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AGENDA COVER MEMORANDUM

Agenda Date: January 22, 2003

TO: Board of Commissioners

DEPARTMENT: Department of Management Services

PRESENTED BY: Annette K. Newingham, Chief Deputy County Clerk
Department of Management Services

SUBJECT: REPORT/FEDERAL ELECTION REFORM BILL

I. DISCUSSION:

The Help America Vote Act (HAVA), was adopted by Congress and signed by President Bush this past Fall. Key components of the legislation include provisions for phasing out punch card voting systems, new voting machines for voters with disabilities, statewide centralized voter registration systems, and voter identification provisions.

The Help America Vote Act 2002 authorized, but did not appropriate, \$3.9 billion over the next three years, to be distributed to the states based primarily upon voting age population. A companion **appropriation bill** is expected to make available \$3 billion for meeting the requirement of the Act. The appropriation is expected to be less than the amount authorized in the Act itself, primarily due to other fiscal conflicts. There are mandates that apply whether the money is received or not.

Oregon's share, by preliminary calculations and if fully funded, would be \$25 to \$30 million.

II. ISSUE/PROBLEM:

The primary impacts to Lane County as the result of this Act will be in voter registration and ballot counting.

VOTER REGISTRATION

There are two significant changes that will affect Lane County. Implementation of a statewide voter registration database requires changes to Lane County's voter registration procedures. Until the statewide system is in place, voters registering by mail for the first time starting January 1, 2003 are required to provide voter identification. The identification requirements will go away once the state voter registration system is implemented with the capability to verify driver license numbers, or the last 4 digits of the voter's social security number.

The development of the statewide voter registration system will be the most difficult task, and the one that changes the balance of responsibility for some election functions. The bill mandates a "single, uniform, official, centralized, interactive statewide voter registration list, defined, maintained and administered on the state level...". That implies there must be a single statewide system and that the state record, not the local record, becomes the official record of registration.

Counties are still responsible for the conduct of elections, for which eligibility is determined by the state registration system. It is a major shift of accountability away from local jurisdictions to the states and will require some very intense negotiations between local jurisdictions and the state elections division.

The state system is mandated by 2004, with a waiver option for 2006. It appears at this time that implementation is targeted for summer 2005 due to the magnitude of the project and the need to coordinate around scheduled elections. The State will be responsible for the costs associated with the implementation of the centralized voter registration system. It is not yet known what the full implications will be to the 36 counties.

PUNCH CARD REPLACEMENT

The bill also mandates that current punch card systems be replaced by 2004, or with a waiver option provided that all punch card voting systems are replaced in time for the first Federal election held in 2006. The State must have a "State Plan" in place before counties can determine the amount of money available to them. The bill currently allows \$4,000 per precinct based on the total November 2000 Election punch card precincts. Lane County had 67 precincts at the November 2000 election, which would equate to \$268,000, should full reimbursement be realized. There is also potential to receive a greater amount should the State determine a more equitable way to compensate the 7 qualifying counties, such as pooling the available money.

Each voting system used in an election for Federal office is also required to:

- Establish a voter education program that tells the voter the effect of overvoting and tells the voter either how to correct the ballot, including how to get a replacement ballot. Lane County already has a method to meet that requirement.
- Purchase a minimum of one electronic touch screen voting station in the Elections Office for accessibility to the disabled in a manner that provides the same opportunity for access and participation as for other voters, including privacy and independence.

III. DISCUSSION:

Background/Analysis:

VOTER REGISTRATION

The impact to Lane County Elections as the result of implementing the Oregon State Centralized Voter Registration (OCVR) system is unknown at this time. An Oregon Centralized Voter Registration steering committee has been appointed by the Secretary of State that comprises of local election

officials, state staff, major party representatives, and state legislators to help determine what is required, what it will look like, and the process for implementation. The State will begin by interviewing county election officials to determine what systems are in place, along with system needs, with the ultimate goal of determining what the system will look like. It was discussed at the last steering committee meeting whether this would be a bought system or one built by State IS, with that decision still not yet determined.

PUNCH CARD REPLACEMENT

States who want to receive requirements funding must submit a self-certified state plan, submittal deadline of April 29, 2003. An Oregon State Plan steering committee was appointed by the Secretary of State, which comprises of the 2 chief election officials of the 2 most populous jurisdictions within Oregon, Multnomah and Washington counties, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens. Oregon is projecting submittal of the State Plan by late January.

