

HAVAccess

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Funding and HAVA Compliance in a Post-Katrina World

HAVAccess, 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 and Funding, Post Katrina

The last two months have seen unprecedented events in the United States following the tragedy of Hurricane Katrina (and other storms). As a result, federal and state governments have pulled together and created unprecedented recovery funding.

These storms and their political aftermath have had a serious effect on HAVA compliance and accessibility in the affected states and beyond. For example, officials in some Louisiana and Alabama counties are concerned about finding or repairing *any* polling places let alone accessible ones. Even putting on an election is a challenge -- even before HAVA compliance. While innovative ideas are being used to help displaced residents vote -- see [here for details](#), it's hard to imagine officials in these states being held to HAVA's 2006 deadlines.

But the storms have had another, more subtle effect that's very real on election officials. Because of the massive federal funding of relief efforts, other government programs have been cut back -- and new funding is nearly impossible to get. With respect to HAVA, the prospects for additional monies in 2006 are bleak.

Accessibility is particularly hard hit -- while only funded at \$32 million of \$100 million authorized by HAVA to date, it does not appear that there will be additional funding under HAVA Section 261 (the HHS program) in 2006. Yet 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.

Officials thus face 2006 accessibility deadlines on polling places with only a fraction of HAVA's anticipated funding. What are the potential solutions? Several are available:

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From My Perspective...

Chip Wilson is principal of ADA Consultants of NE Florida. He has worked with election officials throughout Florida surveying their polling places for accessibility.

Many opinions have been written regarding making voting accessible to all Americans. Too often, it is not understood that the reason for accessible voting is civil rights. Many people have argued the fact that voting is available to all qualified Americans. That is true but equal access to the voting process is still a dream. Most Americans have a choice of how, when and where they can vote. For example, if I know I will be out of town on a particular election date, I can (and have) requested to vote by absentee ballot. Some states have implemented early voting as a method to ease the pressure of having all non-absentee votes cast on one day. Both of these are viable options but both have flaws for people with disabilities. I have used a wheelchair since 1968 and have only missed 3 elections during that time. I have also voted by absentee ballot twice and voted early once. One of the major problems with absentee ballots is that there have been many times I have not made up my mind on which candidate, or which side of an issue, to vote for until I was actually in the voting booth. A major problem with early voting is that not all precincts have

- Election officials and disability rights advocates alike must continue to talk to Congressional leaders to ensure that the polling place accessibility portions of HAVA continue to be funded if not in 2006, then in 2007 and beyond.
- Redirect unrestricted HAVA funding to polling place accessibility as many states have done
- Fund accessibility projects through other sources

While the weather events of these past few months are unprecedented and deserve immediate attention, HAVA and accessibility must not be forgotten. Ensuring adequate funding is necessary to realize HAVA's accessibility mandate and is by far preferable to the alternative -- waiting until DOJ and advocates force compliance through litigation.

Other Developments on Access

California: [Voting gets easier for disabled residents](#)
 Also see: [Assistive Technology Journal Analysis](#)

Alabama: [Handicap Requirements in Lawrence County Could be Costly](#)

Michigan: [Press Release from Secretary of State and Protection and Advocacy on Accessibility Grants](#)

Iowa: [Culver OKs Grants to Help Improve Polls](#)

Election Assistance Commission Excerpts on Access

On August 23rd, 2005, the [United States Election Assistance Commission](#) heard testimony from several officials and advocates on various accessibility issues. Excerpts are reprinted below with links to the full testimony.

