

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK, NY 10036-6689

March 21, 2003

The Honorable George E. Pataki
State Capitol
Albany, NY 12224

Dear Governor Pataki:

We are writing on behalf of the Association of the Bar of the City of New York to express our concern over New York State's implementation of the federal Help America Vote Act, or "HAVA."

HAVA promises to improve our election process dramatically if implemented properly. However, if implemented without adequate sensitivity to protecting voters' rights, the law's new identification requirements and other provisions could keep many New Yorkers' votes from being cast and counted.

This threat is turning into a reality in many states. Since HAVA passed in October, at least eight states have already passed or introduced bills that would impose more stringent identification requirements on voters than HAVA requires. Several of these bills would require that *all* voters provide photo identification at the polls, ostensibly to reduce voter fraud. Despite oft-repeated allegations of such fraud, however, studies have found that the incidences of fraud are rare even in states with the most flexible voter registration and identification requirements. By contrast, inflexible identification requirements are certain to have a severe and discriminatory impact on the voting rights of the Americans without standard forms of identification, who are disproportionately people of color and immigrants. New York City's voters are particularly vulnerable to these burdens because of its high proportion of new and mobile voters.

Accordingly, we urge you to adopt the following recommendations to ensure that HAVA is implemented with the necessary sensitivity to voters' rights:

- *The New York State Task Force should be made more representative.* We urge you to appoint additional non-partisan representatives of the state's affected populations under HAVA including 1) protected racial and language classes in New York under the federal Voting Rights Act; 2) students and young voters so grossly under-represented in the political process 3) new citizen voters which comprise the fastest growing class of new registrants; 4) a greater diversity of disability rights advocates; 5) groups with longstanding involvement and knowledge of electoral education and participation issues; and 6) groups that better represent the population demographics of the state. HAVA expressly requires that such "stakeholders" in the state's electoral process are included on the Task Force.

- *Public Hearings.* Although Mr. Kosinski has indicated that he may agree to hold public hearings and receive public comments on the Task Force's plan, we urge you to establish a clear timetable for such hearings and comments and to publicize this information as soon as practicable.

We have confidence that you seek to implement this important legislation in a manner that will expand New York's voter participation and improve our electoral process, and believe our recommendations to be important steps toward those goals. We thank you for your consideration of these recommendations, and look forward to your prompt response.

Sincerely,

Henry T. Berger
Chair
Committee on Election Law

Jeremy M. Creelan
Chair
Committee on State Affairs