

LAWS AND RULES COMMITTEE OF THE ULSTER COUNTY LEGISLATURE

Date: February 11, 2008

Attendance:

Legislators Bischoff (Chairman), Shapiro, Decker, Cummings, and Roberts.

Also Attending:

Assistant County Attorney Havranek, Commissioners Parete and Turco and deputy commissioner Fraser of the Ulster County Board of Elections (BOE)

Tom Kadgen, representing the League of Women Voters

Lanny Walter and Lorri Rosenberg of the Ethics Commission.

Absent: Legislators Rodriguez and Maloney

The meeting convened at 5:30 pm.

Board of Elections Issues

Bischoff asked for a report from the BOE. Turco reported on the status of HAVA implementation in Ulster County. This past Friday, which was the court-imposed deadline to submit orders to the state for plan B voting devices for people with disabilities, Ulster County put in an order for Sequoia ImageCast ballot marking device. Commissioners Turco and Parete want to move directly into plan A for 2008, that is, have an optical scanner for paper ballot tabulation in each polling site in Ulster County. As it stands now, there are 108 polling sites; and 108 devices were ordered on Friday. Perhaps, additional devices may need to be ordered later this year to complete coverage. Ulster County is responsible for 5% matching funds, which comes to a bit over \$82,000. Turco also informed the committee that the BOE needs storage space for the machines. This issue needs to be addressed soon since 10% of the machines will be delivered by March 31. Bischoff noted that this is a ballot marking device in combination with an optical scanner. If the machine is certified for plan A, we will use it this year to tabulate ballots. Decker asked why we couldn't use the lever machines. Turco explained that they do not comply with current law. Decker asked if we will someday have to replace what was ordered on Friday with new machines. Turco said this is what the BOE is trying to avoid. 2008 is the last year to use the lever machines, though some lever machines will likely be in use this November if we are unable to fully implement plan A. In response to a question from Decker, Parete explained that plan B means machines for the disabled, and the federal court requires that one plan B machine be in every polling place this September. Parete noted that Ulster County asked the federal court if our county could go forward and implement plan A as well as plan B in September 2008.

Cummings asked if it would be possible/beneficial to consolidate voting districts. Turco noted that election districts might not be consolidated before 2011 but that BOE is looking into consolidating polling sites. Any polling site that now has two machines will have only one optical scanning machine. Decker asked "how long does it take someone to vote on the new machines?". Turco explained that it is like taking an SAT test where you would fill in the dots then feed the ballot into the voting system. Decker asked if it is true that voters will back up at the scanner. Turco noted that under and over voting may cause delays. Turco also explained that there is a mandatory audit requirement of 3% , but 3% of what is not clear. It could be 3%

of ballot styles or of ballots cast. Bischoff asked how this could be done if it wasn't a full district. Turco explained that the BOE would be doing complete districts. If it is 3% of all ballot styles that will be an intensive process. Turco and Parete explained that there will be no lever machines if we can get delivery of 108 machines in time for the September primary or the November general election. Bischoff noted that the Sequoia machine selected by the Ulster County BOE was selected by 58 of 62 counties in NY. NYC chose the ES&S Automark. Bischoff also commended the commissioners' for their cooperation and their courage and foresight to implement plan A and B this year. Turco pointed out that a presidential year brings the largest voter turnout and there will be an opportunity to educate a larger proportion of the public if we do it this year.

Bischoff summed up two resolutions (Feb. 13, 2008 Resolutions 51 and 52) put forward by the BOE that extend contracts with the state for HAVA funds for voter training and for polling site improvement for people with disabilities. Bischoff moved the approval of the resolution; Shapiro seconded, both resolutions unanimously passed.