The cost to replace Lane County's ballot counting hardware and software from punch card to a centralized optical scan system was last estimated at \$500,000. Additional printing costs would increase current printing expenditures by \$100,000 each fiscal year.

Of greater concern would be the space requirements. Lane County Elections has maximized its current use of space, and experienced limitations at the recent 2002 General Election to efficiently process returned ballots. There is inefficient space or support systems to increase staff or equipment to better manage the peak workloads. Changing to an optical scan system would greatly increase the need to process large volumes of paper. Currently punch cards take up much smaller space requirements to process. Paper ballots are not only larger, but ballot counters are significantly slower in counting which requires more counters to keep up with the ballot processing. There needs to be increased storage space to accommodate ballots, both to be counted and those already counted. It is possible that there may be some federal money to meet part of the facility requirements for this change. Discussions in regards to these facility requirements have been shared with David Suchart, Management Services Director, who is in the process of exploring options.

Alternatives/Options:

1. Schedule ballot counting system change for summer **2003** submitting a Bid Proposal to determine actual costs in order to meet needs requirements (which would need to include hardware, software and facility requirements), and determine funding for amount over Federal reimbursement.
2. Schedule ballot counting system change for summer **2005** submitting a Bid Proposal to determine actual costs in order to meet needs requirements (which would need to include hardware, software and facility requirements), and determine funding for amount over Federal reimbursement.

Recommendation:

Obtain actual costs through bid proposals to determine actual costs for submittal to the State and enable county to determine funding for amount over Federal reimbursement.

Timing:

Upon direction of the Board.

III. IMPLEMENTATION/FOLLOW-UP:

Upon direction by the Board.

IV. ATTACHMENT:

- "Help America Vote Act of 2002" Summary and Potential Issues/Recommendations
- Secretary of State Press Release dated December 26, 2002

Help America Vote Act Summary of Legislation

Introduction

The Help America Vote Act (HAVA), passed by Congress in October 2002, was enacted to making sweeping reforms to the nation's voting process. The Act addresses improvements to voting systems and voter access that were identified following the 2000 Presidential Election. It also includes provisions on voter registration, fraud prevention, voter education and outreach, and ballot access for military and overseas voters. A companion appropriation bill is expected to make available \$3 billion for meeting the requirements of the Act, training poll workers, providing voter education, and improving the overall administration of elections. States must provide 5% matching funds in order to receive federal funding under this Act.

TITLE I – Payments to States for Election Administration Improvements and Replacement of Punch Card and Lever Voting Machines

1. Provides for payments to states to carry out one or more of the following activities:
 - Complying with the requirements of TITLE III.
 - Improving the administration of elections for federal office.
 - Education voters on voting procedures, rights, and technology.
 - Training election officials, poll workers, and election volunteers.
 - Development of a state plan for implementing HAVA.
 - Improving, acquiring, leasing, modifying or replacing voting systems, technology, and methods for casting and counting votes.
 - Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing non-visual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.
 - Establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other information.
2. Requires states to use funds (either directly or as reimbursement for costs incurred on or after January 1, 2001) to replace punch card or lever voting systems. Stems must be replaced in time for the November 2004 general election, unless state obtains a "good cause" waiver.
3. Guarantees each state a minimum of \$5 million under this Title.
4. Authorizes \$650 million in payments under this Title – 50% for improvements to elections administration and 50% for replacement of voting systems.

