



**CITIZENS UNION OF THE CITY OF NEW YORK**  
**Testimony to the State Assembly Committee on Election Law and Assembly**  
**Subcommittee on Election Day Operations and Voter Disenfranchisement**  
**on Implementation of the Help America Vote Act**  
**December 1, 2011**

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Good morning Chairs Cusick and Kavanagh, and other members of the Assembly. My name is Rachael Fauss, and I am the Policy and Research Manager of Citizens Union of the City of New York. Citizens Union is an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good.

We thank you for holding this hearing on the Help American Vote Act (HAVA), and ways to promote the efficient administration of elections.

The state's transition to new voting machines has been completed in terms of the presence of optical scanners and Ballot Marking Devices (BMDs) at the polls, but Citizens Union believes that there are important corollary issues that must be addressed to improve the administration of elections and improve the experience of voters on Election Day. By moving to new machines, voters are now confronted with paper ballots which have proven to be both confusing and difficult to read for many. Our testimony today will focus on the state's ballots specifically, as well as some additional election reforms that we believe are important to improve election administration.

**I. Redesigning the ballot**

The state's paper ballots have now been in use since 2010, and while New York's voters have been adapting to the change, we believe that the state must do more to make the ballot user-friendly and easier to read. Citizens Union participated in a survey of New York City's voters in the 2010 General Election spearheaded by the City Council that found that nearly 1 of 3 voters surveyed thought the ballot was difficult to read or confusing.<sup>1</sup> Additionally, many voters specifically stated that the font was too small.

Citizens Union therefore supports legislation to simplify the ballot, A.7492-A, sponsored by Assemblymember Kavanagh and developed with the Brennan Center that would greatly improve the design of the ballot. It is particularly important that these changes be made before the elections in 2012, as there will be at least three elections, including the presidential primary, state legislative and congressional primaries, and the general election.

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<sup>1</sup> New York City Council. "City Council's Online Voter Survey Shows Ballot Design as Prevailing Complaint at the Polls," Nov. 9, 2010. Available at:

[http://council.nyc.gov/html/releases/eday\\_voter\\_survey\\_11\\_9\\_10.shtml](http://council.nyc.gov/html/releases/eday_voter_survey_11_9_10.shtml)

The major components of A.7492-A are to eliminate clutter from the ballot such as the closed fist with an index finger pointing to races and party emblems, to clarify the placement of the oval to the left of the candidate's name, and to provide clearer and simpler instructions on the front of the ballot where they are more likely to be seen. Citizens Union supports this legislation, as it is a thoughtful and thorough approach to addressing the problems with the state's current ballot design. It also addresses some administrative issues by requiring a master template be given to local boards of elections to facilitate the use of the new best practices.

We urge that a senate sponsor be found for this legislation, so that it can be implemented early next year.

## II. Posting sample ballots online

Citizens Union supports providing sample ballots to voters in advance of the election as a means to educate voters about the design of the ballot, and to better prepare voters for Election Day. Citizens Union recently worked with the Board of Elections in the City of New York on this issue, and is pleased that they provided ballots online for the first time before the November General Election this year, and has committed to post them online for future elections. Given voters' difficulty in reading the ballot, providing sample ballots online will give voters more time to view the ballot and educate themselves on the candidates running for office, as well as see it on a larger scale through enlarging it on their home computer screens.

Citizens Union surveyed county boards of elections' websites in 2010, noting which counties provided sample ballots online, and released a report that found that 27 of the 58 local boards of election, or 47% provided sample ballots online. We have updated our findings for 2011, and are pleased to note that 33 boards of election, or 57% of the local boards, provided sample ballots online this year. A summary of our findings is below, and our full survey is attached to our testimony.

<b>Summary of Citizens Union Sample Ballot Research</b>		
	<b>Number of Boards</b>	<b>% of Boards</b>
<b><i>Sample ballots provided on local board website</i></b>	33	57%
<b><i>No sample ballots provided</i></b>	25	43%
<b><i>Sample ballots advertised on local board homepage</i></b>	26	45%
<b><i>Sample ballots provided with polling place finder</i></b>	10	17%
<b><i>Counties with ballots newly posted in 2011</i></b>	6	N/A
<b>Total Number of Local Boards in New York State*</b>	<b>58</b>	<b>N/A</b>

*\*New York City's Board of Elections represents 5 counties/boroughs, while all other boards of elections represent a single county.*

Our survey found that six new counties posted sample ballots online in 2011, including the Board of Elections in the City of New York, as previously mentioned. Other findings of our survey include that a total of 10 local boards posted sample ballots online in conjunction with their poll site finder, and 26 boards clearly stated that sample ballots were available on their website's homepage.

Citizens Union also reviewed local board's posting of general information on their websites regarding the new voting machines, and found that many linked to the State Board of Elections website, Vote NY, while many others provided their own materials about the new machines, such as videos and pamphlets. Unfortunately, thirteen local boards provided no information about the new machines on their websites.

