

TESTIMONY

NYC Council Committee on Government Operations Oversight Hearing on Increasing the Franchise Monday, November 24, 2003

My name is Joseph Hayden, and I am Director of the NYC Right To Vote Campaign. We are a coalition of 30 groups, including Demos, Fortune Society, Drop the Rock Coalition, Osbourne Association, and many other groups. We are a part of the national Right To Vote Campaign, which is an 8-member national collaborative working in five states to do.... Testifying with me is Ludovic Blain of Demos. Joining us are Kele Williams, from the Brennan Center for Law, and Erika Wood, from the Legal Action Center.

We applaud Speaker Gifford Miller, Deputy Majority Leader and chair of the Committee on Governmental Operations Bill Perkins, and chair of the Committee on Oversight and Investigation Eric Gioia for trying to get city government actively involved in registering citizens to vote. The Pro-Voter law has been regularly ignored by city agencies. We agree with Speaker Miller's statement from a recent press release: "All city government has a legal obligation to help ensure greater voting participation."

The state legislature, the Governor and the state courts decide who is eligible to register to vote, and their decision to disenfranchise citizens imprisoned or on parole for felony convictions has disenfranchised more than 130,000 New York citizens. We would like the state to end the policy of stripping away voting rights from citizens. Voter eligibility should not be linked to criminal convictions, and all citizens, and maybe other people, should be able to cast a meaningful vote. In fact, the litigation that I began as my own attorney while imprisoned, Hayden V. Pataki, attempts to restore voting rights to citizens with felony convictions who are imprisoned or on parole.

We believe that in addition to the New Yorkers who are disenfranchised because of the voter eligibility and criminal conviction link, there are many more thousands of New Yorkers (and people across the country) who don't register because they are not informed of their right to vote. Misinformation, rumors and fear have taken the place of public education on the issue.

In Connecticut, where the law is now the same as New York State after a 2001 law enfranchising people on probation passed, the state Department of Corrections has a videotape available to its facility libraries that includes voting eligibility information. It is also training staff to inform them about voter eligibility. Other states, like Kentucky and Nebraska, require voter eligibility information to be given to people as their disenfranchisement ends. Some cities, like Philadelphia, are taking action as well.

In the absence of much-needed action by the state legislature and Governor, the City Council has its own role--ensuring that every citizen eligible under state law: a) knows that she can vote, b) is provided with a voter registration form, c) gets the help that she might need to correctly fill out the form, and d) knows that the form will be sent to the board of election in time for her to be registered for the next election. We hope this law can be in place before the upcoming Presidential primary, and that it is fully operational in time to educate, engage, and register New Yorkers for the Presidential election in November.

We know that there is widespread confusion about who is and isn't eligible to vote, especially for people who have interacted with the criminal justice system—people who are picked up by the police, pre-trial detainees held at Rikers Island and other facilities, people convicted of misdemeanors or felonies, people on parole or probation, and even those that have completed their sentence. Many have no idea that *only prisoners incarcerated for felony offenses, and those on parole can't vote*. Pre-trial detainees, those sentenced to probation, and citizens who have completed their sentences can vote like any other eligible citizen. We've found a lack of accurate information in agencies like the county board of elections, criminal justice departments, and city-funded service providers.

The voting strength of New York City's communities is severely weakened if otherwise eligible voters don't know that they can actually vote, and aren't encouraged to do so. That translates directly into less political clout for our communities -- and less government funds for improving schools, expanding affordable housing, or accessing decent jobs. Less voting in New York City also means that we lose political power to other parts of the state.

There are several specific provisions of the bill that will help people and communities impacted by the criminal justice system. We will also spotlight proposed additions to the bill. In general, we want to make sure that agencies have clear voter registration plans that are openly discussed, that an equal focus is given to form distribution as well as public education through staff training, that forms and absentee ballots are coded so that the Council and the public can know how well each agency program is doing, and that the Board of Elections is encouraged to permanently remove barriers many former prisoners face when trying to register.

Require annual training for city employees in implementing the Pro-Voter Law. In order to increase voter participation, staff at city agencies must themselves know the law. If we expect city workers to be able to efficiently help New Yorkers register to vote, these workers must be provided with easy to understand, accurate and engaging information about voting. This includes new ID requirements based on the New York City Board of Elections interpretation of state legislation implementing the federal Help America Vote Act (HAVA). Doing this would not only encourage voting by the people they are serving, but also by the workers themselves and by their

families. It would also make Election Day easier for all New Yorkers by reducing confusion at the polls.

