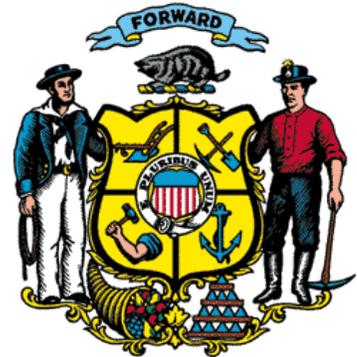


# State of Wisconsin Government Accountability Board



## Final Report of the Retroactive HAVA Check Project



### An Analysis of HAVA Checks in Wisconsin (January 1, 2006 through August 5, 2008)

A Staff Report submitted to  
**The Government Accountability Board**



Prepared by

**Sarah Whitt**

Functional Team Lead  
Statewide Voter Registration System  
Government Accountability Board

**KEVIN J. KENNEDY**  
Director and General Counsel  
Wisconsin Government Accountability Board  
(Wisconsin's Chief Election Official)

[Kevin.Kennedy@Wisconsin.gov](mailto:Kevin.Kennedy@Wisconsin.gov)  
(608) 266-8005



**NATHANIEL E. ROBINSON**  
Elections Division Administrator  
Wisconsin Government Accountability Board

[Nat.Robinson@Wisconsin.gov](mailto:Nat.Robinson@Wisconsin.gov)  
(608) 266-8005

“One of the key provisions of the Voting Rights Act of 1965 is this: “No person, acting under color of state law, shall deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under state law to vote in such election.”

Excerpt from

*J.B. Van Hollen, A.G., et al. v. G.A.B., et al.*, 08-CV-4085, Dane County Circuit Court.  
Order and Transcript October 23, 2008, page 12.

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## Executive Summary

The Retroactive HAVA Check Project was initiated to verify the registration information of voters who registered between January 1, 2006, when the Help America Vote Act (HAVA) of 2002 took effect in Wisconsin, and August 5, 2008, after which date the HAVA Check functionality became available to local election officials in the Statewide Voter Registration System (SVRS). There are many conclusions that can be drawn from this project, as well as many lessons learned.

- The Retroactive HAVA Check Project was a success. This project commenced on May 1, 2009, and was successfully completed on March 23, 2010. 777,561 voters who registered between January 1, 2006 and August 5, 2008, received the required HAVA check.
- 89.4 % of the voters subject to a Retroactive HAVA Check now show a match, and only 9% of the Retroactive HAVA Check voters still shows a non-match.
- Voter registration data for over 70,000 voters were updated, and data of over 700,000 additional voters were verified, thereby, significantly improving the quality of the data in SVRS.
- Approximately 70,000 non-matches remain at the close of this project. The majority of the remaining non-matches (65%) are voters who did not respond to the DMV Ping Letter asking them to verify their voter information. Another 26% were due to the DMV Ping Letter being undeliverable.
- The trends and conclusions from the *Statistical Analysis of HAVA Checks in Wisconsin August 6, 2008 through January 4, 2009*, prepared at the Board's request, remained consistent and valid through the Retroactive HAVA Check Process. The majority of non-matches from the Retroactive HAVA Check Project (voters who registered from January 1, 2006, to August 5, 2008) are due to names not matching (60%) or driver license numbers not matching (24%).
- 7,125 HAVA Checks still remain a non-match even after the voter responded and verified their information. A certain percentage of HAVA Checks will always remain a non-match. Differences in data between in various government databases is a major factor in non-matches.
- In response to problems encountered with the First Wave of DMV Ping letters, Board staff revised the process to improve the letters for the Second Wave. This process significantly increased the response rate from voters (40% in the First Wave to 70% in the Second Wave), and significantly decreased the volume of questions and concerns from voters.
- The Board's ruling that a non-match in and of itself shall not result in disqualification of a voter remains sound today. The experiences of the Retroactive HAVA Check Project reinforce the importance of the Board's policy, both in substance and in the timing of the Retroactive HAVA Checks.
- Project Vote released a policy paper in February 2010 titled *No Match, No Vote* regarding the problems encountered in other states related to HAVA Checks.<sup>1</sup> The paper is critical of policies that prohibit voters with a non-match from voting. Many of the recommendations made in the report were already implemented in Wisconsin, indicating that the policies set by the Board are true to the legislative intent of HAVA and are significant from a national perspective.

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<sup>1</sup> For more information, please see *No Match, No Vote*, February 2010, Project Vote.

<http://www.projectvote.org/images/publications/2010%20EA%20Policy%20Recommendations/No%20Match%20No%20Vote%20Policy%20Paper%20-%20February%202010.pdf>

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE WILLAIM EICH  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## The Final Report of the Retroactive HAVA Check Project January 1, 2006 through August 5, 2008<sup>2</sup>

The Help America Vote Act (HAVA) of 2002 and state statutes require the State to conduct voter data comparisons with the Wisconsin Department of Transportation, Division of Motor Vehicles (DMV) and Federal Social Security Administration (SSA) -- referred to as "HAVA Checks" -- on registered electors. These HAVA Checks are facilitated by Wisconsin's Statewide Voter Registration System (SVRS).<sup>3</sup>

At the January 15, 2009, meeting of the Government Accountability Board (G.A.B.), the Board unanimously approved a protocol for staff to perform "Retroactive" HAVA Checks on voters who registered between January 1, 2006, when HAVA took effect in Wisconsin, and August 5, 2008, after which date the HAVA Checks became available to local election officials in SVRS. The Retroactive HAVA Check Project commenced on May 1, 2009, and was completed with the presentation of this Final Report to the Board. This report was prepared for the Board to provide valuable information on the project itself and the lessons learned, to the Board itself as well as to other policymakers and the public. While this period of focus on the Retroactive HAVA Checks is now complete, work will continue as non-matches are investigated and as voters continue to respond and verify their information.

### History of the HAVA Checks

In 2002, the U.S. Congress passed and the President signed the Help America Vote Act of 2002 (HAVA). This legislation made sweeping reforms to the way states administer elections. HAVA made many changes, including requiring all states to establish a Statewide Voter Registration System (SVRS). SVRS was also required to interface with DMV and SSA to verify identifying information. These "HAVA Checks" compare the voter's name, date of birth, and driver license or social security number with data on file at DMV or SSA.

HAVA officially took effect January 1, 2004, but states were allowed to request an extension to January 1, 2006. Wisconsin was granted an extension, and was therefore required to comply with HAVA as of January 1, 2006. The SVRS was put into place in 21 Wisconsin counties by January 1, 2006, with the rest of the state coming on-line over the summer of 2006, in time for the first Federal election of 2006 (the September 12, 2006 Partisan Primary). The computer

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<sup>2</sup> The Retroactive HAVA Check Project included those voters who registered between January 1, 2006, when Wisconsin was required to comply with the Help America Vote Act (HAVA) of 2002, and August 5, 2008, the date after which the HAVA Checks became available to local election officials in the Statewide Voter Registration System (SVRS).

<sup>3</sup> A HAVA Check is a process by which voter data is compared, as required by the Help America Vote Act (HAVA) of 2002. The process involves taking a voter's identifying information (name, date of birth, and either driver license number or social security number) and comparing it with the Wisconsin Department of Transportation/Division of Motor Vehicles (DMV) or Social Security Administration (SSA) records. DMV or SSA provides a response indicating if the information in their respective databases matches the elector's registration record. This comparison and matching of records is called a HAVA Check.

coding for HAVA Check functionality in SVRS, however, was not available to local election officials until August 6, 2008.

At the July 15 and 16, 2008, meeting of the Government Accountability Board, in anticipation of the HAVA Check functionality becoming available, staff proposed an Emergency Administrative Rule that would allow voters whose HAVA Check resulted in a non-match to vote with a provisional ballot. The proposed rule was based on a recent court case in the State of Washington, as well as a review of policies in other states. After public comment, the Board opted to postpone action on the proposed Emergency Rule until after the November 2008 Election. The Board also decided that there would be no consequence for a HAVA Check non-match on an individual's eligibility to vote, consistent with Wisconsin's Constitution and statutes. For more information regarding the laws that govern voter eligibility, please see *A Legal Analysis: HAVA Checks and Voter Eligibility Requirements*, attached as Appendix 2. The HAVA Check functionality became available to local election officials in SVRS on August 6, 2008, who began conducting HAVA Checks for all voters registering on or after that date. Shortly after August 6, 2008, the HAVA Checks became mandatory in SVRS for all new voter registrations.

