ROVAC
REGISTRARS OF VOTERS
ASSOCIATION OF CONNECTICUT

GAE Testimony: March 11, 2008 Submitted by George Cody, President, ROVAC

HB 5888 AAC REVISIONS TO THE OPTICAL SCAN VOTING MACHINES

Sen. Slossberg and Rep. Caruso, and members of the GAE Committee, the registrars of Voters Association would like to identify several problems or areas of confusion in the proposed bill **HB 5888 AAC Revisions To The Optical Scan Voting Machines**. We would further strongly recommend that the Committee and the Legislature defer action on this bill until more time can be taken to evaluate the operation and procedures of the proposed 'Audit Team', and the effect of this bill on ballot security in the post election environment.

The Registrars of Voters Association does not oppose the concept of an independent Audit Board, which would include the involvement of the Attorney Generals office. We feel the Secretary of State in conjunction with UCONN has established a comprehensive process of pre and post-election memory card testing and further pre-election testing of every memory card by registrars. This is complimented by an audit program, which samples a random sample of districts and ballot positions. Problems found in the November audits were addressed with new clearer procedures used in the February Primaries. There are those who will never be satisfied with any audit program that does not recount every ballot in every election. **We feel that the system designed by the Secretary of State should be given the opportunity to improve upon itself**, perhaps with further modification as to the independent nature of the audits.

The bill before you creates an 'Audit Team' appointed by the Attorney General which shall "oversee, supervise and require election officials to conduct an audit of the results of an election in accordance with…Any procedure designed, adopted and implemented by the audit team shall be implemented…" **There appear to be several contradictory elements to the bil**l, which I will address in bullet form. The public and Registrars have had limited time to study the bill, and we were not consulted or advised of its content. **We look forward to working with the committee and the bill's authors to clarify some of its elements.**

- **The bill is effective upon passage**. There are so many questions and procedural issues to be worked out, that it should not be applied to the November Presidential election. The ability of the Attorney Generals office and the proposed audit team to effectively deal with current

election law will take time, since neither has previously worked with existing election laws and management. **The effective date should be deferred.**

- **Current audit provisions limit the audited ballots to those run through the tabulator in a specific polling place. The purpose of the audit program is to test the accuracy of the tabulator in random polling places. The proposed audit plan would appear to expand the audit to all ballots including hand counted, and all ballots not counted at the polling place.**
- **In contrast, close vote re-canvasses are designed to recount all votes cast in an election. Special consideration needs to be given to the proposed provisions relating to close vote re-canvass procedures. Section 1 (9) (D) states that Audit procedures would replace close vote procedures, and be used as the official results.** Further, the handling of ballots, batching of ballots, and possible transfer of ballots would violate sequestering procedures prior to a re-count. **Registrars have asked repeatedly that districts under restrictions of re-counts be excused from any audits to preserve the re-count.** We ask that the Committee take special consideration of this possibility. Every district and municipality involved in a re-canvass or close vote re-count should be subject to the same methodology.
- **Section 2 states that any re-canvass be conducted by hand counted a reversal of existing law. The Registrars of Voters Association would like to see the retention of existing regulations allowing the use of tabulators** in re-canvasses. Post election testing and audits; along with past recounts have proven the accuracy of the tabulators. Ongoing random auditing will assure future accuracy. **Recent testimony given Monday March 10 before this committee by Professor Shvartsman of UCONN further endorses the statistical accuracy of the tabulators**
- Section 1; (4) (A) (Line 69) creates a **very confusing process of dividing the ballot into 'audit units'** or batches. Part (A) of this section further states that 'prior to each election, the audit team shall direct the appropriate election official to divide the ballots into batches'. **Are election officials being asked to precount and batch all ballots prior to the election "Not associated with any particular district?** Part (B) of this section seems to suggest the electronic counting of these ballots and may require extensive stopping and starting to record each batch's totals. **This section needs to be rewritten so as to explain the purpose and clearly balance the procedures with existing security statutes.**
- Section 1 (2) specifies that the Attorney General shall, 'within a reasonable period of time', select the districts to be audited **"and not later than twenty four hours after such announcement, the audit shall commence." This is an unrealistic deadline, requiring**

Registrars to secure space, staff, and the necessary election material within twenty four hours of their selection. Further, line ten sets the number of audited districts to be not less than two percent of the voting districts, yet **line 99 then allows the audit team to select as many additional districts as wanted** based upon un-audited election results, past problems, or any other information they may have. **We are currently auditing ten percent.**

- Section 1 (7) requires that "**no municipal election official shall certify the results of any election that is subject to an audit...' This could cause unnecessary delays in determining the winner of elections even in uncontested positions or in municipal offices which commence immediately after the election..**
- The 'Audit Team" as defined needs to be clarified. Creation of an Audit Board to oversee audit teams seems a better course. Beyond "not less than four members, one of whom shall have verifiable expertise in the field of statistics and another member who shall have verifiable expertise in the field of auditing", membership or size is poorly defined. Will there be additional audit teams assigned to all local audit locations? **The proposed bill has no mention of whether local or centralized audits are to be adopted. If audits are to be regional, this is too crucial an issue to leave to the board undefined, and directly involves the transport of ballots, tabulators, chain of custody and secured election documents.**
- Line 40 of the bill proposes that any procedure designed, adopted shall ensure that "not less **than ninety-nine percent statistical power** ...a one hundred per cent manual recount". **Besides establishing a one hundred percent hand counted audit of all ballots, does this section set a ninety-nine percent accuracy threshold? Further in the same section (Lines 46 through 49), it defines "the possibility that within any election district up to twenty percent of the total votes cast may have been counted for a candidate or ballot position other than the one intended by the voter...". I am not aware of any testimony justifying this twenty percent error rate. Then on line 149 the bill sets a threshold of one tenth of one percent (1 in 1000), to justify the 'expansion' of the audit (?).**
- Finally, Sections 3, 4, & 5 of the raised bill are taken from bills already heard by the committee. Sec. 3 is the Voters Bill of Rights. But sections 4&5 deal with polling place arrangement of privacy booths and tabulators. **The Secretary of State proposed a 'zone of privacy' around each privacy booth, but to put a three foot rule in statutes would handcuff Registrars dealing with unique polling place design, and perhaps disqualify a number of polling places, thereby displacing voters. Registrars should be required to take all**

necessary steps to assure privacy within the constraints of the polling place. As to applying the three foot rule to the tabulators, this idea was taken from the old regulations regarding the lever machines which required a three foot swing to open their rear doors, and has no relevance with today's tabulators. Each tabulator is attached to battery backup units which are required to be plugged into the wall. Leaving space behind the tabulators might create a safety issue with the wires and potential for voters to kick the plugs out. As in prior testimony, we ask the committee to allow registrars the flexibility to accommodate their unique polling places. Going forward, the Registrars can use the three foot rule as a guideline when searching for appropriate polling places.

Thank you for your time, and I would gladly answer any questions you may have