



U.S. Department of Justice

Civil Rights Division

*Voting Section - GSt.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

June 10, 2004

The Honorable Mary Kiffmeyer
Secretary of State
State of Minnesota
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1299

Dear Secretary Kiffmeyer:

This responds to your March 15, 2004 letter to United States Attorney Thomas B. Heffelfinger, concerning alleged violations of the Help America Vote Act ("HAVA") and the Civil Rights Act of 1964 by officials in Hennepin County and Ramsey County in Minnesota. Your letter was referred to the Voting Section of the Civil Rights Division, which has primary responsibility for enforcement of federal voting rights statutes, including Title III of HAVA.

Following receipt of your letter and supporting documentation, we conducted an investigation that included contact with your office as well as with election officials in both Hennepin County and Ramsey County. Based on this investigation, we have concluded that there does not appear to be a violation of HAVA or of any other voting rights statute that we enforce. Accordingly, we have determined that any action by the Department of Justice at this time is not warranted.


In your letter, you express concern about the actions of county officials in requesting that identification documents be submitted by first time mail registrants with their registration applications. However, Section 303(b) of HAVA encourages such practices. Indeed, Section 303(b)(4)(A)(iv) of HAVA specifically requires the federal mail voter registration form to include a statement informing first time mail registrants that HAVA-required identification "must" be submitted with the mail-in registration form in order to avoid having to provide identification when voting in person at a polling place. It would appear that the efforts of these counties to collect, both through the voter registration form and subsequently, if necessary, through pre-election notices, appropriate identification from first time mail registrants is consistent with this provision of HAVA. To be sure, Section 304 of HAVA provides that the identification requirements, as well as the other requirements of Title III, are minimum requirements and nothing prevents a State from establishing standards that are more strict than

the requirements established by HAVA. Therefore, Minnesota could establish stricter identification requirements as some states have done by requiring all voters to show identification at the polls as long as such requirements are applied in a uniform and nondiscriminatory manner.

You also express concern regarding use by these counties of the federal mail voter registration form adopted by the Federal Election Commission. Use of this form is authorized by both the National Voter Registration Act and HAVA. Accordingly, use of this form by these counties does not violate federal law. As you may be aware, responsibility for this form was transferred from the Federal Election Commission to the Election Assistance Commission established by HAVA. If you have any questions regarding the use of this form, you may want to contact the EAC.

We are aware of Minnesota's efforts to date to comply with HAVA's requirements and will continue to monitor Minnesota's HAVA progress with the approach of the State's federal elections in the fall. Thank you for advising us of your concerns.

Sincerely,


for Joseph D. Rich
Chief, Voting Section

cc: Thomas B. Heffelfinger, United States Attorney, District of Minnesota
Patrick H. O'Connor, Hennepin County Auditor and Treasurer
Amy Klobuchar, Hennepin County Attorney
Dorothy McClung, Ramsey County Auditor and Director of Property Records & Revenue
Susan Gaertner, Ramsey County Attorney
Hans A. von Spakovsky, Counsel to the Assistant Attorney General