

FREQUENTLY ASKED QUESTIONS REGARDING *“The Help America Vote Act” of 2002*

What is the “Help America Vote Act”?

The “Help America Vote Act” is the common title for a federal act signed into law by the President on October 29, 2002. It is often referred to as HAVA, its acronym. Officially, it is Public Law 107-252, or codified as U.S.C. 15301-15545. Sometimes, it is also referred to as H. R. 3295, which was its designation as Congress finally enacted it.

What is the purpose of HAVA?

After the problems seen in some other states during the 2000 Presidential Election, Congress recognized a need to standardize some elements of federal elections, and appropriated federal funds to help states make those reforms. HAVA is the result of the negotiation between the House and Senate on exactly how those reforms should occur.

HAVA refers specifically to federal elections, but because state and federal elections are usually conducted simultaneously, it will impact almost all Mississippi elections. HAVA applies to all states and territories, and all of these areas must submit a plan that explains how the HAVA will be implemented locally.

HAVA does not shift the control of elections to the federal level. Instead, it shifts responsibility for complying with federal election reform laws from the local to the state level, and sets a number of ground rules that states should follow to provide some uniformity in elections.

Will HAVA dramatically change the way local elections are conducted?

HAVA contains a number of provisions that are designed to make elections easier to understand, easier to access for people with disabilities, and easier to audit after the votes have been counted. While some elements of elections may change slightly (new voting devices, new voter education programs), elections in Mississippi will still be conducted on the local level.

What exactly does HAVA do?

HAVA sets up a system where every state and territory generates a roadmap – the statewide plan – that will be used to bring the state in conformity with new requirement. The provisions of HAVA are generally designed to ensure that voters are capable of voting easily, privately, and independently, and sets up mechanisms where they can be sure their votes are counted.

- 1) HAVA sets standard requirements for actual voting devices that are designed to make them easier to use:
 - (a) voters must be able to review their ballot before it is cast to ensure they correctly voted for the candidate of their choice,
 - (b) voters must be able to change their selections on a race before the ballot is cast, and
 - (c) the voting machine must provide some mechanism to notify voters when they accidentally vote for more than one candidate in a single race (and allow them to correct the error).
- 2) HAVA requires that by 2006, every precinct in the nation must have at least one voting device that is accessible to all persons with disabilities. Those devices must allow individuals to vote privately and independently, regardless of their particular disability (visual, hearing, physical, etc.). In addition, these same devices must have alternative language capability for voters who do not speak or read English as their primary language.
- 3) HAVA requires that voting systems be able to produce a manual audit trail of those ballots that are processed, and this audit trail must be able to help local election officials determine error rates in processing ballots. The total error rate for a system should not exceed the Election Assistance Commission’s specifications for the machine. As of mid-2003, no minimum error rate has been established.
- 4) HAVA mandates statewide, centralized voter registration systems that can be used at the local level to make sure that voter rolls are accurate and valid. As local election personnel enter registration information, that information automatically is double-checked against other registration entries (to determine if the applicant is registered in another jurisdiction), and is checked against other state databases (to ensure that the voter has not been convicted of a disenfranchising crime, and that the driver’s license or social security number provided matches records for him). Further, the system will have the capability to interface with records at the Department of Health and other systems to determine if a particular entry is for a deceased person (and should be removed).
- 5) HAVA ensures that all people who believe they are eligible to vote in a jurisdiction but whose names do not appear on the poll books, can vote there by way of an affidavit ballot. The eligibility of the voter will be determined before the votes are finally totaled.
- 6) HAVA mandates that each person who votes an affidavit ballot be provided a free access system for determining if his or her vote was counted (and if not, why).
- 7) HAVA requires that states provide uniform voter and election official training, which will cover the mandates of HAVA

These elements constitute the major mandates of the bill. Details about how these requirements are to be implemented are largely left to the discretion of the state’s chief election official, who must submit a statewide plan of action to the federal government.

Will my county have to replace its voting equipment?

In general, if a county has voting equipment that does not meet the requirements of HAVA, those voting devices must be replaced or upgraded to meet the requirements by January 1, 2006. Specific funds are authorized in HAVA to assist with the replacement of punch card and lever-based systems. States that receive those specific

funds must replace their punch card and lever devices by the 2004 General Election, or by the 2006 General Election, if the state receives a waiver of the first deadline. Mississippi has applied for and expects to receive that waiver. Other funds may, at the discretion of the Secretary of State, help defray costs of voting device purchases by local governments.

