



New York City Campaign Finance Board

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**Testimony of Art Chang
Chairman, Voter Assistance Advisory Committee
NYC Campaign Finance Board**

**City Council Committee on Governmental Operations
June 11, 2012**

Good afternoon Chair Brewer and members of the committee. I am Art Chang, chair of the CFB's Voter Assistance Advisory Committee, and I am joined today by Amy Loprest, Executive Director of the New York City Campaign Finance Board.

I am pleased to be here today to testify in support of Resolution No. 1343, which will put forward the voice of the New York City Council to support the common-sense use of technology to improve the way we conduct our elections. I am happy to lend our voice in support as well.

New York was one of the very last states to respond to the federal mandate requiring all jurisdictions to adopt electronic voting. Our state and city expended considerable resources to purchase and deploy the electronic ballot scanners New Yorkers use on Election Day. Despite a massive investment in technology to improve the way we cast our votes, we somehow neglected to improve the way we count our votes.

There is no logical reason we should be using scissors, paper, and pencil to compile and transmit a tally of votes that are collected by electronic device. State Election Law should not prohibit us from making the highest and best use of the technology we already possess, to count election results with greater accuracy and efficiency. The law needs to change. We simply don't have the luxury of delay—in November, we will be counting votes with the entire nation watching.

My VAAC colleagues and I spend much of our time together talking about ways to encourage more New Yorkers to participate in the democratic process. Providing timely, accurate results in City elections is a small, but important way to give New Yorkers confidence that the system works.

As we take this one small step, we should be considering others. Technology has enabled a broad and public conversation about every issue and every type of political campaign. But to formally engage the democratic process, we still require citizens to enter a process that lacks the accessibility and responsiveness they are accustomed to in their everyday lives.

We will be holding a hearing tonight to discuss our annual Voter Assistance report, which laid out an agenda to expand the use of technology in the administration of our elections. We hope the City Council will join us to push the state to bring our democratic system into the 21st century.

We should push to amend the law so that New Yorkers can register to vote online. Studies show that states with paperless, online voter registration have expanded their population of registered voters—especially among young adults. It’s essential to engage young people as soon as they reach voting age, and online registration is a great way to do it.

If voters can update their registration information online, the 12 percent of voting-age New Yorkers who move to a new address each year can continue to receive the information they need to stay engaged.

We should demand greater flexibility in the law to allow election officials to design ballots that voters can read and understand more easily.

We should be opening up new channels of information for New Yorkers to receive official, non-partisan information about the political process.

Too often, lawmakers believe legislation can solve all of our problems, but in crafting detailed solutions, new problems can arise. State election law specifies the precise steps in the process to close the polls—so we need new legislation to streamline the vote-counting process. State election law specifies the font size and layout of the ballots—so we need new legislation to design a ballot that is readable.

My message to you as lawmakers is this: if we are to encourage innovation—and I believe we must—the law must provide the flexibility for good ideas to enter the public sphere, and it must provide the space for public servants to implement them.

These are all positions we've endorsed in our annual report. These simple, common-sense steps are long overdue. To engage more New Yorkers constructively in our communal civic life, our administration of elections in New York State and City must evolve. This starts--but should not end--with amending the law to provide a more accurate and timely way to count our votes.

Thank you for your work, and for the opportunity to testify here today.

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**THE LEAGUE OF WOMEN
VOTERS OF THE CITY OF NEW YORK**

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**Testimony to the New York City Council Committee on
Government Operations
Re: Council Res. 1343-2012 in Support of State Legislation to
Modernize Election Night Closing Procedures
Monday, June 11, 2012**

Good afternoon. My name is Kate Doran. I am the City Affairs Chair of the League of Women Voters of the City of New York. The League of Women Voters is a multi-issue, non-partisan political organization which encourages informed and active citizen participation in government, works to increase understanding of major policy issues, and influences public policy through advocacy and education.

