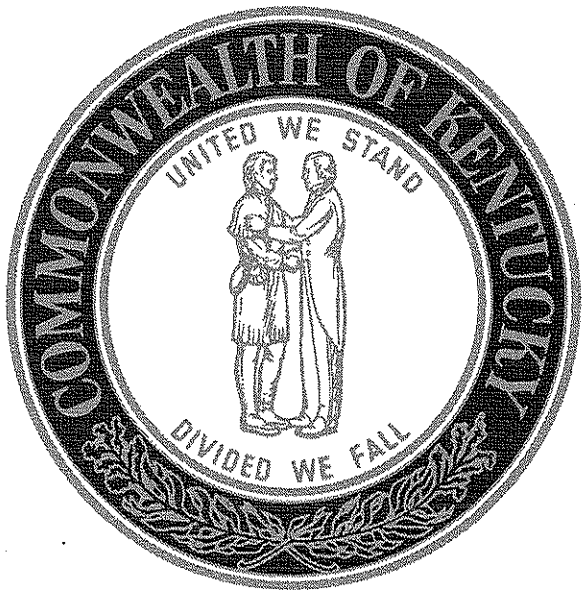

Commonwealth of Kentucky
Preliminary
2006
Amended
State Plan

As required by Public Law 107-252
Help America Vote Act 2002, Section 253(b)

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Introduction

Element 12, as amended, describes the material changes that Kentucky has made to the State Plan filed in 2003, as required by section 254(a)(12) of HAVA. Specifically, Element 12 contains descriptions of the amended versions of Elements 1-4, 6-11, and 13 and lists the progress that the Commonwealth has made with regard to the State Plan that the Commonwealth filed with the Federal Election Commission on July 31, 2003.

The 2006 Amendments to the State Plan of the Commonwealth of Kentucky were developed in accordance with Section 255 of HAVA and the requirements for public notice and comment prescribed by section 256 of HAVA.

Amended State Plan Required Element

12. In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

The following information contains changes to the 2003 State Plan categorized by the specific state plan required element as listed in the previous plan and a listing of the updated information:

1. How the State will use the requirements payment to meet the requirements of and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

Voting System Standards – updated sections of the charts

Voting System Standards	Sec. 301 (pages 96- 102<line 9>)	
HAVA Requirement	**State of Kentucky's Current Status**	**Action Planned**
Allow voter to change or correct any error on the ballot before casting the vote.	Meets the requirement. Some paper ballots in small precincts, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.	A voter education campaign, conducted by the county clerk, has been developed for these precincts.

	Mail-in absentee ballot process.	Instructions on casting a mail-in absentee ballot, included with the ballot, have been updated to include this information.
Prevent or alert voter if he/she over votes on the ballot.	Meets the requirement. Some paper ballots in small precincts, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site. Mail-in paper absentee ballot process.	A voter education campaign, conducted by the county clerk, has been developed in these precincts. Instructions on casting a mail-in absentee ballot, included with the ballot, have been updated to include this information.
All voting systems must be able to produce a paper audit trail of all votes cast.	Meets the requirement.	No action needed.
Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters. This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site.	Meets the requirement.	No action needed.
A uniform definition of what constitutes a vote for each voting system in use in the state.	Meets the requirement. 31 KAR 6:030 Uniform Definition of a Vote	No action needed.

Provisional Voting and Voting Information Requirements– updated sections of the charts

Provisional Voting and Voting Information Requirements	Sec. 302(pages 102<line 10> - 106<line15>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the county board of elections for determination of eligibility and possible counting if voter deemed eligible.	Meets the requirement. 31 KAR 6:020 Provisional Voting	No Action needed.
Each voter who casts a provisional vote shall be given written information on how they can ascertain whether their vote was counted, and if not, why.	Meets the requirement. A voter is given an information sheet at the time his y cast their ballot.	No action needed.
Establish a free access system, such as toll-free phone number or internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why.	Meets the requirement. A link on our website allows provisional voters to ascertain whether their vote was counted, and if not why. A provisional voter may also contact their local county clerk for the same information.	No action needed.
Post information regarding the day of the election and polling hours.	Meets the requirement.	No action needed.
Post instructions on how to vote on the voting system, including how to cast a provisional vote.	Meets the requirement. KRS 117.175 requires the posting of instructions on how to operate the voting machine. 31 KAR 6:020 requires posting of instructions on how to cast a provisional ballot.	No action needed.
Post general information on state and federal voting rights and the right to a provisional vote if they meet the	Meets the requirement. A voter rights and responsibilities poster is posted in each precinct on election day and is	No action needed.

