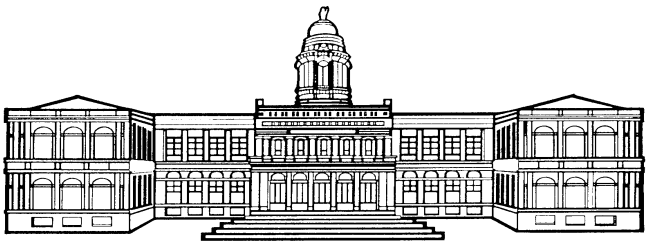

New York City Council
Christine C. Quinn, Speaker

Finance Division
Preston Niblack, Director
Jeffrey Rodus, First Deputy Director

Hearing on the Mayor's Fiscal Year 2011 Preliminary Budget

Board of Elections

March 15, 2010

Committee on Government Operations

Hon. Gale A. Brewer, Chair

Andy Grossman, Deputy Director, Finance Division
John Russell, Legislative Financial Analyst

Summary and Highlights

Board of Elections
Dollars in Thousands

	2008 Actual	2009 Actual	2010 Adopted	2010 Jan. Plan	2011 Preliminary	Difference, 2010 – 2011*
Spending						
Personnel Services	$24,714	$25,976	$17,543	$26,252	$17,757	$214
Other than Personal Services	55,962	55,079	68,675	82,175	49,316	(19,359)
Table Total	**$80,676**	**$81,054**	**$86,218**	**$108,427**	**$67,073**	**($19,145)**

The Fiscal 2011 Preliminary Budget for the Board of Elections (approximately $67.1 million) is $19.1 million less than the agency's Fiscal 2010 Adopted Budget of $86.2 million. The proposed Fiscal 2011 appropriation is more than $40 million lower than the Board's Fiscal 2010 Budget as proposed in the January Plan. The $19.1-million decrease is attributable to the $6.2-million funding reduction contained in the January Plan, as well as budget reductions that have lowered the agency's baseline funding over the course of several financial plans. The steeper $40-million deficit, between the current Fiscal 2010 plan and the proposed Fiscal 2011 appropriation, is predominantly caused by more than $22 million in one-time funding added to the agency's Fiscal 2010 budget since Adoption. This recently-proposed funding is intended to cover costs associated with runoff elections, an agency funding deficit, and collective bargaining.

Issues and Budget Highlights

- **Switch-Over from "Shoup" Lever Machines to Optical Scan Machines.** This Fall, the Board will be conducting its first ever elections using optical scan voting machines. These modern machines will replace the mechanical Shoup machines whose levers and reset arm have become familiar to New York City voters over the past many decades. Implementation of the new machines, required under the federal Help America Vote Act (HAVA), will be a herculean task. In addition to the procurement, storage, set-up, testing and distribution of the voting machines, the Board will have to train its voter machine technicians, poll workers and the voting public as to the working of the voting systems.

- **Budget Reductions.** Over the past several Financial Plans, the Board has sustained significant baseline reductions. Some of these were cuts restored by the Mayor's Office of Management and Budget (OMB) in the current year, while outyear reductions accumulated. The January Plan is no different: While $20.5 million is being added to the Board's current year budget to pay for expenses associated with runoff elections as well as a general funding deficit, $6.2 million is being removed from the agency's baseline budget beginning in Fiscal 2011.

- **Reforms.** Reforming the manner in which New York City residents vote and register to vote continues to be a hot topic. Some reforms would require legislative changes or changes in the State Constitution. Others could be accomplished through alterations in City Policy. Consistent with prior budget hearing briefing reports, a discussion of some of these reforms is included below.

Board of Elections

The Board of Elections (The Board or BOE) conducts, as specified by State Law, all elections within the City of New York. The Board has a central office and five borough offices. The Board receives and examines candidates' petitions, registers voters either by mail or on specified registration days, and keeps current the City's voter registration lists. The Board holds and keeps minutes of all of the Commissioners' meetings on the Board of Elections.