TITLE II – Establishment of Election Assistance Commission

1. Establish a national Commission with the following responsibilities:
 - Serves as a national clearinghouse and resource for information and review of procedures for voting administration. Has no rulemaking authority, but under prescribed procedures will issue voluntary guidelines for voting systems and requirements.
 - Carries out grant programs (i.e. access, research, pilot programs, and protection and advocacy systems).
 - Provides for the testing and certification of voting systems (hardware and software) by accredited laboratories.
 - Studies elections issues (voting technology, ballot designs, methods of voter registration, methods of conducting provisional voting, methods of ensuring accessibility to the voting process, methods of recruiting and training elections workers, methods of education voters about the process of voting).
 - Assists in carrying out the Help America Vote College Program (TITLE V).
2. Establishes a Standards Board and Board of Advisors.
 - The duties of both Boards are review the voluntary voting systems guidelines and best practices recommendations.
 - Composition of the Standards Board is 55 state election officials and 55 local election officials. In Oregon, the Secretary of State would have the responsibility for overseeing a process to select the state's representatives.
 - Composition of the Board of Advisors is 37 members appointed by a variety of national associations.
3. Provides for requirements payments so that states can meet the requirements of the Act as follows:
 - \$3 billion for meeting TITLE III requirements, training poll workers, voter education, and improving elections administration.
 - Payments are allocated by formula upon the submission of a state plan. Under this formula Oregon could receive an estimated \$27 - \$30 million.
 - To receive payments, the state must create an Election Fund for receipt of federal funds and must keep interest earned. (Requires new statute)
 - In order to receive payment, a state plan for implementing the Act must be developed in an open manner, subject to public notice and comment and must include the following elements:
 - ◆ How the state will use the requirements payment to meet the requirements of TITLE III.
 - ◆ How the requirements payment will be distributed to counties.
 - ◆ How the state will provide for programs of voter education, election official education and poll worker training.
 - ◆ How the state will adopt voting system guidelines and processes.
 - ◆ How the state will establish an Elections Fund for administering the activities under the Act.
 - ◆ A description of proposed replacement of punch card or lever voting systems.
 - ◆ The state's proposed budget for activities included in the Act.

- ◆ How the state will adopt performance goals that will be used to determine success in carrying out its plan.
 - ◆ How the state will conduct the ongoing management of the plan.
 - ◆ A description of the committee that participated in the development of the plan.
4. The Act also provides for the following grants:
- \$100 million in grants to states and local elections units for increasing polling place access for people with disabilities. Funds can be used in the following ways:
 - ◆ Making polling places and voting areas accessible to individuals with disabilities in a manner that provides the same opportunity for access and participation as for other voters.
 - ◆ Providing individuals with disabilities with information about the accessibility of polling places
 - \$20 million for research and development to improve voting technology.
 - \$10 million for pilot programs to test new voting systems and equipment.
 - \$40 million for state protection and advocacy systems to ensure full participation in the electoral process for individuals with disabilities. These systems will have the same general authorities as they are afforded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000.
 - \$200,000 for conducting a National Student and Parent Mock Election.

TITLE III – Uniform and Nondiscriminatory Election Technology and Administration Requirements

1. Provide voters an opportunity to check for and correct ballot errors in a private and independent manner. In Oregon's vote-by-mail system, this means providing voter education and instructions about how to correct the ballot before it is cast and counted and how to obtain a replacement ballot.
2. Have a voting system that produces a permanent paper record with a manual audit capacity.
3. Provide at least one voting machine per precinct that is accessible to people with disabilities.
4. Provide alternative language accessibility pursuant to the Voting Rights Act.
5. Have a voting system with an error rate that does not exceed the existing rate established by the FEC Office of Election Administration.
6. Define what constitutes a legal vote for each type of voting method used.
7. Provide provisional ballots to ensure no individual is turned away from voting. This would include a "free access" system to notify voters whether their ballot has been counted and if not counted, the reason why.
8. Implement a "single, uniform, official, interactive, centralized, computerized, statewide voter registration" database to ensure accurate lists. (Requires statutory change) To ensure the integrity of the registration process, the system must include the following features:
 - A unique identifier assigned to each legally registered voter. When registering to vote, individuals must provide a driver's license number, or if the voter does not have a driver's license, the last four digits of the social security number. If the

- voter does not have either, the individual will be assigned a unique identifier. (Requires a statutory change)
- Coordination with other state agency databases, including the DMV. (Requires statutory change)
 - Immediate electronic access by any election official to enter information into the system.
 - Maintenance of clean and accurate voter registration lists.
9. Voters registering by mail must provide identification when voting for the first time unless:
- They cast a provisional ballot.
 - Identification was provided with original registration.
 - Driver's license or social security number is provided with first registration and information is verified.
- Mail-in registration form must ask about citizenship and age and inform the registrant to provide driver's license or social security number to avoid other identification requirements.

TITLE IV – Enforcement

1. Provides that the U.S. Department of Justice may bring civil action against any state or jurisdiction as necessary to carry out the uniform and nondiscriminatory election and administration requirements under TITLE III.
2. Requires each state receiving funds under the Act to establish an administrative complaint procedure to hear and remedy grievances.

TITLE V – Help America Vote College Program

Provides \$5 million to encourage college students to participate in the political process by volunteering as poll workers. The development of this program is the responsibility of the national Election Assistance Commission.

