EXHIBIT B

From: Joseph Kidd
To: Board Members; Supervisors
Date: 1/2/04 9:33AM
Subject: HAVA Update

MEMORANDUM

TO: COUNTY BOARDS OF ELECTIONS

FROM: DANA WALCH, DIRECTOR OF ELECTION REFORM

SUBJECT: HAVA UPDATE

DATE: DECEMBER 31, 2003

Administrative Procedures

The OAEO Winter Conference closing session the morning of January 23, 2004, will focus on HAVA topics. We intend to cover various HAVA-related administrative issues at that session.

In the interim, following are some of questions we have received from a number of boards that we want to address briefly for you now. If, before the conference, you have questions or concerns not addressed here, please e-mail them to Faith Lyon (flyon@sos.state.oh.us <mailto:flyon@sos.state.oh.us>) for response.

FAQ #1. Box # 10 on the new voter registration application states the information (the applicant's drivers license number, last four digits of the applicant's social security number, or state ID number) is required. If someone registering by mail fails to include information in Box 10 on an otherwise complete application, does the board of elections:
(a.) consider it a valid registration and require the voter to provide one of the pieces of additional information the first time the person appears at the polls to vote, or
(b.) treat it as invalid, as in the case of an applicant who fails to provide a street address or date of birth or fails to sign to application?
A. The board would consider it a valid registration but would flag that elector's name in the poll book so that, the first time that elector appears at the polls to vote, pollworkers would ask the elector for proof of identity and obtain the missing information.

FAQ #2. If registrant by mail fails to fill in the information in Box #10, may the board of elections call the applicant for the information, and fill it in ourselves?
A. No; boards must use the remedy provided in HAVA. Therefore, a person who
o registered to vote by mail, but
o did not provide a drivers license number, the last four digits of his/her Social Security number, or his/her state ID number,

o may provide proof of identity the first time the person appears at the polls to vote. Acceptable documentary proof of identity is specified in HAVA as any of the following: a copy of a current and valid photo identification, or a current utility bill, bank statement, government check, paycheck, or government document that shows the voter's name and address.

FAQ #3. What if someone who registers in person with a board of elections, a public library, a BMV office, or any group registering people, fails to provide this information? Does it matter? Is it a complete registration? Does the person have to show a form of ID at the polls?
A. If a person registers or attempts to register in person, the application cannot be accepted if Box 10 is not completed unless the applicant states to the person accepting the registration form that applicant does not have a drivers license, Social Security number or state ID number. The accepting the registration form should then instruct the applicant to write "None" in Box 10. A registration form on which Box 10 is blank is not a complete registration, and the board should send an Acknowledgement Notice to the applicant advising why the application cannot be processed. The applicant cannot cure this omission by providing proof of identity at the polling place.

FAQ #4. Please confirm who has to show ID at the polls in order to vote?
A. Only electors who registered by mail and failed to provide the information required in Box 10 of the registration form. (HAVA does not provide a similar remedy for people who registered in person; see the answer to FAQ #3, above.)

FAQ #5. Does the BMV have the new form in its system?
A. No. The BMV and its offices will use, for the time being, the formerly prescribed registration form, but will:
o add the two required questions about age and citizenship, and
o provide the applicant's drivers license number or state ID number in Box 8 ("Birthplace") or the last four digits of the applicant's Social Security number in Box 9 ("Social Security No.")

FAQ #6. Do you know if there is a new Federal Post Card with updated HAVA requirements?
A. At this time, we have not been made aware of a new FPCA updated to include HAVA requirements. (As of December 20, 2003, the FVAP website, www.fvap.gov <http://www.fvap.gov>, shows the FPCA used in prior years.)

FAQ #7. If a person has to show documentation at the polls, do the poll workers have to record the type of documentation shown? If the voter provides a driver's license or Social Security number, should the poll worker record that information somewhere so the BOE may enter it in the database? We are trying to figure out how to redesign, if necessary, our signature poll books.
A. HAVA does not address this topic, but boards of elections should capture this information. A board should train its

pollworkers to record, in a place designated by the board:
o a voter's drivers
license number, or
o if the voter does not have a drivers
license number, the voter's Social Security number, or
o if the voter does not have a Social
Security number, the voter's state ID number, or
o if the voter does not have a drivers
license, Social Security or state ID number, the other acceptable proof of identification. (See answer to FAQ #2, above, for the list of acceptable documentary proof of identity.)

