERICA VOTE ACT OF 2002

Adopted by the LCDC Executive Committee
December 1, 2005

Also see: [Ensuring Voting Integrity in Lancaster County](#)

Whereas, numerous studies have documented failures and weaknesses of electronic voting systems, including the General Accountability Office report of September, 2005 [GAO-05-956], which cites “significant concerns about the security and reliability of electronic voting systems” that have resulted in inaccurate election results; and,

Whereas, the Help America Vote Act of 2002 (HAVA) mandates states to upgrade their existing punch card and lever machine systems to comply with stated requirements for manual audit capacity, accessibility for the disabled, and voter correction of voting selections before the ballot is cast, and to report by January 1, 2006, their selected voting system to meet the requirements of the Act; and,

Whereas, federal standards and procedures for security and reliability have not been fully developed and the certification process for voting systems remains primarily in control of the voting machine vendors; and,

Whereas, anticipated costs of Direct Recording Electronic (DRE) systems are considerably higher than alternative compliant systems;

Therefore, Be It Resolved:

1. The Lancaster County Democratic Committee opposes the selection of any Direct Recording Electronic (DRE) voting system unless supplemented by checks and balances to ensure accurate voting results, including:
 - a voter-verifiable paper ballot that is produced outside the voting machine, easy to read, discreet (not part of a paper roll that can be associated with a voter by comparison to the voter list), and permanent (not thermal paper);
 - a mandated manual audit, with a 5%-15% random sample of precincts;
 - open source software code; and
 - certified computer audit capability, independent of the voting machine vendors, that is accountable to the County
2. The Lancaster County Democratic Committee urges Representative Pitts to support the passage of HR 550, the “Voter Confidence and Increased Accessibility Act of 2005”, which requires voter-verified paper ballots, provisions for mandatory manual audits to confirm that voting machines are working properly, increased security requirements, and which prohibits undisclosed software.

3. The Lancaster County Democratic Committee urges our state legislators to support the passage of Pennsylvania legislation, HB 2000 and SB 977, which require a voter verified paper record of every vote and improve on HR 550's 2% routine random manual audit provision by increasing the audit sample to 5% of the state's precincts;
4. The Lancaster County Democratic Committee asks Representative Pitts to support the passage of HR 3163, "To amend the Help America Vote Act of 2002 to delay for 48 months the deadlines by which States must comply with the election administration requirements of title III of such Act, and for other purposes.
5. The Lancaster County Democratic Committee recommends the County Commissioners conduct a review of alternative voting systems' costs, using documentation from states who have already implemented HAVA-compliant systems and other available data that is independent of the voting machine vendors. This review should include lease versus purchase options.
6. If a delay of the HAVA compliance deadline is not granted, the Lancaster County Democratic Committee advises the County Commissioners to take steps to control conversion costs by leasing rather than purchasing voting machine equipment, and, prior to entering into any contract, to obtain an objective expert evaluation, independent of the voting machine vendors, of the number of machines needed for each precinct.
7. The Lancaster County Democratic Committee asserts that the selection of voting systems that can assure the public of secure, accurate, and fair elections is sufficiently complex and critical that it requires oversight by a committee representing both major political parties. This bipartisan advisory committee would assist the County Board of Elections in determining whether the County should replace its lever voting machines with DREs or an alternative system. The advisory committee would help to ensure the integrity of the voting process by the establishment of standards and procedures to minimize security risks of the new system.
8. A copy of this resolution be forwarded to all officials responsible for decisions that affect Lancaster County's the voting system conversion to comply with HAVA, including Governor Rendell, Secretary of State Cortes, Senator Specter, Senator Santorum, Representative Pitts, the Lancaster County Commissioners, and the Chief Clerk of the Lancaster County Board of Elections.