Johnnie McLean, Deputy Director of Elections from North Carolina testified about North Carolina's leading efforts on accessibility to polling places on August 23. Full text of the testimony is available at: http://www.eac.gov/docs/mclean_082305.pdf

Our State Board's Executive Director Gary Bartlett has participated in the Accessibility Taskforce and worked for the past several years developing and implementing programs that had as priority and continuing focus, to change the manner in which precinct officials view voters with disabilities. Rather than concentrating on the disabilities, the precinct officials are trained to see them only as voters and to treat them with the dignity and respect all voters deserve. Training videos in this area have been prepared and widely distributed. They are available on the State Board of Elections website for anyone to view and/or download for use and duplication. The State Board of Elections staff also developed a checklist survey of polling place accessibility requirements and directed each county board of elections to complete the survey for each polling place. The required participation of the county's designated coordinator for accessibility matters provided another view for consideration. As part of the survey, each county board of elections was to photograph with a digital camera various portions of the polling place. The results of this program is that any voter in the State may now view their voter registration records and view the digital pictures of their respective polling place. All voters would have the opportunity to check out any potential individual challenges they might encounter at the polling place and make advance requests for transfers or alternative voting arrangements.

One of the prevalent attitudes encountered at the onset of this project was the mindset that curbside voting was available at each polling place as well as magnifying glasses available in the voting booths and that no additional provisions were necessary. The State Board of Elections took the position that every polling place should be ADA compliant and that curbside voting and/or magnifying glasses alone were not sufficient. As of this date the State Board has issued just over two million dollars in grants to the county boards of elections to accomplish the goal of accessible polling places. The funds were not to be used for voting equipment but to upgrade the physical polling place

an accessible voting machine. Also, the early voting sites are usually not as close to my residence as my local precinct.

The discrimination does not end with location or technology. I believe that today, the two predominate underlying problems are the attitudes of those without disabilities and their lack of understanding of people with disabilities. I was asked by a Supervisor of Elections "Why do I have to have an accessible machine in every polling site since our county does not have a disabled person in each precinct?". After regaining my composure, I asked if the S.o.E. knew EVERYONE in each precinct, if she could guarantee that no one with a disability would ever move in and if she could guarantee that no one in any of the precincts would ever have a disability requiring the use of an accessible machine. Most people just don't understand that disability is a part of life.

Another insidious problem is the viewpoint of people who expect little if anything from people with disabilities. These are the people who encourage a high school student with Cerebral Palsy to take a certificate track (rather than a regular high school diploma) because there was less homework and less pressure for the student (this actually happened in my hometown!). The student insisted on the diploma track, graduated with her class, has already earned her Associates degree from Florida Community College in Jacksonville and holds a full time job – yet she still has the same disability. Her statement to her high school guidance counselor was "Why don't you let me fail on my own?". Many of these people are misguided and tend to try to smooth the way in order to meet their "feel good quotient". This is a big reason why many non-disabled people (also known as Temporarily Able Bodied or TABs) are offended when a person with a disability refuses assistance. It is not that the offer of assistance is unappreciated; it is just that it is better for the recipient to do it for him or herself (it is often safer too!!).

Too often, people with disabilities will let society stereotype them so they won't have to try too hard or face up to pressure. We have as much responsibility to participate in society as the TABs. We also have as much right to participate in all aspects of society. The rights of a citizen of the United States of

location. Usage of the grant funds was approved only for improvements to public buildings utilized as polling places. A few grants were awarded to be used in upgrading privately owned buildings used as polling places if there were some county funds used in the upgrades as well as a somewhat long term agreement with the owners of the private building[s]. This arrangement was encountered in residential areas where no public buildings are available for use as polling places.

Lee Page of the [Paralyzed Veteran's Association](#) testified on various accessibility issues - including the interaction between a voter-verified paper trail [VVPAT] and accessibility. Only portions of this testimony are included. For full testimony click [here](#).

While HAVA makes great strides in improving elections, it is more than election reform law; HAVA is a major piece of civil rights legislation. HAVA mandates that voting be accessible to people with disabilities under Title III, Section 301(a)(3) (A): "the voting system shall - be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters...

Overall, I am very encouraged by the Voluntary Voting System Guidelines (VMSG) that the Commission has put forward for comment...[but]...to ensure compliance with HAVA several of the accessibility recommendations [have] to be made "mandatory rather than permissive"...[sections omitted] Subsection 3 provides no specific guidance on the accessibility of VVPAT to voters who lack fine motor control or use of their hands.