Board of Elections
Dollars in Thousands

	2008 Actual	2009 Actual	2010 Adopted	2010 Jan. Plan	2011 Jan. Plan	Difference 2010–2011
Spending						
Personal Services	**$24,714**	**$25,976**	**$17,543**	**$26,252**	**$17,757**	**$214**
Full-Time Salaried – Civilian	13,848	14,418	12,578	14,028	12,532	(46)
Other Salaried & Unsalaried	4,536	4,211	1,414	1,674	1,674	259
Additional Gross Pay	184	277	89	89	89	-
Overtime - Civilian	6,007	6,942	,2,292	9,292	2,292	-
Fringe Benefits	139	128	24	24	24	-
Amounts to be Scheduled	-	-	1,146	1,146	1,146	-
Other Than Personal Services	**$55,962**	**$55,079**	**$68,675**	**$82,175**	**$49,316**	**($19,359)**
Supplies and Materials	2,973	3,410	3,081	3,096	3,081	-
Property and Equipment	1,808	901	800	832	800	-
Other Services and Charges	13,497	15,911	31,658	38,557	12,299	(19,359)
Contractual Services	37,683	34,857	33,136	39,690	33,136	-
TOTAL	**$80,676**	**$81,054**	**$86,218**	**$108,427**	**$67,073**	**($19,145)**
Funding						
City Funds	$80,676,	$81,054	$86,218	$108,427	$67,073	($19,145)
TOTAL	**$80,676**	**$81,054**	**$86,218**	**$108,427**	**$67,073**	**($19,145)**
Headcount						
Full-Time Salaried	**336**	**340**	**294**	**294**	**294**	**-**

Agency Highlights

- **Help America Vote Act of 2002 (HAVA).** The Help America Vote Act calls for the modernization and improved administration of elections. HAVA has many components, such as creating a statewide computerized, interactive voter registration list, providing accessible voting machines at each poll site and offering financial incentives to states that modernize their voting systems.

  All HAVA-participating states were required to comply with the law by the November 2004 general election. However, since New York received a one-time compliance waiver from the Federal government, the deadline for full HAVA compliance was extended until the September 2006 primary election.

  In February of 2006, the Department of Justice (DOJ) sued New York State for its failure to comply with HAVA. On June 2, 2006, as part of the settlement of the HAVA lawsuit, the United States District Court for the Northern District of New York (Court) issued a Remedial Order (order) accepting the New York

State Board of Elections (State Board) plan for partial HAVA compliance for the 2006 election cycle, and setting forth future deadlines for full HAVA compliance.

Specifically, the Court required the State Board to present a plan to the Court by September 28, 2007, for placing one fully accessible voting system in every poll site statewide. Since the State Board of Commissioners was unable to develop a plan that a majority of the Commissioners would approve, the State Board submitted two plans to the Court. Subsequently, on November 5, 2007, DOJ moved for an order requiring the State to take immediate and specific steps to become compliant with the order and HAVA. More importantly, DOJ effectively moved for the appointment of a receiver to achieve HAVA compliance if the Court decided that the State was unable to comply with the requirements of the Order and HAVA on its own. Finally, on January 16, 2008, the Court issued a Supplemental Remedial Order (Supplemental Order), which among other things required the State Board to deploy a Ballot Marking Device (BMD) in every polling place throughout the State and replace all lever voting machines by the fall 2009 primary and general elections.

The Council urged the State to ensure that the State Board take all necessary steps to fully implement HAVA according to the terms outlined by the Court in the Supplemental Order. In particular, the State Board needed to comply with all Court ordered implementation deadlines to ensure that local Boards of Election were able to take the necessary steps to implement permanent voting systems for 2009 and beyond. The State must also was encouraged to ensure that all state and local Board of Elections staff, including poll workers, be sufficiently prepared to educate and assist voters as the State replaces its lever machines with new, sophisticated voting technology. More specifically, the State was urged to ensure that local Boards of Elections have State-certified voting machines from which to choose so that the new machines could be properly deployed in 2009.