Adopting the paper ballot optical scan voting system was a high priority for the League of Women Voters in New York. We supported it because it is secure, transparent and auditable. Now we need a law which brings our procedures into the 21st Century and acknowledges the capabilities of machines that can do a better job than exhausted human beings. We sincerely appreciate this opportunity to comment on the proposal to modernize the election night closing procedures of the New York City Board of Elections.

We thank Assemblyman Kavanagh for attempting to improve the currently tortuous and time consuming procedure and we thank your Committee for supporting those efforts. As much as we recognize the urgency to address this issue as two primaries and the election of the President and all of our elected federal and state legislators will take place in the next five months, we cannot support this particular bill (A.10175.)

We find nothing in the bill that will speed up the process for poll workers who have already put in a 15-hour day. They will still have to cut up the scanner tapes, add the votes for each ED- without the benefit of calculators - and transcribe by hand, the votes already counted by the scanners on to individual paper Returns of Canvas for each election district.. This is the very process that leads to errors and discourages potential poll workers.

The bill seems to outline a procedure that was tested in two pilot projects in Queens by the New York City Board of Elections. Poll workers will aggregate scanner tapes and attach them to one Return of Canvas, which along with the Portable Memory Devices (PMDs) may or may not be collected by Police officers. This may or may not speed up the reporting process.

In our testimony before the New York State Election Law Committee in December 2011, we pointed out that the New York City Police Department is so exasperated, if not angry, with their new responsibilities that "They want to get out of the Election Night business". It's no wonder. What used to take minutes, now takes hours.

Assembly bill #10175 suggests a new role for the police in transporting the PMDs but does not mandate their participation. We view “may” rather than “shall”, in the language of the bill as unacceptable. For as long as any of us can remember the police have taken custody of the canvas of results on election night and released the unofficial results to the press. The Police presence in this process ensured voter confidence and should be mandated in any law prescribing closing procedures.

We need closing procedures which get us back to the speed, efficiency and transparency of the pre-scanner days with respect to closing the polls and reporting unofficial results. We believe that it's easy to get back to simple.

1. Use the scanners, and only the scanners to count, add and sort votes on Election Night.
2. Hand the Portable Memory Devices (PMDs) from the scanners off to the officers of the New York Police Department on Election Night.
3. Allow officers at the precincts to receive the PMD in a way that is analogous to the way they used to receive the paper Return of Canvas

We at the League refer to this solution as the “Jerry Koenig Solution” since it was he who first suggested it back in September 2010 after the initial rollout of the paper ballot/optical scan voting system. “There’s no reason that the news crawl on Election Night can’t report results by scanner.”

We understand that there may be some upfront costs associated with upgrades of hardware and/or software at the police precincts, but the value is immeasurable inasmuch as it is a solution that will get us back to simple, and will preserve the confidence of the voter by keeping the NYPD on the job.

We hope that Assemblyman Kavanagh will adapt this bill to reduce the burden on election day polls workers and ensure a closing system that preserves voter confidence.. We urge the Council to continue to support this issue. We are ready to be of assistance.



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the NYC Council Governmental Operations Committee
on Resolution Number 1343
June 11, 2012

Good afternoon Chair Brewer and members of the Council Governmental Operations Committee. My name is Alex Camarda, and I am the Director for Public Policy and Advocacy for Citizens Union of the City of New York. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform.

Citizens Union supports the resolution under consideration by the Council today that calls on the state legislature to modernize and streamline the procedures for the election night canvass and the reporting of unofficial election results, and the accompanying legislation, A.10175, sponsored by Assemblymember Brian Kavanagh.

The Board of Elections, as a result of its own unique interpretation of the law, has employed a Rube Goldberg-esque method of tabulating unofficial election results that is less accurate, delays delivering election outcomes to the public, and unnecessarily extends the already long day of poll workers. The current system is unnecessary and illogical, and appears to exist only to preserve the special interests of a few officials in our patronage-run elections to deliver election results in advance to party bosses, candidates and staffs rather than having everyone learn of the winners and losers of election contests at the same time.