requirements to vote.	also posted on our website.	
Post general information on federal and state laws prohibiting acts of fraud and misrepresentation.	Meets the requirement. KRS 117.030(2) requires conspicuous placement of signs in each precinct stating that vote buying and selling are illegal and the penalties for such acts. KRS 117.030(3) requires conspicuous placement of signs in each precinct informing voters of their right to report any administrative or clerical error they witness to the county board of elections (includes county board contact information). A voter rights and responsibilities poster is posted in each precinct on election day and is also posted on our website.	No action needed. No action needed. No action needed.
Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots.	Meets the requirement. 31 KAR 6:020	No action needed.

2. **How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of –**
   (A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and
   (B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

The State Board of Elections entered into Memoranda of Agreement (MOA) with the 118 county fiscal courts and the two Mayors for the counties with merged county-city governments to meet voting system requirements in HAVA, and upgrade voting systems in the Commonwealth. The counties, per state law, purchased the necessary voting machines and upgrades from the State Board of Election's certified list of approved voting equipment pursuant to local procurement procedures set forth in state law and adopted by the county. The State Board of Elections required each county to send documentation of the purchase of the voting systems or upgrade, which included serial numbers from each component, type of equipment, make and manufacturer of the

voting machine or upgrade. The county was reimbursed within 30 days, per the MOA, once the completed and required documentation was received by the State Board of Elections. All 120 counties were compliant with HAVA voting system requirements by the Commonwealth's first federal election, which was May 16, 2006.

A summary of the MOA elements and the requirements payments paid to the counties follows:

1. $1,160,636.00 to upgrade the Danaher 1242 voting machines, if applicable to the county, in existence in the county as of 1/31/2005 to produce a paper audit trail
2. $16,463,650.00 to purchase, one per precinct, voting machines accessible for individuals with disabilities including the blind and visually impaired, to ensure voting independently and with privacy for each precinct in existence as of 1/31/05
3. $599,520.00 to purchase, one per county, an in-house absentee voting machine accessible to individuals with disabilities including the blind and visually impaired, to ensure voting independently and with privacy
4. $1,187,762.00 to purchase, one per county, an optical scan absentee ballot system for in-house and mail-in absentee voting

The State Board of Elections used approximately $109,508 of the requirements payments to develop an election management tool that connects with our statewide voter registration database to automate the absentee ballot application and post-election report process for all county clerks.

3. **How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III.**

Voter education: The State Board of Elections continues to pursue the use of television, radio, newspaper, internet, direct mail and other mechanisms to inform citizens on registering to vote and on voting.

Election official education and training: The State Board of Elections decided not to require each county board of elections to designate a county training/education coordinator to work with our training officers and meet twice a year. We regularly train county clerks as described in the 2003 State Plan and provide supplemental training materials on a variety of topics. In light of the training already provided, the county clerk staffing levels and SBE staffing levels, the best plan of action was to train the county clerk and county board of election members.

Poll worker training: The State Board of Elections successfully pursued legislation that added elements o-q to the required training topics for precinct election officers. The State Board of Elections will pursue similar legislation in the future when the need arises to improve the training process for precinct election officers.

Per KRS 117.187, the training provided by the county boards of elections shall include:

a. Operation of the voting machine or ballot cards;
b. Posting of necessary signs and notices at the polling place;
c. Voter assistance;
d. Maintaining precinct rosters;
e. Confirmation of a voter's identity;
f. Challenge of a voter;
g. Completing changes of address or name at the polling place;
h. Qualifications for voting in a primary election;
i. Electioneering and exit polling;
j. Write-in voting procedures;
k. Persons who may be in voting room;
l. Election violations and penalties;
m. Assistance which may be provided by law enforcement officers;
n. Election reports required to be completed;
o. Disability awareness;
p. Provisional voting process; and
q. Election emergency contingency plan.