TITLE VI – Help America Vote Foundation

Establishes a charitable, nonprofit corporation and provides for \$5 million to encourage high school students to participate in the political process by volunteering as poll workers.

TITLE VII – Voting Rights of Military Members and Overseas Citizens

These provisions are designed to improve ballot access for military and overseas voters. Most of this Title deals with Defense Department duties. There are six provisions for states:

1. Requires designation of a single state office to provide information on registration and absentee ballots for all voters in the state. (Oregon Secretary of State already serves in this role)
2. An optional provision recommending that the State elections office accept absentee ballots from overseas and military voters. (If Oregon adopts, requires statutory change)
3. Requires each state to submit a report to the Elections Assistance Commission on the number of absentee ballots transmitted and received after general elections.

4. Extends the period covered by a single absentee ballot application to cover two general elections.
5. Prohibits refusal of voter registration and absentee ballot application on grounds of early submission.
6. Requires states to provide voter with a reason if overseas/military registration or ballot request is request is rejected.

TITLE VIII – Transition Provisions

Transfers responsibilities, records, property, and personnel for provisions of the Act from the Office of Election Administration to the newly created Election Assistance Commission.

TITLE IX – Miscellaneous Provisions

1. Requires states receiving payments under the Act to keep records consistent with sound accounting principles and subjects all funds provided under the Act to a mandatory audit by the Comptroller General.
2. Conforms the Help America Vote Act with the National Voter Registration Act of 1993.
3. Allows criminal penalties to be imposed for conspiracy to deprive voters of a fair election and for providing false information in registering and voting.



OFFICE OF THE SECRETARY OF STATE

NEWS RELEASE

BILL BRADBURY

For Immediate Release:
December 26, 2002

Contact: John Lindback
Director, Elections
Division
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Effective January 1: Mail registrants will be asked to provide ID

Oregonians will for the first time feel the impact of federal election reform when new voter identification requirements take effect on January 1, 2003, for anyone who registers to vote through the mail. Currently about 50 percent of Oregon voters register to vote through the mail.

A copy of identification will be requested of anyone who is registering to vote for the first time in any Oregon county (including anyone who moves from one Oregon county to another) and who mails their card to a county or state elections office. Anyone who registers in person at an elections office, or at a voter registration drive, will not be asked to provide the ID.

Sufficient identification includes a copy of a current and valid photo identification, such as a driver's license, or a copy of a paycheck stub, utility bill, bank statement or other government document showing the registrant's name and address.

The Help America Vote Act was adopted by Congress and signed by President Bush this past Fall. In addition to the voter identification provisions, the legislation also includes provisions for phasing out punch card voting systems, new voting machines for voters with disabilities and statewide, centralized voter registration systems.

The voter identification provisions in the new federal law may cause some voter confusion because they apply only to federal elections – those elections where candidates for federal office are on the ballot. That would include races for U.S. Congress, U.S. Senate and President. Anyone who registers through the mail after January 1 and fails to provide the identification will still be eligible to vote in state and local elections because state law does not require such identification. Oregon voters already sign an oath on the state voter registration card pledging that they are truthful in their registration. And they are warned that violation of the oath subjects them to a conviction, a fine of up to \$100,000 and or jail time of up to five years.

A new version of the Oregon voter registration card that includes information about the federal identification requirements is now available online at the Secretary of State's website. The website address is: <http://www.sos.state.or.us/elections/other.info/vreg.htm>

New voter registration cards will be printed and made available statewide as soon as possible. In the meantime, the old voter registration card will still be accepted at county elections offices. Voters who use the old card and are subject to the new federal ID law can expect to receive a follow-up letter asking them to furnish the copy of their identification through the mail, by fax or go to a county elections office and show the ID.

The next stages of federal elections reform to impact voters are expected to occur in phases during the next five years. They include:

- A phase-out of punch card voting in three of Oregon's largest counties, Lane, Washington and Clackamas counties. Together, they comprise about 1/3 of the Oregon electorate.
- A phase-in of new voting equipment for voters with disabilities that will enable them to cast ballots in privacy.
- An increase and improvement in voter education, election worker training and redesign of voter materials designed to make Oregon's vote-by-mail system as voter-friendly as possible.
- Implementation of a centralized, statewide voter registration system.

The federal government is expected to provide almost all of the funding for the new projects, though Congress has appropriated no money so far.