

# HAVAcess

The election reform resource to help you address polling place access



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HAVAcess, is Inclusion Solutions' free newsletter to help election officials implement the disability access provisions of the Help America Vote Act. Please call toll free at 1-866-232-5487 to discuss accessibility in your jurisdiction.

## **Deadlines -- But Incomplete Standards**

Summer and fall of 2005 are an uncertain time for election officials nationwide trying to meet the accessibility provisions of HAVA.

Despite no news of additional funding for 2006 and incomplete federal standards, HAVA's deadline for an accessible voting machine in each polling place by the first federal election of 2006 *and* the requirement of accessible polling places (or a curbside voting plan) set forth unofficially by the [U.S. Department of Justice in a letter to Mississippi](#) both remain intact. These deadlines may make upcoming months difficult for officials trying to comply with these regulations.

## *Funding Inconsistent and Threatened*

Different states have had varying success distributing, appropriating and spending funds to address polling place accessibility. But these accessibility provisions of HAVA remain *by far the most underfunded* portions of the election reform package.

Underfunding looms as the central barrier to polling place access. The entirety of HAVA has been funded at approximately 75% (an estimated \$3.1 of \$3.9 billion). But to date, only approximately \$32 million -- or less than one-third of the \$100 million authorized for polling place accessibility under Section 261 of HAVA has been appropriated. And none of the \$10 million allowed under HAVA to develop new accessible voting technologies was even appropriated. Additional funding in these areas is essential to fulfill HAVA's promise.

Election officials and disability rights advocates alike must continue to talk to Congressional leaders to ensure that the

## Contents

[Funding, Standards, and Deadlines  
From My Perspective](#)  
[Going Beyond the Minimum](#)  
[The Other Portions of Section 261:  
Privacy and Independence](#)

## **From My Perspective...**

*Joan Bird is the HAVA Coordinator for the [Hawaii Disability and Communication Access Board](#). She is in charge of Hawaii's efforts to implement the accessibility provisions of HAVA. Judy Paik is involved in the HAVA Election Assistance for Individuals with Disabilities (EAID) program with the State of Hawaii Office of Elections and the Disability and Communication Access Board and has been instrumental to Hawaii's national leadership in accessibility of the electoral process.*

### **Joan Bird**

During a conversation with a friend about voting, I explained why accessibility is important and expressed my excitement about HAVA. I continued to explain how open Hawaii's Office of Elections is to making accessibility a priority. That the State of Hawaii seemed to understand that accessibility benefits both people with and without disabilities. Hawaii was one of the few states in 2004 to use the Direct Recording Electronic Voting System. More importantly, the Office of Elections in Hawaii included people with disabilities in their decision-making process.

My excitement was met with one of the most unusual questions I have ever experienced as a person with a disability. My friend, an attorney, a former advocate, asked me - should a person who has mental health issues be allowed to vote? Another question followed - should

polling place accessibility portions of HAVA continue to be funded in 2006. A reasonable request would be to fund Section 261 at \$9 million more in 2006 and \$9 million in 2007 -- to get the provision to \$50 million total -- or 50% of the \$100 million intended by the drafters of HAVA. Without proper funding, HAVA's requirement of accessible polling places will become a disturbing underfunded mandate.

Some states have addressed this shortcoming directly by appropriating additional unrestricted HAVA funds towards accessibility initiatives. (*Ed Note: These numbers are "unofficial" and have been compiled from either state HAVA plans or discussions with officials -- please check with state officials for specifics and official numbers*). These include:

**North Carolina:** \$2.0 million additional funding  
**Illinois:** \$1.5 million additional funding  
**Tennessee:** \$2.0 million+ additional (proposed)  
**Georgia:** \$700,000  
**New York:** \$5.0 million (proposed in pending legislation)

Additionally, several states may supplement their Section 261 HAVA funds with additional amounts yet to be determined. These include **New Jersey, Indiana,** and others.