The Republican Party of Wisconsin requested that the HAVA Check procedures be reviewed again at the August 27 and 28, 2008, Board meeting. At that meeting, the Board voted to continue with the HAVA Check procedure in effect as of August 6, 2008, through the fall election, and correct the SVRS database later. The Board directed staff to gather statistics and facts and prepare a report analyzing the non-matches identified between August 6, 2008 and the November 4, 2008 Presidential and General Election. The Board also reiterated their July decision that a mismatch of voter identifying information with DMV or SSA data, in and of itself, would not result in disqualification of a voter. The Board committed to revisit the policies surrounding the HAVA Check process and determine the best course of action after the statistics were gathered and further analysis was completed.

On September 10, 2008, Wisconsin Attorney General J.B. Van Hollen filed a lawsuit against the Government Accountability Board. The lawsuit asked the Court to order the Board to compel clerks to run HAVA Checks before the 2008 General Election on voters who registered prior to August 6, 2008; to identify and remove ineligible voters; and to verify voter eligibility using the same steps for individuals that registered both before and after August 6, 2008.<sup>4</sup> On October 23, 2008, the Dane County Circuit Court ruled that the Government Accountability Board had the authority and responsibility for administering elections in Wisconsin, including promulgating standards that comply with HAVA and state law. The Court further found that G.A.B. did not violate state or federal law, and was not required to run HAVA Checks retroactively prior to the November 2008 General Election, and that HAVA did not add to or affect voter eligibility standards.<sup>5</sup> The Attorney General filed an appeal of the decision on November 7, 2008.

At the January 15, 2009, Board meeting, staff presented a *Statistical Analysis of HAVA Checks in Wisconsin, August 6, 2008 through January 4, 2009* (available on the G.A.B. website at <http://elections.state.wi.us/docview.asp?docid=15857&locid=47>). The report found that based

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<sup>4</sup> *J.B. Van Hollen, A.G., et al. v. Government Accountability Board*, Dane County Circuit Court Case 08-CV-4085, Plaintiff's Motion for Summary Judgment at 2.

<sup>5</sup> *J.B. Van Hollen, A.G., et al. v. Government Accountability Board*, Dane County Circuit Court Case 08-CV-4085, Transcript of Court Decision, October 23, 2008, at 14-15.

on several months of HAVA Check data, most (90%) HAVA Checks result in a match of voter data in SVRS with that in DMV or SSA databases. The most common reasons for a non-match were problems with names, often due to variations in the name between different databases, and problems with driver license numbers, often due to typographical errors (the Wisconsin driver license is 16 characters long).

Board staff also presented a proposed *Uniform Protocol for Conducting Retroactive HAVA Checks of Voter Records Commencing January 1, 2006* (attached as Appendix 1). The Protocol called for running “retroactive” HAVA Checks on voters who registered between January 1, 2006, when HAVA went into effect in Wisconsin, and August 5, 2008, after which date the HAVA Check functionality became available to local election officials in the SVRS. The checks would be run after the Spring 2009 Election to ensure that the Retroactive HAVA Check process did not further burden local election officials who would already be busy administering the Spring elections. The protocol was approved by the Board at the January 15, 2009, meeting. On January 21, 2009, the Attorney General filed a notice of voluntary dismissal of the appeal of the circuit court decision and the Court of Appeals entered an order of dismissal on January 23, 2009.

### **Overview of the Retroactive HAVA Check Process**

The Retroactive HAVA Check Project, for voters who registered between January 1, 2006, and August 5, 2008, commenced on May 1, 2009 and completed on March 23, 2010. The steps to be taken as part of the Retroactive HAVA Check Project were outlined in the *Uniform Protocol for Conducting Retroactive HAVA Checks of Voter Records Commencing January 1, 2006*, which was adopted by the Board at the January 15, 2009, meeting and is attached as Appendix 1. Based upon the Protocol, the following process was adhered to for this project.

1. The January 1, 2006, through August 5, 2008, Retroactive HAVA Checks were performed in SVRS by Board staff beginning May 21, 2009, and finishing on June 4, 2009. The checks were run on all active voters who registered from January 1, 2006, through August 5, 2008. 777,561 total checks were run, in batches of 50,000 per night until all checks were completed.
2. Lists of voters whose check resulted in a non-match were sent to municipal and county clerks. Voter’s whose HAVA Check results in a non-match are sent a letter asking them to verify their information (referred to as a DMV Ping letter). Clerks were given the option of having DMV Ping letters sent to their non-matches right away, or having them mailed later to give clerks time to research and resolve their non-matches. Over 600 municipalities requested that their letters be delayed so they could first attempt to resolve their non-matches at the local level.
3. The First Wave of DMV Ping letters was mailed on July 31, 2009, to approximately 87,000 voters whose Retroactive HAVA Check resulted in a non-match. The letters asked the voters to contact the G.A.B. via phone or e-mail to verify their voter information. A sample of the First Wave DMV Ping letter is attached in Appendix 4.
4. Voters began responding to the letters immediately. The volume of responses was so great that the G.A.B. phone system remained beyond capacity for the first week of

August. Temporary workers were added to assist with the voter responses. Temporary workers remained on-site through September 18, 2009.

5. Board staff prepared a new process for the Second Wave of DMV Ping letters, taking into account the lessons learned in the first mailing. The new process was vetted with a group of municipal and county clerks in September, who made further improvements to the process. The new process included sending letters to voters that clearly indicated what data did not match, asking the voters to respond by mail, and staggering the letters into multiple smaller batches. Samples of the Second Wave DMV Ping letters are attached in Appendix 4.
6. The Second Wave of DMV Ping letters was mailed in three batches of approximately 5,000 letters each on November 25, 2009, November 30, 2009, and December 4, 2009. The letters included a form that the voter could fill-out and mail back to the G.A.B. with their corrections, and also included a postage-paid business-reply envelope.
7. Limited Term Employees (LTEs) were hired in November 2009 to assist in performing the data entry in SVRS for the tens of thousands of voters who responded to the DMV Ping letters. The LTEs also assisted in following-up with voters who contacted G.A.B. regarding the Second Wave of letters.
8. From November, 2009 through February 2010, the data entry updates were made in SVRS based on the information provided by the voters, and the HAVA Checks were rerun. All data entry was quality assured by a second set of eyes to ensure that the updates were made accurately.
9. In March, 2010, all voter updates that resulted from the responses to the DMV Ping letters were sent to municipal clerks for their files. Lists of voters whose letters were returned undeliverable were also sent to clerks with instructions on how they should handle the undeliverables, based on Wisconsin Statutes.

### **Statistics**

This section provides statistics related to the January 1, 2006, through August 5, 2008, Retroactive HAVA Check Project.

### **Summary**

Table 1 provides summary statistics on the Retroactive HAVA Checks. 770,561 checks were performed as part of this project. Initially, over 120,000 checks resulted in a non-match. Upon completion of the project, approximately 70,000 non-matches remain. This represents a reduction of almost 51,000 non-matches, or a 42% reduction in the number of voters whose record shows a non-match, and improvement in the quality of the voter data in SVRS.

**Table 1**  
Summary Statistics

<b>Category</b>	<b>Total</b>	<b>Percent</b>
Retroactive HAVA Checks (January 1, 2006 through August 5, 2008)	777,561	
Initial matches as of June 10, 2009 <sup>6</sup>	656,165	84%
Initial non-matches as of June 10, 2009 <sup>7</sup>	120,973	16%
DMV Ping letters sent <sup>8</sup>	101,950	
DMV Ping letters returned undeliverable	20,057	20% <sup>9</sup>
Voter records updated during this project	70,041	
Matches as of March 1, 2010 <sup>10</sup>	695,201	89.4%
Non-matches as of March 1, 2010	70,065	9%
Voters who were inactivated, or merged as duplicates, as of March 1, 2010	12,259	1.6%
Reduction in non-matches from June 10, 2009 to March 1, 2010	50,908	42%

### DMV Ping Letters

Voter's whose HAVA Check results in a non-match are sent a letter asking them to verify their information (referred to as a DMV Ping letter). Over 100,000 voters whose check resulted in a non-match were sent a DMV Ping Letter. Approximately 20,000 of these letters (17%) were returned as undeliverable.

Based on the voter records updated as a result of this project, we can also estimate the response rate of voters whose letter was not returned as undeliverable. Forty-five percent of voters overall whose letter was not returned undeliverable had their voter record updated. The response to the Second Wave of letters was as high as 70%.

Tables 2, 3, and 4 contain both the overall statistics related to the DMV Ping letters, as well as the figures broken out by the First Wave (sent July 31, 2009) and the Second Wave (sent November 25 and 30, and December 4, 2009) of Ping letters.

<sup>6</sup>The numbers of initial matches and non-matches refer to the numbers that first occurred as a result of the Retroactive HAVA Checks (as of 6/10/2009), before any of the voter records were updated or corrected.