As detailed in numerous *Daily News* editorials, here is how the labyrinthine “cut and add” process currently works:

- 1) When the polls close, each individual scanner at a poll site prints out the tabulated results tape showing the total number of votes for each candidate by election district on that scanner. Because most scanners receive ballots from more than one election district, the total votes for candidates at the poll site by election district is not known;
- 2) Poll workers – in their 16th hour of work – begin the tedious process of cutting up the printouts from all ballot scanners by election district and putting into piles the pieces for each election district;
- 3) Poll workers add up on a calculator the number of votes each candidate received in each election district;

- 4) Poll workers enter the information on return of canvass sheets;
- 5) Canvass results are transported to police stations; and
- 6) Canvass results are manually entered into a database for eventual release to the Associated Press and made known to the public.

There is a much simpler, easier and accurate way to do this process. Portable memory devices (PMDs) in the scanner that electronically hold the results of all races can simply be withdrawn, transported to a central location, data can be uploaded and released to the Associated Press. Every other county in New York State, operating under the same language in state law, has used this more accurate and simple method after the transition to electronic voting machines.

These counties realize what we all know: the public overwhelmingly does not immediately care about exactly how many votes each candidate received in each election district – a political subdivision used solely for administrative purposes that is unfamiliar to most voters. Rather they care about the total votes that show which candidates won and lost. But because of the Board's interpretation of current law, those totals are not provided until votes are first tallied for each candidate by election district.

The Kavanagh bill will change the law so the Board can no longer fall back on their unique interpretation of the law. The Board will be explicitly permitted to transport the PMDs separately from the tallies by election district which will result in the outcomes of the election being known sooner to the public. The Kavanagh bill will also simplify tallying results by election district by allowing workers to attach the tabulated results tape to the return of canvass, shipped after the PMDs have delivered to release the unofficial results. Results will be more accurate because poll workers won't have to do tedious cutting and adding at the end of a long day, which leads to errors and discrepancies between unofficial and official results.

The Kavanagh bill, and the Council's resolution in support of it, is important because it elevates the public's right to know above political insiders' efforts to preserve their special perquisites of knowing election results hours before everyone else does.

While we appreciate the Council's backing of this important proposal to facilitate public transparency, we respectfully request the Council also hold hearings on other bills sponsored in the Council that will amend city law to improve voter registration and election administration so that the Fall Elections go smoothly and participation is maximized.

I am happy to answer any questions you might have.

New York Democratic Lawyers Council

A Voting Rights Project of the New York State Democratic Committee and the DNC

TESTIMONY OF LEONARD M KOHEN BEFORE THE NEW YORK CITY COUNCIL, GOVERNMENT OPERATIONS COMMITTEE,

JUNE 11, 2012

Introduction

- I want to begin by thanking Council Member and Chair Person Gail Brewer, and the Committee on Government Operations, for holding this hearing today on this important issue of closing the polls on Election Day.
- My name is Leonard Kohen and I am here to testify today on behalf of the New York Democratic Lawyers Council. I serve as an officer in the organization, in the capacity of Secretary, and am one of its founding members. Apart from the organization, I practice as an attorney with election law among my areas of specialty.
- The New York Democratic Lawyers Council (NYDLC) is the voting rights project of the New York State Democratic Committee and Democratic National Committee. Founded in 2005, we now comprise more than 4,000 members across New York State. Our membership is open to any and all lawyers, law students and other activists who share our commitment to protecting individuals' right to vote. Over the past number of years, the NYDLC has established an active statewide election monitoring program.
- With regard to my own experience in poll-watching, I led or participated in at least 10 poll-watching operations going back to 2004; have worked in poll-watching operations for local town and district elections, local special elections, New York City and State elections, and two presidential elections. I worked as a poll-watcher in Pennsylvania in 2004 and then in 2008 in Florida for two weeks of early voting. In Florida, over those two weeks, I had the opportunity to comprehensively get to know the paper ballot/optical scanner systems voting process from start to finish.
- My role in the NYDLC is as co-chair of a legislative agenda committee, whose functions include identifying model legislation and "best practices," based on data-driven resources (including our own experiences on the ground) for purposes of advocating improvements in the elections process and law.

