



Legislation Text

File #: Res 0131-2006, **Version:** A

Res. No. 131-A

Resolution urging the New York State Board of Elections to promptly certify Precinct Based Optical Scan voting systems that are compliant with the New York State Board of Elections voting system standards for procurement by the county Boards of Elections and urging the Board of Elections in the City of New York to select a Precinct Based Optical Scan system that is compliant with the New York State Board of Elections voting system standards as the new voting technology for the City of New York.

By Council Members Barron, Arroyo, Baez, Foster, Sanders Jr., Stewart, Jackson, Martinez, Gonzalez, Palma, Katz, Vallone Jr., Comrie, James, Mendez, Nelson, Mark-Viverito, Avella, Vacca, Seabrook, Dickens, Addabbo Jr., Koppell, Liu, Monserrate, Lappin, Garodnick, McMahon, Gennaro, Gioia, Sears, Brewer, de Blasio, Weprin, Gerson, Mealy, Vann, White Jr., Dilan, Oddo, Gentile, Reyna, Recchia Jr., Gallagher and The Public Advocate (Ms. Gotbaum)

Whereas, Honest, observable, and easily-verified public elections constitute the foundation of representative democracy; and

Whereas, Public confidence in the outcome of elections depends on voting technology that is easy to use and enables citizens to observe, understand, and attest to the reliable and secure handling of votes; and

Whereas, The federal Help America Vote Act of 2002 (HAVA) was intended to address concerns with the manner in which elections were conducted following the Presidential Election of 2000; and

Whereas, HAVA requires states to undertake various measures to modernize elections and increase voter participation; and

Whereas, In 2005, the New York State Legislature enacted the Election Reform and Modernization Act (ERMA) in order to comply with HAVA; and

Whereas, ERMA requires county boards of election to select new voting technology to replace the mechanical lever machines, which are currently used throughout the state; and

Whereas, Under ERMA, county boards of election may select either a Precinct Based Optical Scan

(PBOS) voting system or a Direct Recording Electronic (DRE) voting system; and

Whereas, Further, under ERMA, the New York State Board of Elections is responsible for certifying that voting systems are compliant with its standards and can be procured for use by the county boards of election; and

Whereas, ERMA requires that New York be fully HAVA compliant by 2007; and

Whereas, To date, the New York State Board of Elections has not certified that any of the voting systems under consideration is compliant with the State Board of Elections' voting system standards, and therefore can be procured for use by county boards of election; and

Whereas, Given the approaching deadline for full HAVA compliance, the Board of Elections in the City of New York must continue to work diligently to be prepared to select and procure a permanent voting system as soon as a voting system(s) is certified by the State Board of Elections, and begin planning immediately to make a transition to the use of a such system; and

Whereas, Voter and public confidence would be strengthened by the use of a PBOS system, which is easier to use because the ballot is marked directly by the voter, whether manually by pencil or pen, or by the use of an accessible ballot marking device; and

Whereas, The additional advantages to a PBOS system are that when it is used in conjunction with an accessible ballot-marking device it can be used by voters with disabilities, voters for whom English is not their primary language, and any other voters who prefer the technology; and

Whereas, A PBOS system would enable the Board of Elections in the City of New York to avoid many issues related to the prevention, detection and correction of errors and tampering because the paper ballots can be securely stored and handled and would enable election observers and the public to meaningfully witness election procedures and vote-counting; and

Whereas, A PBOS system would also facilitate easy and observable recounts; and

Whereas, Optical scanners and ballot markers in the polling site would make it easier to detect errors in

ballot-marking such as overvotes and undervotes, and enable voters to correct such errors before their ballot is cast; and

Whereas, Optical scanner systems have proven their reliability by being successfully used in elections nationwide for over thirty years, and are currently used by approximately forty-nine percent of American voters in fifty-six percent of counties nationwide; and

Whereas, Optical scanner systems have been successfully programmed, operated, and maintained by public employees in New York State in agencies such as the Division of the Lottery, the New York State Education Department and the Department of Motor Vehicles, as well as by our county boards of election in all boroughs of the City of New York for use in counting absentee ballots; and

Whereas, To the highest extent possible, public employees should perform all work related to the conduct of elections; and

Whereas, PBOS systems can easily be programmed by bipartisan, technical staff at the Board of Elections in the City of New York without the need for ongoing involvement of vendors; and

Whereas, The alternative type of voting system, the DRE, does not lend itself to complete public control as vendors typically retain an interest in the hardware, software, or source-code of such technologies and are largely responsible for the maintenance of and training with respect to their systems; and

Whereas, PBOS systems will be significantly less expensive than DRE systems; and

Whereas, The difference in cost between the PBOS and DRE systems relates to: (1) how many units would be required and initial purchase costs; (2) the transition costs of altering storage facilities to accommodate the system; (3) revision of training materials and procedures for training of voters and poll-workers; (4) continuing costs of storage, transportation, and logic and accuracy testing; (5) dealing with the types of lawsuits that electronic voting has engendered in other jurisdictions; and (6) costs associated with replacing parts of the system ; and

Whereas, PBOS systems are less delicate than electronic voting equipment and therefore have a longer

lifespan; and

Whereas, PBOS systems can provide the advantages of quick election day results and accessibility without the risks associated with electronic voting; and

Whereas, Voter and public confidence would be lowered by the use of electronic ballots, which are recorded in a way that no voter or observer can actually witness; and

Whereas, DRE voting systems can make errors and tampering difficult to prevent, detect, or correct; and

Whereas, Computer security with DRE systems is notoriously difficult to achieve; and

Whereas, Other jurisdictions have experienced severe problems with electronic voting systems, which have depressed voter confidence and prompted lawsuits by candidates and voters as a result of the many irregularities experienced with such systems; and

Whereas, Further, jurisdictions such as New Mexico that initially purchased electronic voting systems have switched their voting system to a PBOS system; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York State Board of Elections to promptly certify Precinct Based Optical Scan voting systems that are compliant with the New York State Board of Elections voting system standards for procurement by the county Boards of Elections and urges the Board of Elections in the City of New York to select a Precinct Based Optical Scan system that is compliant with the New York State Board of Elections voting systems standards as the new voting technology for the City of New York.

DJ
Res. 1301/2005
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