Many believe that persons involved with the criminal justice system forever lose their right to vote. This misperception is shared by staff in city agencies like the county board of elections and criminal justice agencies, and by service providers. The city should correct these disenfranchising misconceptions.

Provision 2. Requiring all voter registration forms to be coded by participating agencies. The only way to know how effective an agency's voter registration program is is to be able to count the number of forms it is producing. We are disappointed by recent reports that only a few dozen of the citizens at Rikers Island attempted to vote by absentee ballots in recent elections. Coding would also help to identify what additional training agency staff need in order to help correct common mistakes in filling out the forms.

Provision 3. Requiring participating agencies to collect registration forms and forward them to the Board of Elections. This is a crucial advance because everyone who has done voter registration knows that people who receive voter registration forms rarely fill them out and send them in.

We suggest two additions to this section of the bill:

- a) We also think that forms submitted to the board of elections by City agencies should be exempt from the HAVA ID requirement triggered by mailed in forms.
- b) Any agencies that have citizens who are qualified for absentee ballots, in particular the Department of Corrections, should 1) educate people about their availability, 2) assist them with requesting an absentee ballot, 3) handle them in a secure fashion, 4) keep track of the absentee ballot, which should be coded by agency but only in a way to ensure confidentiality.

Provision 4. Mandating that voter registration forms are attached to all agency forms. This is the only way to make sure that people interacting with city agencies will get a form. Training City workers will ensure that the forms get filled out correctly.

One proposed addition to this section is:

- a) Requesting that agencies, whenever possible, attempt to ease the process of registration by printing out forms with the applicant's information already on it, where the applicant would then only have to pick a party affiliation and sign the form. This system is already in place in some California community colleges.

Provision 5. Requiring the New York City Housing Authority (NYCHA) and Human Resource Administration (HRA) to be participating agencies in the Pro-Voter Law. Black and Latino communities are disproportionately impacted by the criminal justice system. Although people with felony convictions may lose the ability to live in NYCHA housing, expanding Pro-Voter to NYCHA can still reach their

family members. HRA coverage will reach people visiting job centers and food stamp offices. Effective staff training and public education in these agencies will also help to correct disenfranchising misconceptions.

There are three other areas we think the bill should address.

Making sure each public high school senior has the chance to register is a great idea. There was a recommendation from the Council report to require high schools to distribute a voter registration form with every high school diploma. We are disappointed this is not in the bill. Many students will become eligible before they graduate, so the program might be more effective if a form was given to them when they turned 18. In any case, in addition to handing out a voter registration form, city schools should distribute accurate and engaging information about both who can vote, and why people should vote.

The City Council should exercise its oversight authority to monitor the NYC Board of Elections and ensure that the Board erects no barriers to voting by citizens with involvement in the criminal justice system. The Brennan Center, CSS and Legal Action Center found that many county boards of elections were illegally asking former prisoners to prove that they were eligible to vote (such as by providing Certificates of Relief). The state Board of Elections has agreed to end the practice. The New York City Council should keep watch to make sure that the NYC Board of Elections stops blocking former prisoners from voting.

The City Council should enhance its oversight authority by requiring that voter registration statistics be included in the Mayor's Management Report, and the Preliminary Mayor's Management Report. Now that the Mayor's attempt to stop producing the MMR has been defeated, we think that voter registration is an important enough agency objective that it should be tracked and reported in the MMR and PMMR. All agencies should report the number of forms handed out, and the number of resulting registrations they forwarded, as well as the total number of forms coded from that agency that were received by the Board of Elections. If possible, this should be done by borough. Certain agencies, such as the Department of Corrections, should also report absentee ballots. Doing so would enable the Council and the public to review agency voter registration performance at least twice a year.

The intention of the original PRO-VOTER legislation, and these enhancements, is noble. Enhancing and passing the bill is just the first step. If there is one lesson from Motor Voter, Pro-Voter, and other election reform successes, it is that they require ongoing commitment and oversight. The City Council must make sure to monitor the progress of this bill as we move towards upcoming presidential primary and general election in 2004.