



The League of Women Voters
of New York State
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New Yorkers for Verified Voting
PO Box 163
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February 7, 2008

Dear Commissioner,

We are writing to caution you against ordering either the LibertyVote or Avante DREs for your Lot 2 BMD purchase. Neither the LibertyVote or Avante DREs can serve as Ballot Marking Devices for voters with disabilities. Both machines provide no independent means for a voter with disabilities to verify their vote. This violates both HAVA and New York State Election Law.¹

Based upon our extensive study of voting systems, it is our judgment that any attempt to purchase DREs that have been modified to become Ballot Marking Devices is not only misguided, but also a violation of state and federal constitutional provisions likely to open your county to future HAVA complaints or law suits.

Unlike the three Ballot Marking Devices being considered by the State Board, neither the LibertyVote or Avante DREs produce a paper ballot that can be independently and privately reviewed by voters with visual impairments and other disabilities. The only record of votes cast on DREs used as Ballot Marking Devices will be the paper trail. This is because the DREs' counters will be turned off; there will be no electronic record of such votes. Given this fact, DREs used as Ballot Marking Devices must provide a way for visually impaired and other disabled voters to review the paper trail privately and independently.

Purchasing voting systems that predictably disenfranchise voters burdens the fundamental right to vote in violation of federal law.² In addition, Sections 1 and 11 of Article 1 of the New York Constitution preclude the use of discriminatory voting systems.³

Because Ballot Marking Devices that comply with federal and state law are readily available, there can be no justification for New York counties to purchase DRE voting systems for use as Ballot Marking Devices.

For the reasons detailed in this letter, we strongly urge you to purchase only real Ballot Marking Devices that were designed as Ballot Marking Devices, and not the LibertyVote or Avante DREs that are likely to disenfranchise voters and open your county to future HAVA complaints and law suits.

Sincerely,

Handwritten signature of Aimee Allaud in black ink.

Aimee Allaud
Elections Specialist
League of Women Voters of New York State

Handwritten signature of Bo Lipari in black ink.

Bo Lipari
Executive Director
New Yorkers for Verified Voting

¹ Section 301 of HAVA provides that the accessible system must "be accessible for individuals with disabilities, including accessibility for the blind and visually impaired, in a manner that

provides the same opportunity for access and participation (including privacy and independence) as for other voters.”

Similarly, Section 7-202(1)(e) states that a voting system approved by the State Board must “provide the voter an opportunity to privately and independently verify votes selected and the ability to privately and independently change such votes or correct any error before the ballot is cast and counted.”

² U.S. Const. amends. I, XIV; U.S. CONST. amends. I, XIV; Voting Rights Act of 1965, Section 2, 42 U.S.C. § 1973; Americans with Disabilities Act of 1990, Title II, 42 U.S.C. §§ 12131-12165.

³ N.Y. Const. art. 1, §§ 1 (“No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his or her peers,”);

11 (“No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.”)