If my county has already replaced its systems with compliant voting machines, will we be reimbursed by funds from the Act?

The Act provides funds earmarked for defraying costs associated with replacing punch card and lever machines with compliant voting equipment. That program includes jurisdictions that used punch card and lever machines during the November 2000, election and replaced those devices with compliant systems after that date. Assuming full funding of HAVA, the Secretary of State's Office intends to include some reimbursement program for those counties that purchased compliant systems after November, 2000.

Will all the counties purchase equipment separately, or will the state do it in bulk?

In order to make the federal funding "stretch" as far as it can go, all major purchases of HAVA related equipment will be made on the state level. Because vendors tend to give discounts for equipment bought in bulk, the state will be able to negotiate better prices than any county would be able to do individually. Moreover, state-level purchasing will ensure the level of uniformity HAVA requires.

Will the statewide voter database mean that election rolls are maintained centrally from Jackson?

HAVA mandates a centralized voter registry in every state, but one that local election officials will access to make additions, changes and deletions, as allowed by law. A properly designed centralized registry quickly notifies local election officials of duplicate registrations, death notices, disenfranchising crime convictions, and voter changes of address. The decision about whether a particular person should or should not be added to a jurisdiction's election roll remains with local election officials; the database will just be an added tool that will help ensure the rolls are accurate and up to date.

Will the centralized system replace my current local voter registry?

When the centralized system is installed, current voter registration records will be converted over to the new system, and the new system will then become the primary tool for managing election rolls at the local level.

How much money is being made available through the Act?

Most initial estimates predict that Mississippi will receive a total amount of approximately \$34 million dollars, over a three-year period, and assuming that Congress fully funds HAVA. This provides a significant window of opportunity for state and local officials to work together to make improvements in elections-related infrastructure, while federal funding is available.

Although Congress passed and the President signed the Act, money must be separately appropriated to fund its provisions. Some \$1.5 billion dollars was appropriated in the FY03 budget, much of it designated for specific programs. This amount was \$570 million dollars LESS than the funds that were authorized in HAVA for 2003. As a result, Mississippi will receive approximately \$5 million dollars less in 2003 than was authorized for us. The funding for 2004 – which could include both amount authorized for that year, as well as supplements to make up for 2003 – has not yet been addressed by Congress.

Federal funds are one-time money – after the timetables specified by HAVA expire, there are no additional funds that will be available in it. Moreover, the actual appropriation of funds has no bearing on a state's obligation to meet the requirements of HAVA – little or no money does not mean that Mississippi can pick and choose which elements of HAVA it wishes to implement.

Are there provisions in the Act that will require a voter to show a picture ID at the polling place?

HAVA is very specific in its ID requirements: voters who register by mail (and do not include copies of one of several different kinds of identification with their registration), and who are voting for the first time in a jurisdiction (or state, once the state implements a centralized registry), must show one of a number of different types of ID when they go to the polling place. That ID could include a photo ID driver's license, a paycheck, a utility bill, or other government document that includes a name and address. There is an exception for voters whose driver's license or social security number match a state record containing this verifying information. In addition, some military personnel and people over sixty-five are exempt from this requirement entirely.

Is HAVA only going to be used in years that there are candidates for federal office?

HAVA requirements only apply to elections for federal offices, but most states, including Mississippi, will likely pass state statutes or promulgate administrative rules, or both, that make HAVA requirements applicable to all elections. Without a single set of rules for federal, state, and local elections, Mississippi would have different rules in non-federal election years only. This type of dual system is confusing to voters and election officials alike.

What has happened with the statewide plan?

Mississippi conducted public hearings and plan committee meeting during the spring and summer of 2003 to discuss HAVA. The results of those meetings, plus extensive research conducted by the Secretary of State's Office, led to the finalization of a State Plan. This Plan was submitted to the federal government in August, according to the timetable established in HAVA. The plan is available for download on the Secretary of State's Office web site, www.sos.state.ms.us. That site also contains a complete copy of the "Help America Vote Act," as well as other materials related to Mississippi's compliance efforts.

Please consult the Secretary of State's Office web site (www.sos.state.ms.us) regularly for HAVA updates.