NYC Council Resolution 1342-2012 and Assembly bill 10175 (2012): Expression of Support

- The NYDLC Supports Council Resolution 1343-2012. We wish to join the many Council sponsors of the resolution to emphasize the need to modernize and streamline the procedures for the election night canvass and the reporting of unofficial election results.
- Accordingly, we echo the Resolution of the Council by calling upon the Legislature to enact the “election night poll site procedures act of 2012” (A-10175). The legislation would simplify the numerous tasks that election workers have been required to carry out after the closing of elections that have thus far created substantial difficulty for closing poll sites across New York City.

Closing procedures with Optical Scanners: Organizational experience

- In terms of procedures for closing polling places, under the new systems of “optical scan” voting machines, we have conducted four election monitoring operations starting with a limited pilot program involving those machines in 2009, and continuing with the primary and general elections in 2010.
- After the primary in 2010, we reported that the use of voter cards under the new system of optical scan voting machines was confusing and gave poll workers difficulties reconciling cards to scanners per ED, especially since it is common for EDs at the same polling place share scanners in New York City. The process to close the scanners and report the vote counts involved hand tallies of votes from each ED and other complicated steps, particularly under the processes used by the BOE in New York City. We reported continued confusion and lack of training to carry out the tremendously complicated closing processes following the general elections.
- Our key specific recommendation was to examine the practice of most other municipalities that used the same machines, where results were printed combined with removal of flash drives from the scanner machines that were delivered to boards of elections for counting, as a way to simplify the process and reduce the possibility for human error.
- Of course, we as an organization, as others, have always been keenly aware of closing procedures of polling places as an obviously critical – and potentially vulnerable – point in the administration of elections and voting, not just for accuracy of reporting vote tallies but also for public confidence purposes.
- One of the most important aspects of this is chain of custody in the reporting of votes, which is an issue we had previously addressed even with lever machines. The vote reporting under the new system is supported by paper ballots for each vote, in

contrast to the recording of the votes on lever machines, consequently warranting still tighter controls.

Solutions in New Legislation

- Under the new legislation, a new subsection is added to the law governing election returns to modernize the canvass procedures for the City of New York by allowing a portable memory device, meaning flash drives, to be used for unofficial tally. This should immediately reduce the openings for human error. The portable memory device is transported with a corresponding results tape.
- Other provisions “rationalize” and streamline the tasks upon closing. This maintains integrity in the process while it should also add the enormously valuable benefit of enhancing public confidence in vote counting.
- Also, for enhanced chain of custody security, a new subsection is added to mandate that the person receiving the return of canvass in the board of elections shall provide the name of the person accepting the delivery, the time of delivery and the name of person making the delivery to be filed in the office of the board of elections.

Conclusion

- These specific provisions would greater improve the still new process. All the more importantly, with the coming presidential election. It is always a good idea to allow “best practices” of other comparable jurisdictions to inform a process as here especially where it is so new. The provisions are common sense good governance measures.
- We welcome the broad support in this Council for Resolution 1343 and hope that it helps to translate into passage in our Legislature of “the election night poll site procedures act of 2012.” This is bill number A-10175 in the Assembly but we note that at this time there is no corresponding senate bill. The senate should adopt a same as bill for passage before the close of session. This would help ensure implementation for this year’s election.
- Thank you.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 06/11/2012

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Name: Leon Williams

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I represent: New York

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Date: 6/11/12

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Name: Patrick McClellan

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Name: Alex Camarada

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1343

in favor in opposition

Date: June 11, 2012

(PLEASE PRINT)

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