<sup>7</sup> An additional 423 HAVA Checks were pending at the time the statistics were gathered and are neither matches nor non-matches.

<sup>8</sup> Many of the initial non-matches were corrected before DMV Ping Letters were sent, reducing the number of letters that needed to be sent.

<sup>9</sup> This percentage represents the percent of undeliverables compared to the total letters sent.

<sup>10</sup> An additional 36 voters were pending at the time the statistics were gathered.

**Table 2**  
DMV Ping Letter Summary Statistics

<b>Category</b>	<b>Total</b>	<b>Percent</b>
Voters who were sent a DMV Ping letter	101,950	
DMV Ping letters returned to G.A.B. as undeliverable	20,057	20%
DMV Ping letters delivered to voters <sup>11</sup>	81,893	80%
Voter records updated in response to the letters <sup>12</sup>	36,630	45%

**Table 3**  
First Wave of Letters Sent July 31, 2009

<b>Category</b>	<b>Total</b>	<b>Percent</b>
Voters who were sent a DMV Ping letter in the First Wave	87,024	
First Wave letters returned to G.A.B. as undeliverable	17,501	20%
First Wave letters delivered to voters	69,535	80%
Voter records updated in response to the First Wave of letters	27,980	40%

**Table 4**  
Second Wave of Letters Sent November 25 and 30, and December 4, 2009

<b>Category</b>	<b>Total</b>	<b>Percent</b>
Voters who were sent a DMV Ping letter in the Second Wave	14,926	
Second Wave letters returned to G.A.B. as undeliverable	2,556	17%
Second Wave letters delivered to voters	12,370	83%
Voter records updated in response to the Second Wave of letters	8,650	70%

### Voter Record Updates

Over 70,000 voter records were updated as a result of this project, either at the local level or by Board staff. As shown in Table 5, the three basic types of updates made to voter records included updating the voters' identifying information, merging duplicate voters together, and marking voter records inactive who are deceased or moved out of state. Some voter records were updated multiple times, in multiple ways, in some cases by both local election officials and Board staff.

**Table 5**  
Overall Voter Updates

<b>Category</b>	<b>Total</b>
Voter records updated <sup>13</sup>	70,041
Voter records that had identifying information updated	59,315
Voter records merged together	3,511
Voter records marked inactive or canceled	8,795

As illustrated in Table 6, a significant number of voter records were updated by local election officials during this project. Over 600 municipalities attempted to correct voter records before DMV Ping letters were sent. After the letters were sent, thousands of voters responded to their

<sup>11</sup> The total letters delivered to voters is estimated based on the number of letters sent that have not yet been returned as undeliverable. Prior experience indicates that a small number of letters may continue to be returned as undeliverable after this report was prepared.

<sup>12</sup> This number is calculated using the number of voters who were sent a DMV Ping letter that was not returned undeliverable, and also had their voter record updated.

<sup>13</sup> Because some voters were updated in multiple ways, some voters appear in more than one category; therefore, the sum of the categories is greater than the total.

local election official rather than the G.A.B, highlighting the importance of an effective working partnership between the G.A.B. and local election officials.

**Table 6**  
Clerk Updates

Category	Total
Voter records corrected by local election officials	36,754
Voter records corrected by local officials before the DMV Ping letters were sent	21,688
Voter records corrected by local officials in response to the DMV Ping letters	15,066

### The Remaining Non-Matches

Slightly more than 70,000 non-matches remain at the close of this project. As shown in Table 7, twenty-six percent of the voters whose record still shows a non-match had a DMV Ping letter returned as undeliverable, and were therefore unable to respond. Sixty-five percent of the voters apparently received the letter (i.e., it was not returned as undeliverable) but did not respond.

Over 7,000 voters were updated at some point during the project, either in response to a Ping Letter, or corrected proactively by a clerk, but the subsequent check still resulted in a non-match, due to the inherent flaws in the process of matching information in two separate databases.

There is also a small group of voters (1%) whose Retroactive HAVA Check resulted in a match, so they were not sent a DMV Ping Letter, but their check was subsequently re-run and now shows a non-match. This is most likely because they re-registered with their local clerk. Per current Board policies, local election officials follow-up on the HAVA Checks that they run in their office, so local clerks will be following-up with these voters and sending DMV Ping Letters as appropriate.

**Table 7**  
Response Rates for Remaining Non-Matches

Category	Total	Percent
Remaining non-matches	70,065	
Remaining non-matches whose letter was returned undeliverable	18,443	26%
Remaining non-matches whose letter was delivered but the voter did not respond	45,214	65%
Remaining non-matches whose record was updated at some point during the project but still does not match <sup>14</sup>	7,125	10%
Non-matches whose Retroactive HAVA Check was initially a match but now shows a non-match	604	1%

As shown in Table 8, of the non-matches that still remain, the majority are due to the name not matching, with the driver license number not matching as the second most common reason.

<sup>14</sup> Note that some of these voters appear in more than one category. 1,095 of these voters also had a DMV Ping Letter returned as undeliverable. 226 of these voters had their Retroactive HAVA Check initially result in a match but now shows a non-match; therefore, the sum of the categories is greater than the total.

**Table 8**  
Current Non-Match Reasons

<b>Category</b>	<b>Total</b>	<b>Percent</b>
Current non-matches	70,065	
Name does not match	42,108	60%
Driver license does not match	16,759	24%
SSN non-match	6,810	10%
Date of birth does not match	3,532	5%
Name and date of birth do not match	843	1%

### **Project Cost**

The total cost for the Retroactive HAVA Check Project was approximately \$117,000.

### **Lessons Learned**

There were several significant lessons learned in the Retroactive HAVA Check Project.

- Given the volume of work involved in the Retroactive HAVA Check process, Board staff and local election officials would not have been able to complete the work prior to the November 2008 election. The time required to write and test the computer scripts to run the checks, print and mail the letters, and update the voter records proved to greatly exceed the time window that was available between August 6, 2008, when the HAVA Check functionality became available, and the November 4, 2008 Election. The work involved in the project also could not have been performed while both Board staff and local election officials were preparing for a major election. Attempting to initiate the project in the midst of the September Primary and November General Election would have created a chaotic and unmanageable situation.
- The process for the responses to the First Wave of DMV Ping letters (sent July 31, 2009) proved to be unwieldy. The G.A.B. office has up to four incoming lines for the Help Desk and up to two lines for the Receptionist. This infrastructure is not sufficient to handle a telephone-based response to a mailing of this size and scope. The process used for the Second Wave of DMV Ping Letters (sent November 25 and 30, and December 4, 2009) proved to be far more manageable, afforded a high degree of accuracy, and provided a much higher response rate.
- Board staff involved municipal and county clerks in the development of the proposed process for the Second Wave of Ping letters. Including the clerks greatly improved the quality of both the proposed process as well as the letters themselves. As has been shown consistently in many other G.A.B. initiatives, encouraging meaningful feedback from clerks and responding to their input benefits the election administration process and Wisconsin voters.
- Some non-matches remain even after voters responded to the Ping letters and had their information updated. The experiences of Board staff during this project support comments of local election officials that some non-matches are difficult to resolve, even when the voter provides correct information. It appears that non-matches will always exist for some eligible voters due to inconsistencies between government databases.

- The Board-approved Protocol originally called for the project to be completed in December 2009, with the final report being presented to the Board at the December 2009 meeting. Staff presented an *Interim Report: Status of Retroactive HAVA Checks* (attached as Appendix 3) at the December 2009 Board meeting and the project end-date was extended to the March 2010 Board meeting. During the extended time, Board staff revisited the process used to send the Second Wave of DMV Ping letters, which greatly increased the response rate, and prepared complete statistics and analysis for the Final Report.
- Since the Retroactive HAVA Checks were run on voters who registered as far back as January of 2006, the data for these voters were less current than the data for newly registered voters. This contributed to the number of DMV Ping letters being returned undeliverable. In addition, due to the age of the data being checked, this project verified much more than simply a comparison of the voter's registration information against DMV and SSA data. Through this process, voters were also identified who had become deceased or moved out of state since they last registered but had not had their records updated until now. Some voters had changed their names due to marriage or divorce since their last registration, or moved to new addresses and will need to re-register. Some had already re-registered and needed to have duplicate voter records merged together. Thus, the Retroactive HAVA Check process served as a significant tool for improving the overall quality and currency of voter records in SVRS, the primary goal of HAVA.

### **Handling the Remaining Non-Matches**

As was reported above, there are still over 70,000 non-matches resulting from the Retroactive HAVA Checks. These voters fall into three major categories:

1. Their DMV Ping Letter was returned to G.A.B. as undeliverable.
2. They received a DMV Ping Letter but did not respond.
3. They responded to the letter and their information was updated, but they still show a non-match.