FAQ #8. How does HAVA change Ohio's provisional voting process?

A. HAVA broadens the scope of provisional voting.
In addition to the NVRA provisional voting standards set forth in R.C. 3503.16, HAVA authorizes the following people to vote a provisional ballot:
o An elector who did not
provide the necessary proof of identity when registering to vote by mail and who cannot or will not provide pollworkers with acceptable documentary proof of identity (see answer to FAQ #2, above, for the list of acceptable documentary proof of identity).
o A person who states that he or
she is registered to vote in that precinct, but whose name does not appear on the list of registered voters in that precinct.

FAQ #9. If a person votes a provisional ballot, and fails to sign the ballot, but does sign the "yellow pages" in our signature book, is that ballot counted?

A. No; a voter's failure to sign the statement on the provision ballot envelope renders that ballot invalid. TRAIN YOUR POLLWORKERS TO INSPECT EACH PROVISIONAL ENVELOPE FOR THE VOTER'S SIGNATURE

FAQ #10. We have found some people who registered to vote at a Mail Boxes, Etc. location. They used the address of the building, not P.O. Boxes. We have sent them a letter advising them they cannot vote from that address. None of them have voted, and some have changed their addresses. May we cancel their registrations, in light of the fact that it was never a valid registration, or do we have to continue to notify the PW's that some of the people on their list are not permitted to vote and should be challenged?

A. A person who used the non-qualifying address of a business as a voting residence address is not properly registered to vote. In fact, that person's application may constitute a violation of R.C. 3599.11 (false registration). The board acted properly in sending a letter or acknowledgement notice to each person who registered using an invalid address. However, if the board did not reject an application as being invalid, the board must schedule a hearing to ascertain whether the elector is properly registered to vote and give the elector written notice of that hearing before canceling the registration. If the elector appears at the hearing and can prove to the board's satisfaction that he or she has a qualifying voting address in the county, the should update

the registration to the qualifying address. If the voter fails or refuses to appear at the hearing, the board should proceed with the hearing and make a determination based on the evidence produced at that hearing. If, at the conclusion of a hearing, the board determines that the elector is not registered to vote in accordance with law, it should cancel the registration and give written notice of the cancellation to the affected elector.

FAQ #11. What, if anything, is waived by the SoS Registration waiver request? Is it just the statewide database requirement, or are there other requirements affected by the waiver?

A. The Secretary of State filed two separate waivers for the following:
o Implementation of a statewide voter registration database by Jan. 1, 2004.
o Replacement of punchcard and AVM voting devices by November 2, 2004.

All of HAVA's voter registrations provisions - including proof of voter identity - take effect on January 1, 2004.

FAQ #12. Does the board of elections retain the proof of identity documents provided with a registration by mail?

A. Yes; those document are a public record of your office and must be maintained in a filing system that accommodates retrieval for board use and public records requests.

Suggestions from the Boards of Elections.

Some boards have advised us that, as part of their efforts to reduce confusion and concerns, they are taking the following actions:
1. Send a mailing to the affected electors, so they will understand what they must furnish in order to vote.
2. Prepare a print out for each precinct level of these affected electors.
3. Have the signature books "uniquely tagged" to know which voter must provide information.
4. Provide written explanations to the precinct election officials so everyone is giving out the same correct information.
5. Train all poll workers, not just the presiding judges.

Voting machine vendor selection deadline

Please remember that the deadline for punch card and lever machine counties to choose a HAVA voting system vendor is January 15, 2004. All selections must be submitted to our office in writing and signed by the members of your board. Please send all selections to the attention of

Frequently Asked HAVA Questions

#1. The instructions for Box # 10 on the new voter registration application states that a particular identifier (the applicant's Ohio drivers license number, last four digits of the applicant's Social Security number, or State of Ohio ID number) is required. If someone registering by mail fails to include information in Box 10 on an otherwise complete application, does the board of elections consider it a valid registration?