BACKGROUND

Irregularities in the 2000 and 2004 presidential elections brought to light weaknesses in our country's voting systems, both real and perceived. Since 2000, Congressional hearings have been held, several studies have been commissioned by universities and government entities, and many watchdog groups have been formed to investigate and report their findings on voting systems and election integrity. In September 2005, the **General Accountability Office (GAO)—a US government, nonpartisan auditing organization—issued a report [GAO-05-956] raising "significant concerns about the security and reliability of electronic voting systems".** The report goes on to say that **"some of these concerns have been realized and have caused problems with recent elections, resulting in the loss and miscount of votes".**

Congressional reaction to the 2000 presidential election debacle was to focus on the voting machinery, passing the Help America Vote Act (HAVA) in 2002 to provide funding for states to upgrade their voting machines to comply with generally-stated requirements for manual audit capacity, accessibility for the disabled, and voter confirmation of their ballot choices. With the "help" of voting machine vendors, most states have interpreted compliance with HAVA to mean installation of electronic voting machines, although **nowhere in the HAVA legislation is the requirement to replace existing voting systems with electronic equipment.**

Voting miscounts and equipment breakdowns in the 2004 and 2005 elections have proved the substitution of electronic voting machines in place of punch card and lever machines has not fixed the problem, and has, in the process, cost local governments millions of dollars beyond the HAVA funding allowances. Across the country, paperless DRE systems have resulted in lost ballots, ghost ballots (i.e., more votes than voters), count limits in tabulation software resulting in counting backwards, votes jumping from one candidate on the screen to another, incorrect ballots shown on the screen, voting miscounts, negative vote counts, machine breakdowns, and failed machine startups. **In Miami Dade County, Florida, election officials have recommended throwing out their ES&S paperless touch–screen (DRE) voting system after a coding error lost hundreds of votes in 6 elections and Election Day costs had more than tripled.**

THE PROBLEM

The HAVA deadline for states to meet the requirements is January 1, 2006. If Lancaster County opts for DREs or full–face push button (e.g., Danaher) systems, it must choose only among those certified by the Pennsylvania Department of State’s Bureau of Commissions, Elections and Legislation. According to their [website](#), only 3 systems have been certified to date, and one of those is certified subject to restrictions.

This certification process is no guarantee of a secure and reliable voting system. Although HAVA established the Election Assistance Commission to set minimum standards for election administration, the GAO report notes that **“important changes to the voting standards have not yet been completed, the system certification and laboratory accreditation programs are still in development, and a system software library has not been updated or improved since the 2004 election.”**

To fill the breach, individual states have passed legislation to set their own standards to assure voters of accurate elections. Electronic system flaws have forced election officials to recognize the urgent need for a voter–verified paper ballot that can provide an independent check on the machine count through random sample hand counts as part of the Election Day procedures. **No systems currently require voters to verify their ballots.**

To remedy this problem, **25 states have passed legislation requiring voter–verified paper ballots** “(a) to increase citizens’ confidence that their vote will be counted accurately, (b) to allow for a recount, (c) to provide a backup in cases of loss of votes due to computer malfunction, and (d) to test – through a random selection of machines – whether the paper result is the same as the electronic result”[Quote from the Carter–Baker Commission report on federal election reform.] **Pennsylvania’s legislature has two companion bills pending, HB 2000 (House) and SB 977 (Senate), that would require a voter verified paper record of every vote and a routine random manual audit of 5% of the state's precincts.** **In the US Congress, HR 550, considered the “gold standard” for electronic voting** by Verified Voting.org, is waiting to be brought to the House floor. This bill requires voter–verified paper ballots, provisions for mandatory manual audits to confirm that voting machines are working properly, increased security requirements, and prohibits undisclosed software.

The “undisclosed software” prohibition in HR 550 is included to shift control of the voting machine functions from the vendors back to the local election officials. The use of **open source code** reduces the opaqueness of “black box” computer systems, allowing states to directly examine program code for suspicious code or unwanted functions, reducing the possibility of fraud and error.

North Carolina has passed and upheld in state courts laws requiring voting machine vendors to open their software code to inspection. Federal courts have previously ruled in favor of the vendors, preferring to “protect trade secrets” to protecting the voters’ right to have their votes recorded, counted, and reported accurately. In the absence of federal regulation, Diebold is considering not selling new equipment in the state rather than comply with North Carolina’s state laws. [UPDATE: As of 12/1/05, North Carolina has certified Diebold’s system despite the company’s noncompliance with its own elections laws.] The passage of HR 550 would support states’ efforts to restore local responsibility for voting system management.

A looming compliance deadline, lack of standards for security and reliability, helpful legislation stalled in committee, and the prospect of an explosion in election administration costs face Lancaster County and counties across the country. States are fighting back. Connecticut has formally requested a ruling from the US Department of Justice on the legality of keeping their lever machine system. **H.R. 3163 was introduced to the US House of Representatives on June 30, 2005, to postpone the HAVA compliance deadline by 4 years.** Local voting reform activists, such as the Coalition for Voting Integrity based in Bucks County, PA, are setting up websites to inform the public and the media of the issues at stake.