G.A.B. continues to work to resolve these non-matches even after the close of this project. Distinct strategies will be employed for the different categories.

#### 1. Undeliverable DMV Ping Letters

As reported above, 20,057 DMV Ping Letters were returned to G.A.B. as undeliverable (17,501 from the First Wave of letters sent in July, 2009, and 2,556 from the Second Wave sent in November and December 2009).

Board staff is providing local election officials with lists of the voters in their jurisdictions whose letter was undeliverable. An undeliverable mailing constitutes reliable information that the voter no longer resides at the address where they are currently registered. Per statute, clerks will be instructed to follow the normal procedure and send letters to these voters notifying them that they have reason to believe their

address has changed, and allow them 30 days to respond to the letter if they would like to remain registered at that address.

If the notification letter is returned undeliverable, or if voters do not respond, clerks will mark the voters' records as inactive.

## 2. Voters Who Did Not Respond

As reported above, the majority of remaining non-matches consists of voters who did not respond to the DMV Ping Letter, primarily from the First Wave of letters. (45,214 total voters did not respond, with 41,504 from the First Wave of letters and 3,710 from the Second Wave.) There are several options that Board staff is considering to address these voters.

- A. Given the higher response rate of Second Wave of letters, Board staff may send a second letter to the 41,504 non-responders from the First Wave, using the same format as the Second Wave of letters. This will involve additional staff time and expense but is likely to increase the response rate.
- B. Local election officials may be asked to help resolve the voters that did not respond to the letters, using the current processes they use in their offices for the HAVA Checks that they run for new registrations. This would involve additional staff time and expense in the clerk's office to reach out to these voters.
- C. Another option is to do no further follow-up. The current HAVA Check process that clerks follow in their local offices calls for sending the DMV Ping Letter to non-matches, but does not require further follow-up.

## 3. Voters who Responded but Still have a Non-Match

As reported above, 7,125 voters responded to the letter, verified their information and had their HAVA Check run again, but still resulted in a non-match. These voters represent a segment of voters whose non-match cannot be easily resolved. These non-matches are voters whose information simply appears differently in two different government databases. Some common reasons include having a middle initial in one database and not in the other, variations in name (Robert versus Bob) and names with apostrophes, spaces, or hyphens.

Board staff is not planning to get further information from these voters, because they have done their part in responding, and their records have been updated with the correct information. The goal of the HAVA Check process is to have correct information in SVRS. Staff may contact DMV to attempt to further verify these voters.

If these voters were to be considered matches, and were removed from the count of remaining non-matches, the match rate for the Retroactive HAVA Checks would increase from 89.4% to 90.3%, and the non-match rate would decrease from 9% to 8.1%.

As previously reported, there is also a pool of voters whose Retroactive HAVA Check resulted in a match, but they have since re-registered and now show a non-match. Since

the HAVA Check for the new registration was run by the local clerk, the clerk will follow up on these non-matches. They will not be contacted as part of the Retroactive HAVA Check Project because their Retroactive HAVA Check resulted in a match.

### **Next Steps**

While the period of focus on the Retroactive HAVA Checks is now complete, over 70,000 non-matches remain. Activities will continue in order to reduce the non-matches that resulted from this project.

1. 18,443 of the remaining non-matches had a DMV Ping Letter returned as undeliverable.<sup>15</sup> Local clerks will send letters to these voters to confirm their address. Any voters who do not respond will be marked inactive. Note that some of these voters have already been inactivated, or merged as a duplicate, as part of this project.
2. 41,504 voters did not respond to the First Wave of DMV Ping Letters. Board staff may send a second letter to these voters, using the more successful format and process from the Second Wave.
3. 3,710 voters did not respond do the Second Wave of letters. No additional letters are planned for these voters, as they already received the more effective Second Wave letter.
4. 604 voters now show a non-match because they re-registered and their subsequent HAVA Check resulted in a non-match. Local clerks will be following-up with these voters to resolve the new non-match.
5. 7,125 voters had their information updated but still show a non-match.<sup>16</sup> Board staff is not planning to get further information from these voters, because they have done their part in responding, and their records have been updated with the correct information. Staff may contact DMV to attempt to further verify these voters.
6. Local election officials may be asked to do further follow-up with the remaining non-matches to further improve the accuracy of the voter data in SVRS.

### **Reiteration and Impact of the Board Policy Regarding HAVA Checks**

At the July and August 2008 Board meetings, after hearing public comments, including testimony from local election officials, the Board determined that a non-match between two different government databases should not impact a person's right to vote. The Dane County Circuit Court confirmed the Board's right to set such policies in its October 2008 ruling on the DOJ lawsuit. The Retroactive HAVA Check Project provided an opportunity to validate this policy, given the sheer volume of voters who received a HAVA Check as part of this project.

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<sup>15</sup> There were a total of 20,057 DMV Ping Letters that were returned as undeliverable, but 18,443 still show a non-match. 726 of them have been inactivated, or merged as a duplicate record. 887 of them currently show a complete match, but will still need to be investigated to determine why their mailing was returned undeliverable. One voter's HAVA Check was pending when the statistics were generated.

<sup>16</sup> 1,095 of these voters also had a DMV Ping Letter returned as undeliverable, and will be followed-up according to the process outlined in Step 1 above. 226 of these voters' Retroactive HAVA Checks resulted in a match, but now show a non-match because they were re-run by a local election official. These voters will be followed-up according to the process outlined in Step 4 above.

The efforts of the Retroactive HAVA Check Project reinforce the importance of the Board policy. The experiences of Board staff who worked with voters to update their information echoes what has been said by local election officials who have been running HAVA Checks over the last year. The statistics reinforce these same conclusions: Voter data do not match primarily due to variations in name, or typographical or handwriting errors with their Driver License number. Voters responding to the DMV Ping letters were very concerned about their eligibility to vote. Some voters were angry that something as minor as a middle initial could cause them to receive a Ping letter. Other voters were uncomfortable verifying their personal information over the phone, and were relieved to find out that they could still vote despite the non-match.

The results of the Retroactive HAVA Check Project, both in terms of statistics, as well as the experiences working with voters, serves to confirm and reinforce the policy set by the Board in 2008.

### **Conclusion**

The January 1, 2006 through August 5, 2008, Retroactive HAVA Check Project was completed successfully. The majority of the voter record checks resulted in a match. Over 70,000 voter records have been updated as part of this project. The number of non-matches decreased from approximately 120,000 to approximately 70,000, a 42% decrease, resulting in a rate of 9% non-matches for all Retroactive HAVA checks. The project did require a significant amount of staff time at the state and local level, as well as additional costs. However, at the close of the project, Wisconsin has now performed HAVA Checks on all voters who registered as of January 1, 2006, complying with the requirements of HAVA, and greatly improving the quality of data in the SVRS.

## **Appendices**

1. A Uniform Protocol for Conducting Retroactive HAVA Checks of Voter Records Commencing January 1, 2006
2. A Legal Analysis: HAVA Checks and Voter Eligibility Requirements
3. Interim Report: Status of Retroactive HAVA Checks
4. Sample DMV Ping Letters
  - A. First Wave Letter
  - B. Second Wave Letter – Name Does Not Match
  - C. Second Wave Letter – Driver License Does Not Match
  - D. Second Wave Letter – Date of Birth Does Not Match
  - E. Second Wave Letter – SSN Non-match

# State of Wisconsin\Government Accountability Board

Post Office Box 2973  
17 West Main Street, Suite 310  
Madison, WI 53701-2973  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE THOMAS CANE  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## Government Accountability Board's Protocol Retroactive HAVA Checks of Voter Records

The Help America Vote Act (HAVA) of 2002 and state statutes require the State to conduct voter data comparisons with the databases of either the Wisconsin Department of Transportation (DOT) or the Federal Social Security Administration (SSA) -- hereafter referred to as "HAVA Checks" -- on registered electors. These HAVA Checks are facilitated by Wisconsin's Statewide Voter Registration System (SVRS).

A common misconception is that HAVA Checks are intended to confirm a voter's eligibility to vote. In reality, HAVA Checks were not designed or intended to prove or affect voter eligibility. Rather, HAVA Checks are performed for the purpose of improving the quality of voter data and to facilitate list maintenance. A voter's eligibility is determined by verifying information contained on the Wisconsin Voter Registration Application, EB-131 Form and related documents.