A. It is a valid registration, but the board must flag that elector's name in the poll book so that, the first time that elector appears at the polls to vote, pollworkers know to ask the elector for proof of identity and thus obtain the missing information.

#2. If registrant by mail fails to fill in the information in Box #10, may the board of elections call the applicant for the information, and fill it in ourselves?

A. No; boards must use the remedy provided in HAVA. Therefore, a person who registered to vote by mail, but did not provide his/her Ohio drivers license number, the last four digits of his/her Social Security number, or his/her state ID number, must provide proof of identity the first time the person appears at the polls to vote.

Acceptable documentary proof of identity is specified in HAVA as any of the following: a copy of a current and valid photo identification, or a current utility bill, bank statement, government check, paycheck, or government document that shows the voter's name and address.

#3. May a board of elections mail a letter to the mail-in registrants who failed to provide sufficient proof of identity at the time they registered to vote, in an attempt to obtain the necessary ID information prior to election day?

A. Yes. Moreover, the Secretary of State's office strongly recommends that boards be pro-active in this regard.

#4. What if someone who registers in person with a board of elections, a public library, a BMV office, or any group registering people, fails to provide this information? Does it matter? Is it a complete registration? Does the person have to show a form of ID at the polls?

A. If a person registers or attempts to register in person, the application cannot be accepted if Box 10 is not completed **unless** the applicant states to the person accepting the registration form that applicant does not have a drivers license, Social Security number or state ID number. The person accepting the registration form should then instruct the applicant to write "None" in Box 10.

A registration form on which Box 10 is blank is not a complete registration, and the board should send an Acknowledgement Notice to the applicant advising why the

application cannot be processed. The applicant cannot cure this omission by providing proof of identity at the polling place.

#5. Are all persons required to show identification when they register to vote?

A. No. Applicants may provide the necessary identifiers without "showing" a piece of identification.

An in-person applicant must provide a current Ohio drivers license numbers or the last four digits of his/her Social Security number. These identifiers may be given from memory, without the applicant producing a photo ID, Social Security card or other documentary proof of identity.

Mail-in applicants who include their Ohio drivers license numbers or the last four digits of their Social Security numbers on their applicants need not produce ("show") other documentary proof of identity.

#6. Who must provide proof of identification at the polls in order to vote?

A. Only electors who registered by mail and failed to provide an identifier in Box 10 of the registration form or other documentary proof of identity.

(Note: HAVA does not provide a similar remedy for people who registered to vote in person.)

#7. If a person is issued a provisional ballot, and fails to sign the affirmation statement or the ID envelope – whichever is appropriate – but does sign the signature book, is that ballot counted?

A. No; a voter's failure to sign the affirmation statement or the statement on the provisional ballot envelope renders that ballot invalid.

#8. Does the board of elections retain the proof of identity documents provided with a registration by mail?

A. Yes; those documents are public records of your office and must be maintained in a filing system that accommodates retrieval for board use and public record requests.

#9. A person required to present ID fails to bring the ID when the person comes to vote, and thus votes a provisional ballot. May the person return before the polls close on election day with the required ID?

A. Yes. The voter may present the required ID at the polling place or at the board of elections office before the polls close.

#10. When ID is required for a voter, and the voter indicates he/she will provide a driver's license or last four digits of a Social Security number, must an election official visibly see the ID, or may the voter just inform the pollworker of the driver's license or Social Security number?

A. The voter just may inform the pollworker of the driver's license or Social Security number.

#11. If a person required to present ID provides it before voting, does the person vote a regular ballot or a provisional ballot?

A. Regular ballot.

#12. A person required to provide a necessary identifier before being issued a ballot does not provide it at the time of voting. The person signs the affirmation statement, but does not provide his/her drivers license number or the last four digits of his/her Social Security number. The person does not provide any of the acceptable documents for proving identity to election officials before the polls close. Can that ballot be counted?

A. No.

#13. Must a board of elections provide the provisional telephone hotline information to all provisional voters?

A. Yes.