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Report of the League of Women Voters of Virginia Survey of Virginia's Department of Social Services Compliance with Section 7 of the NVRA

Introduction

The League of Women Voters of Virginia (LWV-VA) has lobbied for greater access to voter registration and voting for all citizens in the Commonwealth since it was reestablished in 1947. The League advocated against the poll tax, literacy requirements, and the other restrictive measures that kept Virginia's citizens away from the polls and provided cause for Virginia to be subject to the pre-clearance provisions of the Voting Rights Act in 1965. While advocating for greater access to the polls and steps to improve the voting process, the League and its local affiliates in Virginia continued to provide service to voters in the form of candidates' guides, debates, forums, the distribution of registration and absentee voting information and other forms of voters' service.

In conjunction with its latest up-date study of the Commonwealth's election laws, the LWV-VA decided to supplement its on-going lobbying and voters' service activities with an advocacy agenda, and accepted a pass-through grant from the League of Women Voters Education Fund Public Advocacy for Voter Protection (PAVP) project in 2009 to help fund the agenda. A second grant from PAVP was requested and received in 2011. An integral part of the agenda has been to involve Virginia's local LWVs in carrying out the projects and to encourage them to advocate for improved access to voter registration and voting in their localities.

In reviewing the project possibilities and suggestions of PAVP, the LWV-VA decided to focus one of its efforts on ascertaining, to the extent it was able, whether the Virginia Department of Social Services (DSS) was complying with the requirements of section 7 of the 1993 National Voter Registration Act (NVRA) with respect to providing voter registration opportunities to the clients it serves.

The LWV-VA asked members of its local units to visit their local DSS office to: determine the availability of registration materials and signs; ask about the training provided to staff with regard to their NVRA responsibilities; and to ask about the specific voter registration materials provided to and questions they ask of their clients. A survey form, which was an edited version of a survey form that was obtained from Dēmos, was provided for this purpose. The survey was limited to areas where there were local Leagues.

A Prologue

Section 7, requiring public assistance agencies to provide voter registration opportunities for their clients, had been included in the NVRA to ensure greater access to voter registration for populations that would be less likely than others to obtain and mail in voter registration forms or register at Departments of Motor Vehicles. Upon its adoption, the responses of the states to the NVRA were mixed, with some states actively fighting implementation. Virginia was one of the first states to challenge the constitutionality of the NVRA in court.¹

After losing the court case, Virginia's relatively high numbers of registrations at public assistance agencies in the mid-1990s gradually declined over the years to the point where statistics collected and surveys conducted by Dēmos and its partner organizations (of nine local offices) in 2008 clearly indicated that Virginia DSS agencies were failing to comply with NVRA requirements. The groups met with Virginia State Board of Elections

(SBE) and DSS officials in May of 2008 to present their findings and discuss the situation. According to a Dēmos report:

“Within days of meeting with Dēmos staff to discuss how to fix the problem, state actors agreed to implement a number of ‘best practices’ to ensure that all covered clients were being offered the opportunity to register to vote. Because of Virginia’s enthusiastic response, and ongoing commitment to follow the law, registrations through its public assistance offices have increased eight-fold, with over 2,400 low-income citizens registering each month, compared to fewer than 300 per month before Virginia stepped up its compliance effort.”²

The purpose of the LWV-VA PAVP project was to see if DSS compliance and the registration statistics continued to improve, stay the same, or again decline. Based on discussion with the current Virginia DSS NVRA coordinator (who also has responsibility for all benefit programs), it appears that most of the agreed upon best practices have been implemented. However, while reports of voter registration activity are prepared by local offices, there appears to be a lack of staff to analyze and act on the information they contain. The person originally assigned to serve as the DSS coordinator for the NVRA was reassigned and not replaced due to required overall staffing decreases. Upon hearing that local offices had not been provided with current information about the restoration of voting rights for persons with past felony convictions as stated in the list of best practices, the author of this report volunteered to provide information that could be sent to the offices, and later followed up by sending a two-page information sheet and other links from the Virginia judicial system web site.

The Survey (Office)

Conducting a survey of this nature was new to most local Leagues, although they had participated in studies of governmental action with regard to public policy issues for many years. League members are more familiar with registering and providing nonpartisan information to voters, and some wondered why they were not being asked to register voters at the DSS offices rather than checking to see that the office staff was following the law. It is interesting to note that any hesitancy about doing the survey quickly dissipated, and the League members and office staff in some instances had interesting discussions about voting and voter registration. League members, if they had not been involved in human resources studies previously, also got a quick education in the extent of human needs in their communities.

Local League members visited 21 local Department of Social Services offices in 18 jurisdictions and conducted a phone interview with another office over a two-month period in the fall of 2011. One office refused to cooperate and participate in the survey.³ League members were asked to explain that they were doing a “spot check” of the offices to help determine whether Virginia’s DSS offices were complying with section 7 of the NVRA that requires public assistance agencies to provide voter registration opportunities to its clients. Although League members usually asked to speak with supervisors or staff who interviewed clients, this was not always possible. In many instances, it was due to the number of clients that were being served by the office at the time of the visit. [League members reported their reluctance to take the time of officials when clients were waiting to be served.] In general, while they were courteous and helpful, the receptionist staff was not as knowledgeable and willing to speak with the interviewers as their supervisors.