During the August 27, 2008 meeting of the Government Accountability Board (G.A.B.), the Board directed staff to gather statistics and facts and prepare a report analyzing HAVA Checks that resulted in a non-match identified between August 6 and the November 4 General and Presidential Election. Based on staff's report, the Board committed to revisit the policies surrounding the HAVA Check process and determine the best course of action for Wisconsin, including whether to implement a statewide uniform procedure for improving the quality of voter data for voters registered preceding August 6, 2008, with the DOT and Social Security databases. On August 27, 2008, specifically, the G.A.B. ruled that county and municipal clerks and the G.A.B. staff should:

"Continue with the 'HAVA Check' procedure in effect as of August 6, 2008, through the fall election, **and correct the SVRS database later**. A mismatch with Wisconsin DOT data, in and of itself, shall not result in disqualification of a voter." (official/approved excerpted minutes from the G.A.B. August 27, 2008 Meeting).

We now have the benefit of gathering voter data from the November 4 General and Presidential Election that is still being HAVA Checked, in addition to the Circuit Court's decision upholding the Board's previous action. In accordance with the Board's August 27 decision, staff is proceeding in consultation with clerks to develop a method and guidance on how to improve data quality for voters who were registered prior to August 6, 2008.

## **Issues**

1. On what date should retroactive HAVA Checks commence?
2. Who should conduct retroactive HAVA Checks, clerks or G.A.B. staff?
3. For quality control and consistency, what uniform standards and procedures should be applied and implemented?

## **What is Needed**

In order to ensure consistency and quality control, a uniform process and procedure needs to be developed and applied. Standard criteria will be utilized statewide for conducting retroactive HAVA Checks on voters who registered after January 1, 2006, but before the HAVA Check process became available on August 6, 2008. The Help America Vote Act required states to be in compliance by January 1, 2004. Wisconsin received a waiver to January 1, 2006 to be in compliance.

## **Background**

HAVA requires that voters' information be compared with records at the DOT or SSA when registering to vote. The HAVA Check process became available in SVRS on August 6, 2008, and became mandatory in SVRS for all new voter applications as of August 23, 2008. G.A.B. is considering the most efficient and effective process and procedure to improve the quality of the data in the statewide voter database for voters who registered on or after January 1, 2006, but prior to August 6, 2008. The following background information is helpful to frame the issue and understand the dynamic factors that must be considered.

**HAVA Compliance Milestones:** HAVA required states to be compliant by January 1, 2004, with the option to file a waiver to be compliant by January 1, 2006. Wisconsin was granted the waiver to January 1, 2006, at which point Wisconsin was partially compliant. Approximately one third of Wisconsin's counties were using the SVRS as of that date. The remainder of the State was brought into SVRS and went "live" during the summer of 2006, resulting in all Wisconsin municipalities using the SVRS for the first election in 2006 (the September Partisan Primary). The HAVA Check process was first available in the SVRS on August 6, 2008. On August 23, 2008, the process became mandatory for all new voter applications entered into the system.

**Current HAVA Check Process:** HAVA Checks are currently "run" by local election officials on all new voter applications that are entered into the SVRS. The result of the check usually comes back the following day. If the result is a non-match (no match, partial match, or problem completing HAVA Check), the clerk should take the following steps:

1. Review the paper voter registration application and compare it to SVRS to determine if there is a typographical error. If so, correct the error and "rerun" the HAVA Check.
2. If no typographical error is found, send the DMV Ping Notification letter to the voter, notifying the voter that the information does not match and instructing the voter to contact the clerk to correct any data errors or inconsistencies.

3. If the voter responds to the letter, validate the relevant information in SVRS with the voter. Make any appropriate updates to the voter record in SVRS and “rerun” the HAVA Check.

If the voter confirms that all information matches SVRS and the HAVA Check still results in a non-match, the clerk should contact the G.A.B. Help Desk. Staff will investigate the reason for failure with DOT or SSA. Non-matches can occur due to special characters such as apostrophes, hyphens, spaces in names, or variations of names. The clerk should attempt the HAVA Check on different variations of the name (i.e. Bill versus William), or with or without the hyphen, apostrophe, or space in order to resolve the non-match.

The outcome of a HAVA Check Non-match: There are several reasons a HAVA Check may result in a non-match. The most serious reason could be that a voter gave false information when registering to vote. However, the data that have been analyzed to date, show that the overwhelming reason for a non-match is that the information is incorrectly inputted into SVRS, or there are differences in a voter’s name format or name variation in the three databases.

On August 27, 2008, the Board ruled that a non-match with Wisconsin DOT data, in and of itself, shall not result in the disqualification or disenfranchisement of a voter. However, the Board decided that additional information was needed before deciding what, if any, the next step may be. The Board asked staff to collect specific data regarding the HAVA Checks that were “run” from August 6, 2008 when the HAVA Check process became available, and November 4, 2008 (the date of the 2008 Presidential and General Election).

### **Discussion**

The G.A.B. has several critical factors to consider for developing a sound and defensible policy for retroactive HAVA Checks.

1. What is the appropriate pool of voters for the retroactive HAVA Check process?

Significant considerations in this decision are:

- A. Should the Board require HAVA Checks on all voters who were entered into the SVRS since January 1, 2006, who have not yet received a HAVA Check?
- B. Should the Board perform HAVA Checks on voters who registered after January 1, 2006, but before the SVRS went “live” in the voter’s region?
- C. Can the Board rely on data that was converted into SVRS from local municipal voter registration systems to determine when those voters actually registered?

2. What is the intent and purpose of the HAVA Check Process?

The purpose of the HAVA Check process is to improve the quality of the data in SVRS by comparing the voter information in SVRS to another data source (DOT or SSA). The HAVA Check process was never intended to determine a voter's eligibility to vote. Voter eligibility is based on factors such as whether a voter has resided at their residence at least 10 days with no present intent to move; whether the voter is eighteen years of age or older; and, whether the voter is not currently serving a sentence related to a felony conviction.

Clearly the HAVA Checks do not verify any of these eligibility requirements. However, the HAVA Checks are very useful in detecting and correcting data quality issues such as typographical errors, a voter's name format, or name variation within databases that were not designed with the intent to facilitate perfect data matches. These data "corrections" improve the quality and integrity of the voter registration list.

3. How much work should be required of local election officials related to these checks?

Due to the volume of voters that would be checked retroactively (872,014), this process could place a significant burden on local election officials. Implementing the HAVA Check process requires time-consuming steps in order to resolve a non-match. Paper registration forms for voters who registered in 2006 or 2007 may no longer be readily available to clerks if they are stored offsite. Currently, the HAVA Check process in SVRS may only be "run" one voter at a time which is not an efficient use of personnel and other resources.

### **Recommendations**

G.A.B. staff makes the following recommendations regarding the retroactive HAVA Check Process:

1. In order to obtain the best quality voter data, perform the HAVA Check on voters who registered on or after January 1, 2006, but who have not yet had a HAVA Check. Include records that were converted into SVRS from local municipal voter registration systems, using the most reliable information that is available to determine when they actually registered.

Rationale: This ensures that the HAVA Check process is completed for voters for whom it is required; thereby, ensuring the best available quality of data are maintained in SVRS.

2. G.A.B. will conduct statewide HAVA Checks on voter records between January 1, 2006 and August 5, 2008. The capability is being developed in SVRS that will enable G.A.B. staff to "run" the retroactive HAVA Checks in batches/bundles.

Rationale: Having G.A.B. staff "run" HAVA Checks will ensure uniformity and consistency across-the-board, statewide. Plus, this single point of operation alleviates the need for local election officials to have to manually conduct each HAVA Check individually, one voter at a time.

3. Commence performing retroactive HAVA Checks on May 1, 2009, and complete the process by December 1, 2009 (7 months).

Rationale: Even with G.A.B. conducting the HAVA Checks in bulk, there is still a significant burden of follow-up work that local clerks may need to complete. It is not practical or feasible for clerks to perform this work while performing the election-related tasks for the February Primary and April Spring Election, as well as attend to their other clerk duties.

## **G.A.B.'s HAVA Check Process**

1. On behalf of all municipalities, G.A.B. staff will send an appropriately worded WI DMV Ping Notification Letter to voters whose HAVA Check results in a non-match. The letter will include return contact information for the G.A.B. (not the municipal clerk), and request the voter to contact G.A.B. within 30 days to verify their information. The G.A.B. will validate the voters' information and "rerun" the HAVA Check.
2. The G.A.B. will provide reports to clerks (both county and municipal) listing which voters were impacted by a non-match during the retroactive HAVA Checks. Municipalities will be given the option to have Ping letters sent immediately after the retroactive HAVA Checks are "run", or sent 60 days after the checks are "run", giving municipalities the opportunity to clean up errors prior to having the letters sent.