4. **How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.**

Summary of Kentucky Voting Systems In Use (2006 figures)

Election day voting systems	94 counties use Danaher 1242 and Hart Intercivic e-slate equipment 19 counties use MicroVote MV-464 and ES&S Ivotronic equipment 4 counties use only ES&S Ivotronic equipment 2 counties use only Hart Intercivic e-slate equipment 1 county uses Diebold Accuvote-OS and Diebold Accuvote TSX equipment
Mail-in absentee voting systems	120 counties use optical scan equipment
Walk-in absentee voting systems	120 counties use an electronic voting machine and/or optical scan equipment

6. **The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on (A) the costs of the activities required to be carried out to meet the requirements of; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities.**

As stated in the 2003 State Plan, the Commonwealth expected to receive $44,000,000.00 in federal funding to meet the requirements and other activities. However, the Commonwealth actually received $32,899,292.00 in federal funding. $19,521,076.00 has been spent to meet requirements and the other state plan requirements as detailed in the 2003 State Plan. The chart below contains information on spending the remaining funds as of the date of the 2006 State Plan.

Should Congress decide to fully fund HAVA by appropriating the remaining $11,100,708.00, the funds will be spent to improve the election process. Any HAVA funds distributed by the Election Assistance Commission will be spent to improve the election process. Any unexpended funds remaining in the election funds, as described in the 2003 State Plan, shall be spent to improve the election process.

Activity	Cost Allocation
Voting equipment	$15,831,000.00
Voter education	$200,000.00
Poll worker training	$300,000.00
Enhancement of statewide voter registration system	$267,204.78
TOTAL	$16,598,204.78

7. **How the State, in using the requirements payment, will maintain expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.**

The Governor's Office of Policy and Management evaluated the budget of the Kentucky State Board of Elections to ensure that the Maintenance of Effort requirement has been met.

8. **How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is held responsible for ensuring that each performance goal is met.**

Performance Goals

The State's primary goal is to achieve compliance with HAVA through the successful implementation of the programs outlined in the State Plan. Following is an updated description of the timetable for meeting each element of the Plan and the title of the official responsible for ensuring such element is met:

Element	*Official Responsible*	*Updated Timetable*
Voting Systems	State Board of Elections County Clerk	Meets Title III requirement
Voter Registration	State Board of Elections	Meets Requirement; no HAVA changes necessary
Provisional Voting	State Board of Elections County Board of Elections	Meets requirement
Polling Place Accessibility	County Board of Elections	Ongoing
Voter Education/Outreach	State Board of Elections County Board of Elections	Ongoing
Poll Worker Training	County Board of Elections	Ongoing
Administrative Complaint Procedure	State Board of Elections	Meets requirement

Performance Measures

The Secretary of State/Chairman of the State Board of Elections, in collaboration with local election officials, will establish performance goals and will work closely together to measure performance toward the achievement of these goals. Processes and procedures are constantly under review to maintain efficiency and integrity of the election process.

9. **A description of the uniform, non-discriminatory State-based administrative complaint procedures in effect under section 402.**

The State Board of Elections promulgated 31 KAR 6:010 to place these procedures into the State Administrative Code. In summary, the procedure provides a uniform, nondiscriminatory process for the resolution of any complaint alleging a violation of any provision of HAVA, including a violation that has occurred, is occurring, or is about to occur during a federal election. Any person who believes a violation of any provision of

HAVA Title III has occurred may file a complaint with the State Board of Elections. The complaint must be on a form prescribed by the Board, signed, sworn to and notarized. At the request of the complainant the State Board of Elections will conduct a hearing on the record that will be conducted in accordance with HAVA requirements. The State Board of Elections will provide the appropriate remedy, and a final determination within the timeframes specified in HAVA. The procedure provides for alternative dispute resolution if the State Board of Elections does not make a timely final determination. At this time, no complaints have been received through this process.