#### **Other Developments on Access**

Election Assistance Commission releases [advisory opinion](#) on accessible voting machines

Wisconsin State Elections Board issues New Report on [Impediments Faced by Elderly Voters and Voters With Disabilities](#)

Electionline Report: [HAVA Accessibility Issue Starts to Come Into Focus](#)

Florida: [Blind voters lose again in battle with Volusia: A federal court denies their request to order touch-screens, but will hear their appeal.](#)  
See also [Advocates Fight for Accessible Machines](#)

[Vote-machine idea runs into corporate problem](#)

Iowa: [Improved accessibility impresses lawmakers](#)

New Jersey: [State wants polling places, malls more accessible for disabled](#)

Mississippi: [Lee looks for grant money for precincts](#)

#### **Going Beyond the Minimum: State Standards and Proactive Leaders**

As election officials nationwide work to make their polling places accessible to voters with disabilities, many have looked to the standards set forth by the Americans With Disabilities Act, the ADA Accessibility Guidelines (ADAAG) and supporting documents such as the [U.S. Department of Justice ADA Checklist for Polling Places](#). But officials in some states and localities are going above and beyond federal standards.

Many factors contribute to officials doing more than the minimum federal obligations. But two primary reasons are

that person be allowed to gather with other people with the same mental health disability and vote? She based her questions on one ultimate question -- is a person with a certain disability competent to vote?

After getting over the shock that someone with legal training would ask those questions, I thought about my situation. As a person with learning disabilities (LD), I've lived with the problem of people constantly questioning my cognitive/intellectual ability (like most people with LD). Although LD is a hidden disability, people that interact with a person with LD would see the impact everyday in tasks like reading, following directions, and social skills. Filling out the voter registration form was difficult for me. I went through several copies because I couldn't figure out what went where. It took me a long time to complete. Likewise, I had a difficult time reading the ballot and following the directions. The fact that people were waiting for me to finish, added stress that made it harder for me to focus. Ever since my difficulties with reading the ballot at the polls, I've switched over to the absentee ballot process. Most of my friends with LD have the same problem, but most of them avoid voting because the information isn't accessible to them. How competent is my decision in comparison to other people?

My first response, to my friend, was that the right to vote is not something anyone should take lightly. My parents are U.S. Nationals from American Samoa. They pay taxes, have lived in Hawaii since the 1960, but have never voted in Hawaii. U.S. Nationals from American Samoa cannot vote outside of American Samoa. At this point, they will never cast a vote for their desired U.S. President. Regardless of the barriers I face, I never take my right to vote for granted.

My second response, to the issue of whether voting is accessible and whether someone is competent, is that these are two separate issues. Accessibility is about the opportunity and availability of the voting process, not about the competency of a voter's decision. Everyone that qualifies to vote should be given the opportunity to cast their vote independently and privately. Election officials shouldn't judge their accessibility decisions on whether a voter with

stricter state standards and a desire to serve all voters.

Several states have requirements that in many cases exceed federal standards -- which requires officials to be careful when evaluating and addressing polling place accessibility. In California, [Title 24 of the California Building Standards Code](#) sets guidelines that are stricter than the ADA. For example, paths of travel in California must have a clear width of 48" as opposed to the federal 36". Other differences exist in areas such as parking lots, ramps and other areas.

Similarly, in Florida, there have been discussions about the interaction between federal ADA standards, state regulations, and state fire code regulations. While some of these issues have been resolved, it appears that all ramps at polling places in Florida must now be at least 36" wide.

And the ADA doesn't set precise standards on the pounds of pressure required to open an exterior door. But several states have door design criteria that differ from ADAAG. One state, Wisconsin, recommends the use of automated doors where exterior doors have resisting forces greater than 8 lbs. Two states, Massachusetts and New Hampshire, require automation at exterior doors with forces exceeding 15 lbs. And many states have set standards for polling places requiring some solution for heavy exterior doors.

Finally, while the Department of Justice supports curbside voting as an alternative where no other accessibility improvement is possible, other states such as Pennsylvania prohibit the process altogether.

Officials any states must be certain that polling place access improvements comply with their particular state requirements.

In other cases, officials make polling place improvements beyond the minimum because it makes sense to do everything possible to ensure that all voters can participate equally in the electoral process.

One such example is with respect to door hardware. Certain types of door handles are "legal" under the ADA such as loop or lever style doors. But there are many voters with disabilities such as some individuals who use power wheelchairs who simply cannot open *any* door that is not either automated or which has an easily-activated ADA-compliant alert system. Officials are encouraged to go above and beyond the minimum where feasible.

Similarly, ramp slopes under the ADA (normally 1 foot of run for every one inch of rise) are minimums. Where possible, officials should consider ramps that are even less steep.