Rationale for both Steps 1 and 2: This procedure helps alleviate much of the burden of follow-up work for the local clerks. Given that these voters registered as much as two years ago, it may not be practical or feasible for all municipalities to validate the data against the original voter application. The expense of sending the appropriately worded WI DMV Ping Notification Letter to all voters who result in a non-match is less than the expense in staff time required for clerks to find and pull original registration forms and validate the information.

3. The August 27, 2008, ruling of the Government Accountability Board continues in effect (refer to G.A.B.'s August 27 ruling on page one of this Protocol).

Rationale: Many of the voters who will be affected by the retroactive HAVA Check process have been registered for several years, and most have already voted in one or more elections. Since, the HAVA Check does not determine voter eligibility, and these voters have clearly been voting, it would be inappropriate to apply any penalty against voters merely because their data in two different databases do not match.

G.A.B. must ensure that voters are not disqualified or disenfranchised simply because their name is spelled or formatted differently or varied in two different state databases. However, if a clerk suspects voter fraud as a result of the retroactive HAVA Check process, the G.A.B. staff and the District Attorney should be notified. The HAVA Check is simply an additional tool that clerks can use to compare voter data. It is not an "across the board" fraud detection tool.

## **Proposed Timeline and Activities**

The G.A.B. proposes the following general timeline (**May 1 - December 1, 2009**) and activities for completing the retroactive HAVA Check process. Note it is anticipated that this timeline will vary. The timeframes below are intended to be general and are expected to overlap.

1. **May 1, 2009 - June 30, 2009**

G.A.B. Staff “runs” HAVA Checks.

- A. Throughout this period of time, G.A.B. staff will conduct retroactive HAVA Checks on a county-by-county basis -- in population order -- beginning in descending order, with the largest population counties. This will be done on a rolling basis as the HAVA Checks are performed.
- B. This process allows those municipalities with the greatest number of HAVA Checks the longest amount of time to follow up. Running checks by counties also makes the follow up process simpler for providers because all their municipalities will be “run” at approximately the same time.
- C. Once the HAVA Checks are “run” for a given county, reports of voters with a non-match status will be sent to both the county clerks and the appropriate municipal clerks within the respective counties.
- D. Clerks are encouraged to make a determination as soon as possible if they wish to follow up with voters through telephone contacts to attempt to correct the non-matches, or if they wish to have G.A.B. send out Ping Letters.

2. **July 1 – September 1, 2009**

During this timeframe, clerks are given the opportunity to follow-up with voters to attempt to correct the non-matches, or ask G.A.B. staff to send Ping Letters to voters.

- A. Clerks are given the opportunity to follow up with voters to attempt to correct the non-matches. If clerks wish to follow up with voters to attempt to correct the non-matches, they will have from July 1 – September 1, 2009, to do so.
- B. If clerks do not wish to conduct follow up telephone calls, they should make this decision as soon as possible, but no later than September 1, 2009. G.A.B. will then send out Ping Letters to those affected voters.
- C. Clerks who choose to follow up with voters to attempt to correct the non-matches should inform G.A.B. staff as soon as possible, but no later than September 1, 2009, of the voters who did not respond to telephone contacts.

3. **September 1- October 31, 2009**

During this timeframe, G.A.B. staff will mail Ping Letters on behalf of clerks.

- A. In an appropriately worded Ping Letter, voters will be asked to respond to G.A.B. within 30 days.
- B. G.A.B. staff will compile county-by-county reports of the outcome of the Ping letter mailing and send to both county and municipal clerks.

4. **November 1 - December 1, 2009**

During this time, G.A.B. staff will develop a report of the 2009 Retroactive HAVA Check Process, to present to the Government Accountability Board during its December 14, 2009 regular meeting.

5. **December 14, 2009: G.A.B. Board Meeting.** G.A.B. staff will provide a final report on the retroactive HAVA Check process to the Board at its December 14, 2009, meeting.

**Communication Plan**

It is critical that G.A.B. remains in close communication with local election officials throughout this retroactive HAVA Check process. Communication is intended to take place in the following ways:

1. G.A.B. staff met with the SVRS Standards Committee on November 24, 2008, to review preliminary recommendations and gather feedback for further development of uniform standards and procedures for conducting retroactive HAVA Check of voter records.
2. G.A.B. staff posted the draft protocol on the G.A.B.'s website on November 28, 2008, and sent it to county and municipal clerks for review on December 1, 2008.
3. G.A.B. staff presented an interim report to the G.A.B. at its December 17, 2008 meeting for information or consideration.
4. Between the December 17, 2008, G.A.B. meeting, G.A.B. staff continued to ask clerks to provide feedback on the proposed protocol.
5. Present the Protocol to the G.A.B. at its January 15, 2009 meeting for formal acceptance and approval. Clerks have been invited and encouraged to attend the Board's January 15, 2009 meeting.
6. Share the retroactive voter record protocol with the two major political ballot parties, state agencies (Department of Transportation and the Department of Administration's Division of Enterprise Technology), the Federal Social Security Administration, county, labor and community groups.
7. Following the January 15, 2009 G.A.B. meeting, share G.A.B.'s ruling on the retroactive voter record protocol with the Legislature, all municipalities, clerks and the general public.
8. Prepare a timeline with communication milestones based on the G.A.B. decision, keep the Legislature, municipalities, clerks and the general public duly informed before, during, and after the actual retroactive HAVA Check processing.

# State of Wisconsin\Government Accountability Board

Post Office Box 2973  
17 West Main Street, Suite 310  
Madison, WI 53701-2973  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE THOMAS CANE  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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**DATE:** For the January 15, 2009, Meeting

**TO:** Members, Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board

Prepared and Presented by:  
Michael Haas and Shane Falk  
Staff Counsel

**SUBJECT:** A Legal Analysis: HAVA Checks and Voter Eligibility Requirements

This memorandum outlines the legal qualifications for an individual to be an eligible voter in Wisconsin, and the relationship between those qualifications and the mandates of the Help America Vote Act of 2002 (HAVA). As the Board has discussed and determined on several occasions, the requirements of HAVA to compare the names of voters on the State's official voter registration list against the databases of the Department of Transportation (DOT) and the Social Security Administration (SSA) are tools to update and maintain the quality of voter data on the official list. The process of conducting a HAVA Check for a voter is separate from determining voter eligibility. Whether a HAVA Check results in a match or non-match as compared to the other databases has no direct impact on an individual's eligibility to vote.

The U.S. Constitution and federal statutes secure the rights of adult citizens to vote and prohibit denial of that right based on race, color, and gender. The Wisconsin constitution is the basis of requirements for voter eligibility in the State. Article III, Section 1 of the Constitution states simply that "Every United States citizen age 18 or older who is a resident of an election district in the state is a qualified elector of that district." Article III, Section 2 further authorizes the Legislature to enact laws defining residency, providing for registration of electors and absentee voting, and excluding as eligible voters incompetent individuals or those convicted of a felony, unless their civil rights have been restored.

Consistent with federal law and the Wisconsin Constitution, the Legislature has codified voter qualifications in Wis. Stats. §§6.02 and 6.03. Under Wisconsin law, therefore, an individual is qualified to vote who:

- 1) Is a U.S. citizen,
- 2) Is age 18 or older,
- 3) Has resided in the election district or ward where he or she offers to vote for 10 days,
- 4) Has not been adjudged incompetent, and
- 5) Has not been convicted of treason, felony, or bribery, unless the person's right to vote has been restored through pardon or completion of the sentence.

As noted by Dane County Circuit Court Judge Sumi in the Court decision in J.B. Van Hollen et. al v. Government Accountability Board et. al, Dane County Court Case 08 CV 4085, none of the provisions of HAVA affect the fundamental voter eligibility qualifications. HAVA mandates action by States with regard to voting systems, accessibility for individuals with disabilities, and establishment and maintenance of the official statewide voter registration list. HAVA establishes no additional voter qualifications, except in the limited case of a first-time voter who registered by mail and who must either provide a photo identification or current proof of residence, or else must vote by provisional ballot. A successful HAVA match eliminates this additional requirement.

Section 303 of HAVA establishes the requirement to conduct HAVA Checks. That section mandates the creation of a computerized list containing the name and registration information of every legally registered voter in the State, which shall serve as the official voter registration list for federal and state elections. *HAVA §303(a)(1)(A)(ii) and (vii)*. HAVA requires that individuals, upon registering to vote, provide a current driver's license number, if they have one, or last four digits of their Social Security Number, for those who do not. Voters who have neither a driver's license nor a Social Security Number are assigned a separate identification number for purposes of the official registration list. *HAVA §303(a)(5)(A)*.

Once a voter registers, HAVA requires the State to compare the voter information with that in the State's department of motor vehicles or the Social Security Administration databases. HAVA requires the State to conduct the match to the extent required to verify the accuracy of the information provided on the voter registration application. *HAVA §303(a)(5)(B)(i)*. HAVA also granted to the States, and therefore to the G.A.B., discretion regarding the methods of complying with the HAVA Check requirements. *HAVA §305*.