10. **If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.**

The Commonwealth received $5,168,452.00 in Title I (Sec 101 and Sec 102) funds.
A portion of Title I Sec 101 funds were used for the following items: prepare/implement the State plan; purchase provisional ballot bags for the counties; establish the web based Voter Information Center; establish the web based Provisional Ballot Information Link; implement the 1-800 Voter Registration Verification System; upgrade voter credit scanning system; and purchase temporary accessibility products for precincts through a grant process. The remaining funds and any interest gained on the funds will be used to improve the election process.

Title I Sec 102 funds were used to replace lever voting equipment with HAVA compliant voting systems in 147 precincts or 9 counties. The Commonwealth requested and was granted a waiver to delay this replacement to the first federal election. All lever voting equipment was replaced by the May 16, 2006 primary election.

11. **How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).**

The State HAVA Committee will continue to meet at least once a year to review the budget and progress of the plan, making changes where necessary. The Chairman of the State Board of Elections will include individuals with disabilities in the implementation of HAVA. The Chairman of the State Board of Elections shall report annually to the Kentucky General Assembly's Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs Committee, which is a sub-committee of

the Interim Joint Committee on State Government, concerning the implementation of HAVA and expending of HAVA funds.

13. **A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.**

Kentucky's HAVA Advisory Committee membership has changed slightly since 2003. The current committee consists of twenty-three (23) members including the Secretary of State, local election officials from the two largest counties in the state, representatives from the Kentucky House and Senate, representatives of the disabled community, chairman of the political parties, and a variety of other election stakeholders.

To amend the State plan, the HAVA Advisory Committee will meet on December 8, 2006. The committee meeting will be open to the public and noticed in accordance with the state's Open Meetings Law.

The 2006 Amended State Plan will be made available for 30 days for public inspection and comment prior to submission of the final plan. The State Board of Elections will publish notice of the availability of the preliminary version of the state plan in the state's two newspapers with the largest circulation. The Secretary of State will have a copy of the preliminary state plan available for inspection in his office, and the preliminary plan will be posted on both the Secretary of State's and the State Board of Elections' web pages. Copies of the preliminary plan will be provided to all 120 county clerks and open to public inspection and comment. All comments are to be made in writing and filed with the Secretary of State by close of business on January 9, 2007.

Commonwealth of Kentucky
HAVA Advisory Committee Members

Committee Member	Title and Group Representing
Hon. Adrian Arnold	Chairman, Kentucky House Elections, Constitutional Amendments, Intergovernmental Affairs Committee
Hon. Donald W. Blevins	Fayette County Clerk
Darrell D Brock, Jr.	Chairman, Republican Party of Kentucky
Raoul Cunningham	National Association for the Advancement of Colored People (NAACP)
David Disponett	Board Member, State Board of Elections
Richard Eisert	Paralyzed Veterans of America
Sharon Fields	Executive Director, Kentucky Disabilities Coalition, Inc.
Hon. Trey Grayson	Secretary of State
Hon. Harland Hatter	Liaison, Kentucky Senate President's Office
Hon. Barbara Holsclaw	Jefferson County Clerk
Hon. Marshall Hughes	Liaison, Governor's Office
Brenda James	Director, Division of Driver's Licensing, Department of Transportation
Hon. Dean Johnson	Laurel County Clerk
Priscilla Johnson	Migrant Worker's Coalition
Hon. Lynn W. Lane	Ballard County Clerk
Hon. James Lewis	Leslie County Clerk
Jerry Lundergan	Chairman, Kentucky Democratic Party
Joan Peoples	Liaison, League of Women Voters
Norb Ryan	Kentucky ADA Coordinator
Hon. Jim Steinfeld	Board Member, Jefferson County Board of Elections
Mark Rutledge	Chief Information Officer, Governor's Office of Technology
Beth Metzger	Protection and Advocacy
Hon. Guy Zeigler	Franklin County Clerk