Ethics Law

Havranek passed out copies of Count Attorney's office revision of the proposed ethics law. She noted that a great deal of work has been put into the ethics law by many people in this room. However, the proposed draft was not satisfactory and has been revised and put into a manageable format and, most importantly, harmonized with the charter by the county attorney's office. She noted that there is charter language in the new law, which cannot be changed and that this new law will fit into the administrative code. Havranek also drafted rules of procedure for the Board of Ethics to conduct its business. These rules will have to be adopted by the Board of Ethics. Havranek reviewed NYC's law, which is considered a model law of this type, and some of the new Ulster County law has been based on this law. The law tries to cover every possibility. Havranek also recommends a conflict defender be added. Shapiro, as chair of board of ethics, noted that a great deal of drafting and redrafting went into the law and any changes or improvements that need to be made may be made in the future and that this should move forward. Walter noted that prior to Havranek's version was that notion that the board can receive complaints from the public that there is a conflict of interest. He asked if that realm of jurisdiction has been taken away from the board. Havranek answered no. Her objective was to harmonize the new law with the charter. Procedural issues should be addressed separately from the law itself. Any bold language in the distributed draft is "charter language". Walter and Havranek discussed some specific provisions of Havranek's redraft. Walter asked whether the board may review annual disclosure statements and make determination as to their efficacy, even though it does not fit the definition of conflict of interest or fit the definition of advisory opinion? This is not in there clearly. Havranek stated that the original draft was not very clear. Walter wondered if the latest version limits the scope of the ethic's boards powers. Havranek said her intention was to broaden the power of the Ethics Board. Bischoff asked if it was the intent of the ethics board to review all of the disclosure statement. Rosenberg said yes. Walter stated his belief that the board should be compensated but Havranek pointed out that the charter forbids it and does not like the idea that a member of the ethics board may be removed at the whim of the executive. The charter would have to be amended to change this power of the executive. There may be no terms of office for members of the board. Shapiro commented that it is likely that the charter will be amended in the future and that this law is a quality product which has to go to the

caucuses then a public hearing then to the legislature for passage so there is room for debate and dialogue.

Shapiro congratulated the county attorney's office for their work on the ethics law, moved that the committee adopt the draft presented by the county attorney's office to set a date for a March public hearing. Decker seconded. Passed with Roberts voting No.

Plans and Goals

Bischoff asked the members of the committee to discuss plans and goals for 2008. Cummings said the committee needs to look at car policy again. There is a take home car policy that was implemented from this committee last September. There are roughly 35 employees who take home vehicles. Mr. Gallo, the fleet manager, made the comment that reports are not coming back from the users of take home cars as required; only 4 people made their report. A newspaper article came out that said only one person really needs to take home a car and was generally critical of the county policy. This committee should review procedure for reports and enforce the procedure. Bischoff said, yes we need to do that and suggest some possible solutions. He noted that it is not fair or appropriate to expect Gallo to be asking a commissioner to give up cars. This has to be done by the legislature or Administrator. Some departmental procedures need to be changed because they violate the policy. Decker noted that the standards that were set for car use were in his opinion well intended but not realistic. Bischoff noted that the crux of this problem is people taking cars home when it's not really needed.

Bischoff wanted to add that one of the results of the jail investigation was that the minutes that were found of jail meetings were inconsistent; some were very detailed, and others were general. This committee should address this issue for the legislature. Bischoff noted that another alternative is that all meetings be recorded. The administrative code has some details about minutes. Bischoff noted that, at a minimum, the minutes have to list those present, any actions taken, and the time the meeting began and ended. How do you resolve these issues into a uniform policy? It is the responsibility of each legislator to approve statements in minutes. The policy should also address who has the responsibility takes the minutes. Currently, the policy is now that members of the departments that a particular committee has responsibility for take the minutes on a rotating basis.

Roberts noted that he is a contractor and requested that this committee address some kind of county wide licensing program for contractors. This would create a revenue source for the county; it would even out the playing field for contractors who have the required insurance and those who do not have insurance (liability and workers' comp); and protect the consumer against fraud and poor workmanship. Bischoff asked Roberts to flesh this out with some concrete suggestions.

Cummings expressed a concern that this could negatively affect the business of contractors.

Bischoff asked if homeowners would be bound to use licensed contractors? Yes, if it is a law of the county.

Cummings made a motion to adjourn; seconded by Decker. Unanimously approved. The meeting adjourned at 6:40 p.m.