



U.S. Department of Justice
Civil Rights Division

Voting Section - NWB
 950 Pennsylvania Avenue, NW
 Washington, DC 20530

April 23, 2007

The Honorable Karen Handel
Secretary of State
State Capitol, Room 214
Atlanta, Georgia 30334

Dear Secretary Handel:

We are writing to you as the chief state elections official for the State of Georgia concerning the State's apparent noncompliance with the voter registration information verification requirements of Section 303(a)(5) of the federal Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. 15483(a)(5).

HAVA requires that applications for voter registration for an election for Federal office cannot be accepted or processed unless the application includes a driver's license number, if the voter has a valid license or the last four digits of the applicant's social security number, for applicants who do not have a driver's license, but do have a social security number. 42 U.S.C. 15483(a)(5)(A)(i). If an applicant has not been issued a current and valid driver's license or a social security number, the State shall assign to that applicant a unique identifying number for voter registration purposes. 42 U.S.C. 15483(a)(5)(A)(ii). HAVA also requires the motor vehicle authority of each State to enter into an agreement with the federal Social Security Administration (SSA) for the purpose of verifying social security number information provided by voter registration applicants under HAVA. 42 U.S.C. 15483(a)(5)(B)(ii).

The SSA has implemented a program to enable state motor vehicle agencies to verify the last four digits of social security number information provided by voter registration applicants. States can use this program via a connection between their motor vehicle agencies and SSA through the American Association of Motor Vehicle Administrators (AAMVA), under their Help America Vote Verification program (HAVV).

The State of Georgia originally asserted that it did not have to comply with the verification requirements of Section 303(a)(5), based on the State's claim that its collection of full nine-digit social security numbers on voter registration applications allowed it to invoke the exemption in Section 303(a)(5)(D) of HAVA, 42 U.S.C. 15483(a)(5)(D). However, on January 31, 2005, in litigation brought by private parties, a federal district court held that the State was not allowed under the Privacy Act of 1974 to require applicants for voter registration to provide

full nine-digit social security numbers, and that decision was later upheld by the court of appeals. *Schwier v. Cox*, 412 F. Supp. 2d 1266 (N.D. Ga. 2005), *aff'd*, 439 F.3d 1285 (11th Cir. 2006). A consent decree entered by the federal district court in the *Schwier* case on June 27, 2006 contemplated that the State would come into compliance with the verification requirements of Section 303(a)(5) of HAVA by January 2007. We note that for non-exempt States that did not seek a waiver from the Election Assistance Commission of the deadline in Section 303(a), as Georgia did not, the requirements of Section 303(a)(5) otherwise took effect on January 1, 2004. 42 U.S.C. 15483(d)(1).

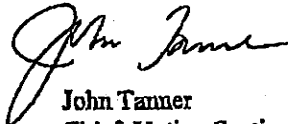
While it appears that your State has revised its voter registration application to seek the information required by Section 303(a)(5) of HAVA, it appears that, based on the public information posted on the AAMVA website and information which we have received from SSA as of now, your State is still not online through the HAVV verification program for matching the last four digits of social security numbers against the SSA database. In light of this information, we request that you provide the Department of Justice as soon as possible, but in no event later than thirty days from the date of this letter, with a detailed written update which advises: 1) whether your State has an agreement with SSA, signed by all parties, as contemplated by Section 303(a)(5) of HAVA; and 2) whether your State is now online with SSA for matching the last four digits of social security numbers through AAMVA's HAVV program or any other mechanism. If so, please provide appropriate dates and documentation. If not, please provide a detailed explanation of the reason for the State's apparent noncompliance with HAVA and the status of any efforts to achieve compliance.

Under Section 401 of HAVA, the Department of Justice has enforcement authority for these requirements. Pursuant to that enforcement authority, if your State is not prepared to take action promptly to comply with HAVA in a timely manner, we are prepared to take appropriate enforcement action.

Please send your written response to the following address: Voting Section, Civil Rights Division, Room 7254 - NWB, U.S. Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530 or you may fax your response to 202-307-3961. If you have any questions about this request, please call Chris Herren (202-514-1416) or Brian Heffernan (202-514-4755) in the Voting Section.

Thank you for your cooperation.

Sincerely,



John Tanner
Chief, Voting Section

cc: Thurbert E. Baker, Attorney General