HAVA clearly does not mandate the imposition of a consequence or penalty for a voter whose voter registration data does not precisely match information contained in the DOT or SSA databases. The HAVA match process also does not alter the voter eligibility requirements established by state law. As Judge Sumi noted, "Notably, though, there is no requirement in Wisconsin law there be a driver's license or a Social Security number for registration. There is no state law requirement that data in a voter list must match data kept by any other agency as a precondition to voting." *Order in Dane County Court Case 08CV4085 at 10*.

In her decision, Judge Sumi also emphasized that HAVA must be read in the context of the Voting Rights Act of 1965 and its prohibition on official government action denying the right to vote "because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under state law to vote in such election." *Court Order at 12*.

In its comparison and reference to the Voting Rights Act of 1965, the Court recognized that the results of the HAVA Check process is a factor that is not material in determining whether an individual is qualified to vote under state law. In fact, as demonstrated by the review and analysis completed by G.A.B. staff, HAVA Checks of many eligible voters have resulted in non-matches. Conversely, it is entirely possible for a HAVA Check of an ineligible voter to result in a match, if, for example, the voter has recently moved out of a ward without updating his or her motor vehicle record.

The decision of the Dane County Circuit Court crystallized and confirmed the conclusion that under the federal and state constitutions and statutes, the G.A.B. properly exercised its discretion in upholding the right to vote in the case of HAVA Check non-matches, and in recognizing the distinction between the results of a HAVA Check and the fundamental requirements for voter eligibility in Wisconsin.

In short, the purpose of HAVA Checks is to assist in improving the quality of voter data in the State's official voter registration list on an ongoing basis, not to convert an otherwise qualified voter into an ineligible voter. By enacting and implementing HAVA, neither Congress nor the Legislature has altered the longstanding basic voter eligibility requirements, namely U.S. citizenship, age and residency, along with an absence of disqualifying factors such as a felony conviction or a finding of incompetency.

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## **Interim Report**

(Presented to the Government Accountability Board at the December 17, 2009, Meeting)

Prepared by Sarah Whitt  
SVRS Functional Team Lead

### **Status of Retroactive HAVA Checks** (January 1, 2006 – August 5, 2008)

#### **Background**

The Federal Help America Vote Act of 2002 (HAVA) required Wisconsin to compare voter registration information with information on file with the Department of Transportation, Division of Motor Vehicles (DMV) or the Social Security Administration (SSA). These “HAVA Checks” became available in the Statewide Voter Registration System (SVRS) in August 2008.

In January 2009, the Government Accountability Board (Board) approved a protocol to perform “Retroactive HAVA Checks” on all voters who registered on or after January 1, 2006, but before August 6, 2008 when the checks became available in SVRS. In accordance with the protocol, the Retroactive HAVA Checks were performed in May and June of 2009:

- 777,561 Retroactive HAVA Checks were performed in SVRS
- Approximately 120,000 of the checks initially resulted in a non-match.

The protocol provided that Board staff would send letters to all voters whose Retroactive HAVA Check resulted in a non-match, requesting that they contact the Board to verify or correct information in order to achieve a successful match. Municipal clerks were given two options related to the letters:

1. Send letters their voters immediately (the first wave of letters).
2. Delay sending the letters until the fall of 2009, giving clerks time to attempt to resolve their non-matches before having their letters sent (the second wave of letters).

The protocol also called for Board staff to present a final report on the Retroactive HAVA Check project at the December 2009 Board Meeting. However, Board staff opted to extend the timeline on the project to allow time to revisit the process used for the letters that were sent to the voters with a non-match. Many important lessons were learned with the first wave of letters, and Board staff felt it was critical to apply that learning to the second wave of letters. Unfortunately, revising the process delayed the mailing of the second wave of letters from September (as planned) to late November. Therefore, Board staff is not able to present a final report at the December meeting. This interim report is being presented at the December meeting, and the final report will be presented at the March 2010 meeting.

### First Wave of DMV Ping Letters

The first wave of DMV Ping Letters was mailed in July 2009 for those municipalities that opted to have their letters sent immediately (approximately 87,000 letters were mailed on July 31, 2009). The DMV Ping letters informed voters that some of their voter information did not match the information on file at DMV or SSA and instructed the voters to contact the Board's Help Desk within ten (10) days to verify their voter information.

### Voter Response to First Wave of Letters

Voter response to the letters was greater than anticipated and overwhelmed Board staff and facilities. Many voters were unable to get through to the Help Desk at all, or were forced to leave multiple messages. Many voters responded via e-mail, fax, or wrote letters. Board staff brought on temporary workers via a State contract to assist in handling the high call volume.

The first wave of letters resulted in the following responses, with some voters taking multiple actions:

- Approximately 17,000 of the letters were returned by the post office as undeliverable.
- Tens of thousands of voters reached the Help Desk by telephone.
- Approximately 5,500 voters had to leave messages and were subsequently contacted by Board staff to have their information verified.
- Approximately 9,000 voters sent e-mails.
- Approximately 560 voters sent letters or faxes.
- Approximately 25,000 total voters were able to reach the Help Desk in some form and have their information verified.

### Second Wave of Letters

In response to comments and feedback regarding the approach used for the first wave of letters, Board staff revisited the process for the letters that would be sent to voters in those municipalities that opted to have their letters delayed until the fall. Board staff prepared recommendations for the second wave of letters, and solicited feedback from municipal and county clerks to ensure a more sound process. Some notable improvements in the revised approach included:

1. The letter to voters specified which data element did not match (name, date of birth, driver license number, or social security number) to reduce voter confusion and any perception that the letters were a scam.
2. The letters were staggered in batches of 5,000 to better manage the volume of responses.

3. The letters asked the voter to fill out a form to verify their information and return it in a postage-paid business reply envelope. Contacting the Help Desk phone number was encouraged only if voters had questions regarding the letter.

While the new protocol greatly improved the process, development of the protocol delayed the mailing of the second wave. Originally targeted to be mailed in September, the second wave of letters was actually mailed out in late November and early December:

- The first 5,000 letters were mailed on November 25, 2009.
- The second 5,000 letters were mailed on November 30, 2009.
- The last batch of 4,918 letters was mailed on December 4, 2009.

The following chart provides the breakdown of the number of letters that were mailed out, based on which piece of information did not match:

<b>Letter</b>	<b>Count</b>
Name Does Not Match	9,527
Driver License Does Not Match	3,882
Date of Birth Does Not Match	643
SSN Non Match	866
Total:	14,918

### Current Activities

In November, Board staff hired limited-term employees (LTEs) to assist in correcting the voter registration records for the voters who responded to the letters, and to handle phone calls from voters related to the second wave of letters.

Below are some relevant current statistics as of December 1, 2009:

- Board staff has corrected over 10,000 of the 25,000 voters who contacted the Help Desk to have their information verified and corrected.
- The current match rate for the Retroactive HAVA Checks is 89% (88,118 current non-matches). This is significantly higher than it was when the Retroactive HAVA Checks were first run. The initial match rate right after the checks were first completed was only 84% (120,973 initial non-matches).

The remaining non-matches represent a variety of circumstances, including (but not limited to): voters whose letter was returned undeliverable; voters who responded but whose data has not yet been corrected; voters who were included in the second wave of letters and have not yet responded; voters who could not get through to the Help Desk; voters who have correct information in SVRS but incorrect information at DOT and therefore remain a non-match; or voters who simply did not respond to the letter. Board staff is considering different options to address the remaining non-matches. The number of non-matches is expected to continue to decrease as voters respond to the second wave of letters, and as Board staff continues to make corrections.

Next Steps

A final report will be presented to the Board at the March 2010 meeting. The final report will include updated statistics on the number of non-matches remaining, including the reasons for the non-match, as well as additional relevant information regarding the overall results of the Retroactive HAVA Check project, and the lessons learned from this initiative.

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wi.gov](mailto:gab@wi.gov)  
<http://gab.wi.gov>



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

(Date)

Voter Number: (0000000000)

(Voter Name)

(Voter Address Line 1)

(Voter Address Line 2)

(Voter City, State Zip Code)

(Postal Bar Code)

Dear (Voter Name):

**This letter concerns information about your voter registration in the State of Wisconsin. Please read this message in its entirety and comply.**

Federal and State laws require the State to compare certain voter information. At its January 2009 meeting, the Government Accountability Board approved a procedure to conduct a comparison of voter information in Wisconsin's Statewide Voter Registration System (SVRS) with information from the Wisconsin Department of Transportation and Federal Social Security Administration for registered voters. This procedure implements a uniform statewide process for improving the quality of voter data for those voters who registered after January 1, 2006, and prior to August 6, 2008. All voter registration records entered into SVRS after August 6, 2008, have already been compared to facilitate list maintenance.