Although the City Board of Elections conducted voting machine demonstrations and held a public hearing to allow comment from the public, it was clear last Spring that the prospect of meeting the court-ordered implementation of new voting machines by the September 2009 election was dubious. As of early March, the State Board of Elections still had not certified any machines, making it impossible for any local board to select, procure and test them. Similarly delayed was the required training for voting machine technicians and poll workers, as well as necessary public education efforts. The Board's executive staff has long expressed concern that due to circumstances clearly beyond its control, the agency will be out of compliance with the mandates of the Department of Justice, the federal courts, or both. According to the City Board, these entities are aware of these compliance issues (but oddly silent on them) since the State Board of Elections is mandated to submit weekly status reports to them.

After years of delay, the State finally finished its performance testing last fall and certified two machines for selection by local boards of elections. One of the machines is of the optical scan variety, while the other uses touch-screen technology similar to automated teller machines (ATMs). The Board conducted a review, held public demonstrations and hearings, and finally selected the optical scan machine for use beginning in September.

City Council Legislative Agenda Items

- **Full-Face Ballot Requirements.** The New York City Council has long urged the State Legislature to amend State Election Law Section 7-104, to better enable counties to comply with HAVA. Particularly

problematic is the State's current requirement that an entire ballot must appear on one page, also known as a full-face ballot.

Modern, user-friendly voting systems are simply not consistent with the full-face ballot requirement. Therefore, unless the election law is amended, there is a strong possibility that the equipment procured by the City will be more expensive and less rigorously tested than voting systems used by other jurisdictions throughout the country.

Keeping the full-face ballot requirement may also hamper efforts to provide the level of access for persons with disabilities that HAVA requires. Specifically, since requirements dictate the ballot be displayed on one ballot, it is probable that the font used will be so small that visually impaired voters may have difficulty casting their votes independently and in a meaningful manner. Finally, the full-face ballot requirement may present problems with the number of alternative languages that the ballot must be translated into, an especially troublesome factor in New York City where the City Board of Elections is legally required to translate the ballot in at least four languages.

- **Electronic Voter Registration.** The New York City Council has in the past called on the State Legislature to amend State Election Law Section 5-210, to permit electronic voter registration. Currently, in order for a voter's registration to become effective, a potential voter must complete a voter registration form and either mail it to a local Board of Elections or return it to a local Board office in person. In New York City, for example, many local agencies, such as the Department of Motor Vehicles, are permitted to distribute voter registration forms, although the voter remains responsible for mailing in or returning the form to the local Board. The Council urges the State to consider permitting voter registration via the Internet.

- **Election Day Registration.** The New York City Council calls upon the State Legislature to enact legislation to allow voter registration at any time up to, and including, Election Day. Currently, State law requires potential voters to register at least twenty-five days before an election to be eligible to participate in that election. This requirement often has the effect of preventing otherwise qualified individuals from casting a ballot. Election Day Registration would increase citizen participation in the electoral process, a longstanding goal of the Council.

- **Early Voting and No-Excuse Absentee Voting.** The New York City Council has in the past called upon the State Legislature to enact legislation allowing early voting and no-excuse absentee balloting. Early voting is the process by which voters can cast their vote prior to Election Day. Early voting can take place remotely, such as by mail, or in person, usually in designated early voting polling stations. The availability and time periods for early voting vary based on jurisdiction and type of election. Similarly, no-excuse absentee balloting allows any registered voter to vote absentee in advance of Election Day without having to state a reason for their need or desire to vote via an absentee ballot. Voters in jurisdictions utilizing no-excuse absentee balloting enjoy many of the benefits of more traditional early voting at a reduced cost and with less of a pre-election day administrative burden. Generally speaking, the goal of early voting and no-excuse absentee balloting is to increase democratic participation and relieve congestion at polling stations on Election Day, while also allowing those scheduled to be away from their state or district for work, family-related business, or other reasons to cast a ballot.