Citizens Union urges that state legislation be drafted to require the posting of sample ballots online for all the state's local boards of election. This pro-active distribution would serve as a reminder to vote while also informing voters about the upcoming elections. This is of utmost importance given New York's abysmal 34.9 percent voter turnout in the 2010 General Election. The fact that half the counties have already done so in some form shows that this is a feasible proposal worthy of requiring of all counties. The state of California has mailed sample ballots to voters' homes for decades, and recently passed a law allowing for voters to obtain sample ballots electronically via email.

For smaller counties with fewer resources, it should be noted that there are often fewer races, so a smaller number of ballots need to be posted. Additionally, many smaller counties that did post ballots online did so through a simple list of towns or districts, which may be more feasible if there are not sufficient resources to purchase an online platform for a poll site locator to tailor ballots to an individual's address. Counties should also share information and best practices, such as providing ballots with poll site finders and clearly on their homepages.

### **III. Other needed election reforms**

Citizens Union has a comprehensive list of election reforms, but would like to focus on some additional items that we believe relate to efficient administration of elections or reforming the process of filling vacancies for elected office. These are appropriate measures to focus on this year along with redesigning the ballot and requiring online sample ballots, given the administrative burden boards of election face this year with multiple elections, potentially a new primary date and adjusting to changes related to redistricting. That being said, we continue to support passage of long-overdue reforms to expand options for New Yorkers to register to vote and cast their ballots, such as Election Day Registration, early voting, and other reforms such as no-excuse absentee voting, as we have discussed with Assemblymember Kavanagh.

- a. Accountability and Transparency** – Citizens Union believes that greater accountability and transparency of election operations can lead to greater efficiencies, and are particularly important when funds are scarce. Specifically, we support:

- 1) creating greater accountability by requiring that the local boards provide information on their performance, similar to how agency performance is tracked as part of the preliminary and final Mayor's Management Report in New York City (no legislation currently); and
  - 2) centralizing information from county boards at the state level to create a clearinghouse for voter enrollment totals of each municipality; voting results for special, primary and general elections; and absentee ballots cast (no legislation).
- b. Election Modernization** – Citizens Union is currently examining means to provide for more efficient election administration through modernization of the voting process, in conjunction with our colleagues such as the League of Women Voters of NYS. We are examining how paperless registration could be implemented in the state, and believe modernization of the voter registration process can produce cost savings. While the state is implementing a statewide electronic voter database to comply with HAVA, we believe additional work should be done at the local levels to provide for more accurate voter rolls.
- c. Vacancy reform** – Citizens Union has been troubled by the low turnout in special elections, and the closed manner of nominations for party candidates. Citizens Union in June released a report that found that 26 percent of state legislators were first elected in a special election, and noted that prior to the 2010 elections, New York State had an unelected governor, lieutenant governor and comptroller (not to mention United States Senator. The report also found that turnout for state legislative special elections average 12 percent from 2007 to 2011.<sup>2</sup> There are several pieces of legislation we would like to note, which would reform the process for filling vacancies in various elected offices.
- 1) **S.2870 (Griffo)** – This bill would provide that in the case of a vacancy in the office of Lieutenant-Governor alone, the Governor shall nominate a new Lieutenant-Governor within 30 days of the vacancy, subject to confirmation by majority votes of both Houses of the Legislature independently. Such confirmation votes shall be held by each House within 30 days of the Governor's nomination. Citizens Union supports this legislation.
  - 2) **S.4113/A.4350 (Griffo/Cahill)** – This legislation amends the public officers law to provide that when a vacancy occurs during the term of the comptroller or attorney general or united states senator, the governor may make a proclamation calling for a special election to fill such office. The special election shall be held not less than forty five nor more than sixty days from the date of the proclamation. We believe that this legislation would be an improvement over the current process, but specifically support that the state legislature should have only the power to appoint only an *interim* Attorney General or Comptroller, until a candidate is selected at the next general election by the voters of the state of New York, unless such a vacancy occurs within sixteen months of the next statewide election, in which case the interim appointment would serve the

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<sup>2</sup> Citizens Union. "Circumventing Democracy: The Flawed System for Filling Vacancies for Elected Office in New York State." June 2011. Available at:  
[http://www.citizensunion.org/www/cu/site/hosting/Reports/CU\\_CircumventingDemocracyReport\\_June2011.pdf](http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_CircumventingDemocracyReport_June2011.pdf)

remainder of the term. Any person elected at a general election to fill a vacancy that is not at the time of the quadrennial statewide elections would serve the remainder of the four-year term. We believe that the regular general election would be preferable to a special election, as a party primary could be held.

- 3) **S.26/A.1369 (Squadron/Jeffries)** – This legislation would reform the process for fillings vacancies in the state legislature by requiring the holding of non-partisan special elections to replace the closed nomination process currently conducted by party committees. Citizens Union supports this legislation.

Thank you again for providing the opportunity for Citizens Union to testify. I am happy to answer any questions you might have.