This inconsistency of language makes it appear that one disability is entitled to more access to the vote than another. Section 301 of HAVA clearly states that voting be accessible to "individuals with disabilities, including non-visual accessibility for the blind and visually impaired". By definition the term "individuals with disabilities" includes voters with dexterity disabilities.... [Guidelines] pertaining to voters who are blind and visually impaired must also be applied to the VMSG guidelines pertaining to voters with lack of fine motor control or use of their hands.... [sections omitted]

Access to the voting process means accessible parking, with the path of travel to an accessible entrance, the registration table, and the voting booth, clearly indicated by correct and accessible signage. Instructions on how to vote and initiating the voting session are to be delivered by the volunteer poll worker to the person with a disability without paternalistic attitude or personal bias based on disability. Choosing the candidate, review of the ballot, and submission of the ballot are functions of the voting system that, when accessible, shall allow the voter with a disability to cast an independent vote in total secrecy.

The VVPAT is not a required function of a voting system under HAVA. However, many states have passed laws requiring a VVPAT to be used to certify an election in case of a recount. The requirements of HAVA state that a voter must be able to review the ballot privately and independently before it is cast and counted. If a state is determined to use the VVPAT as the final ballot for counting and certification, then HAVA requires that the VVPAT be accessible to all voters with disabilities, including those who lack fine motor control or the use of their hands...

Again, thank you for the opportunity to express my views on behalf of the Paralyzed Veterans of America and other citizens with disabilities. PVA members and all veterans who serve our nation have defended democracy at home and abroad..... We commit to working with the Election Assistance Commission until HAVA is the genuine practice, rather than policy. We stand ready to ensure that, through its effective implementation, no citizen, regardless of disability, is denied or limited in that precious right to vote.

The Other Portions of Section 261: Training

Last issue, HAVAccess discussed the issue of privacy and independence for voters with disabilities. Yet there is another provision -- training of election officials and judges to interact with voters with disabilities.

Section 261(c) of HAVA provides funding to "Provide training for election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals, with the full range of disabilities in elections for Federal office."

America are not abrogated simply by the presence of a disability. Participating in the entire electoral process is a right - not a favor!

Ed. Note: Mr. Wilson has both professional and personal experience with accessibility. Not only is he an expert in the field, but he is also a wheelchair user. Please visit his company, [ADA Experts of NE Florida online](#).

Inclusion Solutions

Inclusion Solutions carries over [90 products](#) to solve polling place access issues and is the nation's leader on this part of HAVA. Next month we'll have even more new solutions available -- so stay tuned.

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Training judges and others to interact with voters with disabilities can be a unique challenge. With HAVA's mandate, the electoral process is now more accessible than ever for voters with disabilities -- but ensuring that they are treated with dignity and respect is crucial. There are several different options for training -- below is a discussion of several alternatives.

Many election officials have brought in local disability advocates such as [Centers For Independent Living](#) , [Protection and Advocacy Agencies](#) and others, to conduct training. These local advocates are an excellent resource for training and are often experienced at training people and organizations on interacting with people with disabilities. They are often also excited about the opportunity to help in this area.

Other options for training include videos and written manuals. Several organizations have put out written materials on interacting with voters. And, states such as North Carolina and New Hampshire have created specific videos for election officials on interacting with voters with disabilities. Other videos are commercially available, such as the one offered by Inclusion Solutions. An Illinois Independent Living Center and the Champaign County Illinois Clerk combined to create this excellent seven-minute video for training election officials on interaction with voters. See page 3 of the [Inclusion Solutions Catalog](#) for details. A free preview of this video is also available by calling Inclusion Solutions.

Finally, some election officials have turned to high-tech solutions for training on accessibility. Online training is becoming available and some officials have purchased items such as the [Robis Asked hand-held training system](#), which now includes a new disability "module" which walks officials through a series of questions customized to the voter's specific disability so that the judge can interact with that voter in a dignified manner.

Whatever training option you choose, the objective, training officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities, remains the same. As officials move into another federal election year in 2006, ensuring continued and complete training is an important component to meeting HAVA's mandate.

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