HOW DID WE GET HERE?.....

In a nutshell, we got “here” because our government, with our complicity as voters, has allowed our election systems to be designed, built, and managed by private, profit-driven companies.

- Qualification testing at the federal level is performed by Independent Testing Laboratories (formerly called “Authorities”, or ITAs), whose services are paid for by the vendors.
- State certification processes defer heavily to the ITA results, and do little, if any, security testing. For example, the Coalition for Voting Integrity in Bucks County has determined that the Pennsylvania Department of State “tests” functionality with a test sample of only 12 ballots, clearly too small to detect a bug like the one in Broward County, Florida, that, in the November, 2004, election, hit a programmed limit of 32,500 votes and then began counting backwards.
- Pre-election testing is left to county officials who rarely have the training, time, or budgets necessary to do the job. On Election Day, vendor employees are involved in every aspect of the election process without oversight by local election officials who are not familiar with the software and hardware, and who have no mandated standards or procedures to guide them.

Christopher Bollyn, of the American Free Press, summed the situation up in a November 23, 2005, article on vendor ES&S: **“What this means on Election Day is that ES&S, a private company, manages everything about the voting, from voter registration, the printing of ballots, the programming of the voting machines, the counting and tabulation of the votes and the final reporting of the results—for 60 million Americans in 47 states.”**

AND WHAT CAN *WE* DO ABOUT IT?

“Let Us Never Forget That Government Is Ourselves And Not An Alien Power Over Us. The Ultimate Rulers Of Our Democracy Are Not A President And Senators And Congressmen And Government Officials, But The Voters Of This Country” .

-- Franklin D. Roosevelt

“Democracy Begins With The Integrity Of Our Vote ... And Ends Without It!”

-- Coalition for Voting Integrity

The federal government is missing in action. Our state government has been sold a bill of goods by the voting machine industry, steering the political wind in the direction of paperless Direct Recording Electronic (touch-screen) voting systems in Pennsylvania. The integrity of our county elections is up to us, the voters. **The Lancaster County Democratic Committee must persuade our County Commissioners, through a well-publicized resolution, to recognize the weaknesses of the electronic voting systems and to put in place a system of checks and balances that will prevent these weaknesses from corrupting our voting process.**

In testimony before the Commission on Federal Election Reform (Carter-Baker Commission) earlier this year (2005), David L. Dill, professor of Computer Science at Stanford, explained, "The real job of an election is not to convince the winners that they won, but to convince the losers that they lost. So, it is not sufficient that election results be accurate; the public must *know* that the results are accurate. That can only be achieved by making election processes as transparent as possible. Unfortunately, paperless e-voting technology is almost totally opaque. Voters have no means to confirm that the machines have recorded their votes correctly, nor will they have any assurance that their votes won't be changed later."

This end can be achieved, in compliance with HAVA, by several optional systems:

- A return to paper ballots, hand counted in public view
- Paper ballots tabulated by optical scanning equipment supplemented by ballot-marking devices and/or tactile templates for the disabled
- DREs using open source code and accompanied by voter-verified paper ballots, which can be used for recounts and for random audits at the precinct level on Election Day, as well as for audits required for the duration of the statute of limitations in the event of discrepancies.
- Possibly, with adjustments for access for the disabled, the lever machine system, pending a ruling by the Department of Justice

Cost comparison studies have shown that both paper ballot systems and optical scan systems cost less to install and maintain than DRE voting systems. HAVA funds average out to cover only 1/3 of the conversion costs, and none of the ongoing maintenance costs. Anecdotal evidence from the founder of the Coalition for Voting Integrity, Mary Ann Gould, indicates that DRE equipment has a shorter lifespan than optical scanning equipment, which has a track record in elections for reliability of over 20 years.

New Yorkers for Verified Voting have, on their website, quoted Mayor Kristin Jacobs in Florida: *"I understand that we've invested a lot of money in the electronic machines, but I would be more comfortable with optical scan because it gives you're the ease of computerization and a paper trail....Hindsight is 20-20. In retrospect I probably would have gone with optical scan but we're beyond that now..."* The New York State League of Women Voters has gone on record supporting the optical scan voting system.

Some protection from system obsolescence and cost overruns can be obtained by leasing rather than purchasing the equipment.