



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

May 10, 2005

Angie Rogers LaPlace, Esq.
Commissioner of Elections

Merietta Spencer Norton, Esq.
General Counsel
Office of the Secretary of State
P.O. Box 94125
Baton Rouge, Louisiana 70804-9125

Dear Ms. LaPlace and Ms. Norton:

I am writing in response to your March 29, 2005 letter to Attorney General Alberto Gonzales concerning the voting system requirements of Section 301 of the Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. 15481.

Although the Department of Justice states its formal positions with respect to the statutes it enforces only through case-by-case litigation, we do on occasion offer our general views on the manner in which we intend to enforce a particular statute or set of laws. As you know, HAVA vests the Attorney General with the responsibility of enforcing Title III of HAVA, which imposes uniform and nondiscriminatory election technology and administration requirements on the 55 States and Territories. The Attorney General, in turn, has delegated those enforcement functions to the Civil Rights Division. In light of this authority, we will attempt to answer the question posed in your letter to the extent we can, although it must be emphasized that the opinions expressed here are not binding.

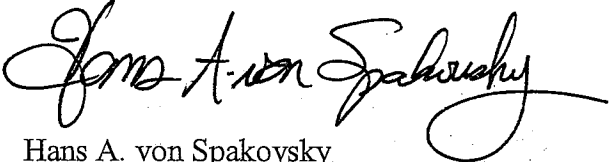
Your letter asks for our opinion on a timing element regarding the implementation of HAVA Section 301, which mandates, among other things, that states adopt voting systems meeting various technical requirements. You inquire whether Section 301 requires Louisiana merely to have *purchased* such a system by January 1, 2006 (the effective date of the Section), or whether the State must actually have the new voting system *ready for use* by that date. In our judgment, it is the latter.

Section 301(d) of HAVA unambiguously requires each covered state and jurisdiction to comply with the voting system standards of Section 301 "on and after January 1, 2006." This absolute deadline is similar to the specific deadlines Congress set out in HAVA Sections 302 and

303, which relate to provisional voting, voter information postings, statewide voter registration lists, and first-time mail-in registrants. As with the other Title III requirements, we view the January 1 deadline in Section 301 as building in necessary time for states to train poll workers, educate voters, and conduct testing on new voting systems prior to their use in the first election for federal office next year. We believe that if Congress had intended to allow states to delay their implementation of HAVA's voting system standards until the first election for federal office after January 2006 (as opposed to being ready *on* January 1, 2006), Congress would have used language saying just that, as it did in Section 102(a)(3) of HAVA, 42 U.S.C. 15302(a)(3), with regard to the deadline for replacement of punch card or lever voting systems.

We hope that this is responsive to your questions. If you have any additional questions or concerns, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, reading "Hans A. von Spakovsky". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Hans A. von Spakovsky
Counsel to the Assistant Attorney General