You are receiving this letter because some of the information provided on your voter registration application does not match the records at the Wisconsin Department of Transportation or U.S. Social Security Administration.

**Please contact the Government Accountability Board** at (608) 261-2028, or by email at [gabhhelpdesk@wi.gov](mailto:gabhhelpdesk@wi.gov), within the next 10 days. You will be asked to verify the spelling of your name, your date of birth, and your driver license number or last four digits of your social security number.

Personal information such as your date of birth, driver license number, and last four digits of your social security number is kept confidential and protected under state law. By providing correct information, you protect yourself from the possibility of a mismatch with other voter information within the SVRS and other databases with which SVRS information is compared. Your cooperation assures the accuracy of the registration process for all voters in Wisconsin.

Thank you for your interest in elections in Wisconsin and for voting. We appreciate your expeditious response.

Sincerely,

**NATHANIEL E. ROBINSON**  
Elections Division Administrator  
Government Accountability Board

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: gab@wi.gov  
http://gab.wi.gov



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

(Date)

Voter Number: (0000000000)  
(MailingID barcode)  
(HINDI)

\*\*\*\*\*AUTO\*\*5-DIGIT 00000

(Voter Name)  
(Voter Address Line 1)  
(Voter Address Line 2)  
(Voter City, State Zip Code)  
(Postal Bar Code)

Dear (Voter Name):

The Government Accountability Board's Elections Division has identified a difference between your voter record and your Wisconsin driver license or identification card: **Your NAME does not match.** Please help us correct your information by doing as follows:

1. Look at your name as it appears on your Wisconsin driver license or identification card and compare it to how your name appears on this letter.
2. Fill out all of the information on the form below so we can correct your information. Please **print clearly** and provide the information **exactly as it appears on your driver license/ID card**. If your name or address has changed from what is listed on this letter, you will need to fill out a new voter registration form. Please indicate this on the form below so we can follow-up with you.
3. Return this form, using the enclosed postage-paid envelope, within thirty (30) days. You may return this form to your local municipal clerk instead, if you prefer.

Last Name: \_\_\_\_\_

First Name: \_\_\_\_\_

Middle Name: \_\_\_\_\_

Driver License/ID Card Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

Address Change? \_\_\_\_

Phone number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name Change? \_\_\_\_

*Background information: Federal and state laws require the Government Accountability Board to compare identifying information in the Statewide Voter Registration System with information from the Wisconsin Department of Transportation or the U.S. Social Security Administration. You are receiving this letter because there is a discrepancy between these records. This discrepancy will not affect your voting rights. Your assistance in correcting your voter record assures the accuracy of the registration process for all voters in Wisconsin. Further information is available on our website <http://elections.state.wi.us> or by phone at (608) 261-2028.*

Best wishes and kind regards,

**NATHANIEL E. ROBINSON**  
Elections Division Administrator  
Government Accountability Board

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: gab@wi.gov  
http://gab.wi.gov



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

(Date)

Voter Number: (0000000000)  
(MailingID barcode)  
(HINDI)

\*\*\*\*\*AUTO\*\*5-DIGIT 00000

(Voter Name)  
(Voter Address Line 1)  
(Voter Address Line 2)  
(Voter City, State Zip Code)  
(Postal Bar Code)

Dear (Voter Name):

The Government Accountability Board's Elections Division has identified a difference between your voter record and your Wisconsin driver license or identification card: **Your DRIVER LICENSE NUMBER does not match.** Please help us correct your information by doing as follows:

1. Look at your name, date of birth, and driver license number as they appear on your Wisconsin driver license or identification card.
2. Fill out all of the information on the form below so we can correct your information. Please **print clearly** and provide the information **exactly as it appears on your driver license/ID card**. If your name or address has changed from what is listed on this letter, you will need to fill out a new voter registration form. Please indicate this on the form below so we can follow-up with you.
3. Return this form, using the enclosed postage-paid envelope, within thirty (30) days. You may return this form to your local municipal clerk instead, if you prefer.

Last Name: \_\_\_\_\_

First Name: \_\_\_\_\_

Middle Name: \_\_\_\_\_

Driver License/ID Card Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

Address Change? \_\_\_\_

Phone number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name Change? \_\_\_\_

*Background information: Federal and state laws require the Government Accountability Board to compare identifying information in the Statewide Voter Registration System with information from the Wisconsin Department of Transportation or the U.S. Social Security Administration. You are receiving this letter because there is a discrepancy between these records. This discrepancy will not affect your voting rights. Your assistance in correcting your voter record assures the accuracy of the registration process for all voters in Wisconsin. Further information is available on our website <http://elections.state.wi.us> or by phone at (608) 261-2028.*

Best wishes and kind regards,

**NATHANIEL E. ROBINSON**  
Elections Division Administrator  
Government Accountability Board

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: gab@wi.gov  
http://gab.wi.gov



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

(Date)

Voter Number: (0000000000)  
(MailingID barcode)  
(HINDI)

\*\*\*\*\*AUTO\*\*5-DIGIT 00000

(Voter Name)  
(Voter Address Line 1)  
(Voter Address Line 2)  
(Voter City, State Zip Code)  
(Postal Bar Code)

Dear (Voter Name):

The Government Accountability Board's Elections Division has identified a difference between your voter record and your Wisconsin driver license or identification card: **Your DATE OF BIRTH does not match.** Please help us correct your information by doing as follows:

1. Look at your date of birth as it appears on your Wisconsin driver license or identification card.
2. Fill out all of the information on the form below so we can correct your information. Please **print clearly** and provide the information **exactly as it appears on your driver license/ID card**. If your name or address has changed from what is listed on this letter, you will need to fill out a new voter registration form. Please indicate this on the form below so we can follow-up with you.
3. Return this form, using the enclosed postage-paid envelope, within thirty (30) days. You may return this form to your local municipal clerk instead, if you prefer.

---

Last Name: \_\_\_\_\_  
First Name: \_\_\_\_\_  
Middle Name: \_\_\_\_\_  
Driver License/ID Card Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ Address Change? \_\_\_\_  
Phone number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Name Change? \_\_\_\_

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*Background information: Federal and state laws require the Government Accountability Board to compare identifying information in the Statewide Voter Registration System with information from the Wisconsin Department of Transportation or the U.S. Social Security Administration. You are receiving this letter because there is a discrepancy between these records. This discrepancy will not affect your voting rights. Your assistance in correcting your voter record assures the accuracy of the registration process for all voters in Wisconsin. Further information is available on our website <http://elections.state.wi.us> or by phone at (608) 261-2028.*

Best wishes and kind regards,

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JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

(Date)

Voter Number: (0000000000)  
(MailingID barcode)  
(HINDI)

\*\*\*\*\*AUTO\*\*5-DIGIT 00000

(Voter Name)  
(Voter Address Line 1)  
(Voter Address Line 2)  
(Voter City, State Zip Code)  
(Postal Bar Code)

Dear (Voter Name):

The Government Accountability Board's Elections Division has identified a difference between information in your voter record and the information in your Social Security Administration file. **Please help us correct your information by doing as follows:**

1. Do you have a Wisconsin driver license or identification card? **If you do, state law requires that number to be included with your voter registration.** Please indicate the number on the form below. If not, you may provide the last four digits of your social security number instead.
2. Fill out all of the information on the form below so we can correct your information. Please **print clearly** and provide the information **exactly as it appears on your driver license/ID card, or Social Security card**. If your name or address has changed from what is listed on this letter, you will need to fill out a new voter registration form. Please indicate this on the form below so we can follow-up with you.
3. Return this form, using the enclosed postage-paid envelope, within thirty (30) days. You may return this form to your local municipal clerk instead, if you prefer.

Last Name: \_\_\_\_\_

First Name: \_\_\_\_\_

Middle Name: \_\_\_\_\_

Driver License/ID Card Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Phone number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ SSN (last 4 digits only): \_\_\_\_\_

Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ Address Change? \_\_\_\_ Name Change? \_\_\_\_

*Background information: Federal and state laws require the Government Accountability Board to compare identifying information in the Statewide Voter Registration System with information from the Wisconsin Department of Transportation or the U.S. Social Security Administration. You are receiving this letter because there is a discrepancy between these records. This discrepancy will not affect your voting rights. Your assistance in correcting your voter record assures the accuracy of the registration process for all voters in Wisconsin. Further information is available on our website <http://elections.state.wi.us> or by phone at (608) 261-2028.*

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