Resolution No.   269   July 11, 2007

Requesting The New York State Board Of Elections (NYSBOE) To Authorize, For Use On An Experimental Basis, Vote-By-Mail As A "Voting System" For The 2007 Ulster County Primary Election, September 18, 2007 In Legislative Districts No. 7 And No. 8

The Efficiency, Reform and Intergovernmental Affairs Committee (Chairman Bischoff and Legislators Bartels, Liepmann, Rodriguez, Shapiro, Busick and Cummings) offers the following:

WHEREAS, the Ulster County Legislature has approved the proposals of the Efficiency and Reform Committee to explore using the Vote-By-Mail system in Ulster County, and

WHEREAS, the New York State Election Reform and Modernization Act of 2005, adopted by the Legislature and signed into law by the Governor on July 12, 2005 amended the New York State Election Law, Section 7-201 as follows:

"4. [a.] The state board of elections may authorize, for use on an experimental basis, one or more types of voting **machine, system or** equipment not previously approved by such board pursuant to the provisions of this section and may authorize a [county] **local** board of elections [or a city, town or village] to rent or borrow a limited number of one such type of **machine, system or** equipment for use in a primary, special, general or village election. Authorization for such use of such a machine**, system or equipment** may be given for all or part of any city, town or village for any such election."

(Words in brackets were deleted; words in bold were added) and,

WHEREAS, the Help America Vote Act of 2002 (HAVA) explicitly provides for the use of paper ballots in 42 USC 15481, SEC. 301, (a) 1 (B)

"A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—

(i)   establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii)   providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

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(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot." , and

WHEREAS, HAVA defines a "Voting System" as follows in SEC. 301, (b):

"Voting System Defined.--In this section, the term ``voting system'' means—

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used--
    (A) to define ballots;
    (B) to cast and count votes;
    (C) to report or display election results; and
    (D) to maintain and produce any audit trail information; and

(2) the practices and associated documentation used--
    (A) to identify system components and versions of such components;
    (B) to test the system during its development and maintenance;
    (C) to maintain records of system errors and defects;
    (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
    (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots)."

and in SEC 301, (c) (2) explicitly permits paper ballots:

"Protection of paper ballot voting systems.--For purposes of subsection (a)(1)(A)(i), the term "verify" may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements."

, and

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WHEREAS, compared to traditional polling place voting, the Vote-By-Mail system is no more subject to fraud, costs less, allows better recounts and increases voter participation, as previously presented to the Ulster County Legislature, and

WHEREAS, none of the known candidates in the Primary Election have objected to using the Vote-By-Mail system, and all those contacted (Sennett, Schreibman, Liepmann, Hunter, and Bartels) are strongly in favor of using this system, and

WHEREAS, the Efficiency, Reform and Intergovernmental Affairs Committee has met and reviewed said request with a majority of the members voting approval.

RESOLVED, that the Ulster County Legislature requests the New York State Board of Elections to authorize, for use on an experimental basis, Vote-By-Mail on the Oregon Model as a "Voting System" for the 2007 Ulster County Primary Election, September 18, 2007, for all races in Ulster County Legislative Districts No. 7 and No. 8, and directs the Chairman of the Ulster County Legislature and the Ulster County Board of Elections to communicate with the NYSBOE to arrange implementation of this system for this election, and

FURTHER RESOLVED, that the Ulster County Legislature directs the Ulster County Board of Elections to immediately prepare for Vote-By-Mail for the 2007 Ulster County Primary Election, September 18, 2007, in Ulster County Legislative Districts No. 7 and No. 8,

and moves its adoption.

ADOPTED AS AMENDED BY THE FOLLOWING VOTE:

AYES: 29   NOES: 3
(NOES: Legislators Cahill, R.A. Parete and R.S. Parete)
(Absent: Legislator Every)

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Legislator Bischoff motioned, seconded by Legislator Rodriguez to amend the resolution to include Legislative District No. 7 as indicated in the title, the "RESOLVED" and the 'FURTHER RESOLVED".

MOTION ADOPTED BY THE FOLLOWING VOTE:

AYES: 29   NOES: 3
(NOES: Legislators Cahill, R.A. Parete and R.S. Parete)
(Absent: Legislator Every)

FINANCIAL IMPACT:
UNKNOWN

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