Other Issues

- **Pay Equity.** For several years, the BOE has been advocating for an increase in the salaries of its employees. Several years ago, the Board conducted a study showing that when compared to the salaries of the surrounding county Boards and those of the City's Campaign Finance Board, New York City BOE employees' salaries were among the lowest overall. The Board has sought a baseline addition of $7 million to properly fund its salary costs. According to the Board, this is particularly vital given the substantial increase in required job expertise and training associated with election modernization and the Help America Vote Act.

- **Captial Budget Funding.** The federal government appropriated HAVA funds to states to modernize their voting systems. That act made available $220 million to the State of New York; New York City is expecting to get approximately $92 million of the total funding. Of this amount, the City has already accessed approximately $23 million for the purchase of ballot marketing devices, leaving approximately $69 million. Sensing that this sum may be insufficient, the Mayor's Office of Management and Budget (OMB) has budgeted an additional $50 million in City tax-levy funds for the purchase of new voting machines. HAVA requires at least one machine per election district (ED); when an ED's population is more than 800, the ED must have more than one machine. The City has 6,111 election districts, many of which require additional machines. The City Council will be monitoring the sufficiency of Capital funds that will be required to purchase new voting machine systems.

  The City's Capital Budget also includes an additional sum of $27.5 million for other purposes, including the outfitting of office and warehouse space.

Financial Plan Actions

- **Across-the-Board Reductions.** The January Plan proposes across-the-board reductions to the Board of Elections totaling approximately $6.2 million. Of this amount, approximately $1.5 million would be taken from the Board's Personal Services (PS) budget and $4.7 million would be taken from the Board's Other Than Personal Services (OTPS) budget.

- **Runoff Elections New Need.** In November, the Board conducted citywide runoff elections for the offices of Comptroller and Public Advocate. As no discrete funding existed in the agency's budget for this endeavor, one-time funding in the amount of $13.5 million is included in the January Plan to reimburse the Board for this Fiscal 2010 expense.

- **Funding Adjustment.** The January Plan includes a one-time funding adjustment of $7 million in Fiscal 2010 to cover a deficit in the agency's budget. This additional funding will allow the Board to better meet its operational responsibilities for the remainder of the year.

- **Collective Bargaining.** The January Plan adds approximately $1.7 million in annual collective bargaining funds for the Board beginning in Fiscal 2010.

Appendix A: Budget Actions in the November and January Plans

Dollars in Thousands	Fiscal 2010 City	Fiscal 2010 Non-City	Fiscal 2010 Total	Fiscal 2011 City	Fiscal 2011 Non-City	Fiscal 2011 Total
Agency Budget as per June 2009 Plan	**$86,218**	**$0**	**$86,218**	**$71,542**	**$0**	**$71,542**
Program to Eliminate the Gap (PEGs)						
Across-the-Board OTPS Reduction	$0	$0	$0	(4,661)	$0	($4,661)
Across-the-Board PS Reduction	0	$0	$0	(1,517)	$0	($1,517)
Total PEGs	**$0**	**$0**	**$0**	**($6,178)**	**$0**	**($6,178)**
New Needs						
Runoff Elections	$13,500	$0	**$13,500**	0	$0	**$0**
Total New Needs	**$13,500**	**$0**	**$13,500**	**$0**	**$0**	**$0**
Other Adjustments						
Funding Adjustment	7,000	0	**$7,000**	$0	$0	**$0**
Collective Bargaining - CWA 1184	1,503	0	**$1,503**	1,503	0	**$1,503**
Collective Bargaining - Managers & Other Jurisdictions	206	0	**$206**	206	0	**$206**
Total Other Adjustments	**$8,709**	**$0**	**$8,709**	**$1,709**	**$0**	**$1,709**
Total January Plan Budget Changes	$22,209	$0	$22,209	($4,469)	$0	($4,469)
Agency Budget as per the January 2010 Plan	**$108,427**	**$0**	**$108,427**	**$67,073**	**$0**	**$67,073**