And other improvements, while perhaps not "technically"

disabilities is competent to make a decision. If voting availability were determined by competency, people without disabilities (like my siblings that vote for candidates based solely on name recognition) wouldn't be able to vote. Accessibility is about making the process accessible. In the long run, the idea of universal design, full accessibility will benefit everyone not just people with disabilities.

Whether someone with a hidden disability is competent to vote is difficult to address. Although mental health and LD are different, some aspects are similar (i.e., the fact that both disabilities are hidden and usually people attribute manifestations of the disabilities to something other than what it is). At one point people with LD were considered stupid and lazy. Since LD was identified and researched, people learned that offering information in a different format allows for people with LD to make important contributions. With my own LD experiences in mind, I told my friend that people with mental health disabilities have the right to cast their votes like anyone else. Many people with mental health disabilities are contributing to the community and interacting successfully in the community. Just because someone doesn't have similar social or emotional abilities, does not mean they cannot make a decision when they vote. Additionally, there are procedural safeguards available to address questionable votes after a vote is cast. In Hawaii, the Office of Elections works year round to painstakingly ensure that both the election procedure and individual votes are sound.

In my work, I haven't found a fully accessible voting process/product that accommodates the full range of hidden disabilities or LD. But with the positive changes in Hawaii since 2004, eventually I believe that people, like my friend, will understand and support accessibility for everyone. I have faith that eventually it will happen.

#### **Judy Paik**

Many voters who are blind and visually impaired have never had the opportunity to participate in our elections by being able to cast their ballot independently and in secret at the polls on Election Day.

As a voter with a disability and who is visually impaired, I have always voted by mail absentee ballot until our 2004 elections where I voted at the polls and voted by Direct Recording

required under the ADA make a huge difference to voters with disabilities. Ensuring adequate signage directing voters to the accessible entrance or adding supplemental lighting to ensure that your polling locations are well-lit are two such areas where going above and beyond the minimum makes sense.

### **The Other Portions of Section 261: Privacy and Independence**

Central to Section 261 of HAVA is the requirement of "making polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities." And to date, the majority of the work done under Section 261 of HAVA focuses on this area. But there are three other categories of activities as well. HAVAccess will explore these other areas and potential solutions in this and upcoming issues.

The second area under Section 261 is "Providing the same opportunity for access and participation (including privacy and independence) to individuals with disabilities as for other voters."

States are required under HAVA to report to the Department of Health and Human Services on how Section 261 funding is being used for each of four categories. And Florida has specifically partitioned up funds such that 75% of funds are to be used for polling place accessibility, and 18% for "Providing Access and Participation to Individuals With Disabilities" (as well as 7% on other areas, to be discussed next issue).

But what does this mean? One might think that an accessible voting machine is central to access, participation, privacy and independence. And while this is true, accessible DREs are funded elsewhere in HAVA and Section 261(b) is designed to provide funds for other purposes.

There are several areas where officials can make improvements to ensure equal access and participation for voters with disabilities. For example, voters with disabilities should not be required to vote at public tables when other voters use voting booths with privacy screens. One good tactic is to provide one accessible voting booth with appropriate clearance and width to accommodate a wheelchair at every polling location.

All voters should also be provided an opportunity to participate independently in all parts of the election process where possible. Auxilliary aids such as magnifiers assist voters with reading ballots. Signature guides allow many voters who are blind/low vision or who have dexterity disabilities to sign in and/or mark their optical scan ballot independently. And simple communication cards or pen and paper can help voters who are deaf/hard of hearing

Electronic voting machine, the eSlate by Hart InterCivic. I urge all voters and especially voters with disabilities to participate in our elections, as your vote does count!

Our 2006 elections for the first time will give voters with disabilities the opportunity for equal access to cast their vote independently and in secret, on an accessible voting machine located at accessible polling places.

### **Inclusion Solutions**

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*All our [products](#) are portable and owned by you, the election official and are consistent with Section 261 of HAVA. We can also help with grant applications.*

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participate in the process. Finally, providing candidate information, sample ballots, voting machine instructions, and supplemental material in alternative accessible formats can improve the accessibility of the entire process.

Please see pages 12-14 of the [Inclusion Solutions Catalog](#) as well as a sheet on [Braille and Alternative Format Materials](#) for examples of some such auxiliary aids to promote privacy, independence, access and participation for all voters.

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