Signs

Interviewers noted the presence of signs advertising the availability of voter registration in 11 of the 21 offices visited. One surveyor commented that the signs were in Spanish as well as English. However, it is likely that the number of signs could be higher because they could be easily overlooked due to the competition from many other signs posted in the office waiting rooms. One interviewer did not notice the sign at first because of the number of other signs posted and the fact that the voter registration sign did not stand out among the others.

The DSS makes available (online) to its offices a sign prepared by Dēmos, ACORN and Project Vote. While the sign has the requisite information and encouragement, it could be less wordy and more eye-catching to fulfill its intended purpose. However, the SBE also provides signs to all voter registration agencies, which are much larger, and more colorful and eye-catching. **We encourage DSS to use these signs.** We believe that it is properly a matter of office director judgment about where and how the many signs providing information to clients should be displayed. However, the relative invisibility of posted signs makes even more important the need for case workers to personally call attention to the opportunity for voter registration.

Display and Availability of Registration Forms

In 18 of the 21 offices, voter registration forms were prominently displayed, primarily in display boxes designed for that purpose. The boxes or forms were located at the receptionist desk, window or counter, on side tables, as wall fixtures, on literature racks or special stands, etc. Depending on the office configuration, the display was either in the lobby or waiting room. In all but one of these offices, there was an adequate supply of the forms. In that one office, only three forms were available and they appeared to be copies of the forms rather than the usual registration material given to prospective registrants.

In offices where the voter registration forms were not prominently displayed, one office had the forms available at the counter for those who asked for them; another office had to look for the forms; and another said that they were given with the applications. One of these offices suggested that the League set up a voter registration table for its clients.

Regardless of the display of the forms, 20 of the 21 offices said that registration forms were available in the office for its clients. One office refused to respond to the interviewer or participate in the survey.

NVRA's requirements go beyond simply making forms available; rather, caseworkers are required to ensure that clients are given the opportunity to fill out a voter registration form when applying for benefits, recertifying eligibility and/or recording a change of address. Caseworkers must also provide assistance in filling out the form if needed. While all 20 of the offices interviewed said that registration forms are made available to all, some made various clarifications such as: upon request, if clients said they wanted to register, on first visit only, to new clients, or are also sent with correspondence. This could indicate that some offices were not complying with the NVRA's requirements; but some of the comments about limiting their actions to new clients, first visits, etc. could reflect an interviewer's misinterpretation of the response to their inquiry or a receptionist's lack of familiarity with the requirements.

Commonwealth of Virginia Voter Registration Agency Certification Form

More than half of the interviewers obtained copies of an SBE form that clients can use to indicate whether they are already registered or not eligible to register to vote, want to register, or do not want to register to vote. After review by agency staff, the form is retained by the local offices and provides proof that the client was offered an opportunity to register to vote. I was told that, as of this time, they are not monitored centrally due to a lack of staff at the SBE and (possibly, I am assuming) to the fact that the DSS includes the data elements from the form on its own individual client assistance forms.

Other DSS Forms

Interviewers were asked to obtain forms that were used by DSS staff in their work with clients to see if they invited applicants to register to vote. **They were given copies of the following forms, all of which included a section asking if the applicant wanted to register to vote:** Medicaid Application for Medically Indigent Pregnant Women; Application for Adult Medical Assistance; Eligibility Review – Part B (covering various programs); Plan First – Virginia's Family Planning Program for Men and Women; and the general Application

for Benefits (covering most programs). One interviewer commented that completion of the last form would be a daunting task which could leave the client “exhausted and not interested in making one more yes or no decision [registering to vote].” It is likely that other forms used by DSS clients would have the same section.

Staff Training

Of the 21 offices visited, 17 responded that the staff is required to participate in annual training on voter registration procedures. One office declined to participate, one interviewer did not ask the question and at two others where the supervisor was unavailable, the receptionist was unsure about the training requirement. In every instance where the question was answered about training, it was described as online training and as being “good.” There was a distinct difference between receptionists and other office staff insofar as knowledge of the training requirements is concerned. This was pointed out to both the SBE and DSS NVRA coordinators, and both stated that **they would remind the local offices that the receptionists should receive the training as well as the other office staff.**

The SBE has prepared a training manual and provides in-person training (using PowerPoint presentations) at various locations around the Commonwealth to which DSS office staff, as well as other registration agencies, are invited to participate. It is basically a “train-the-trainer” operation, with those attending expected to train others in their agencies on at least an annual basis. This had been supplemented by a training video on the SBE web site, which was recently removed because it was outdated. They have been unable to arrange for a new video as of this time.

The DSS provides its own online training through the Virginia “Knowledge Center,” which provides online agency-specific training, and certifications upon completion of the training and a quiz (at least in this instance) to many agencies throughout the Commonwealth. While normally, this apparent duplication of effort might not seem appropriate, with both agencies providing training to DSS staff, it shows an attempt to make sure -- and demonstrate -- that all DSS employees receive the required voter registration training – that no one is allowed to “drop between the cracks.”

In 2010, the DSS arranged for a field experiment conducted by three political scientists to determine the effect of its training on voter registration. In summary, the study found: “(1) an overall increase in the number of registrations due to the training; (2) no effect for jurisdictions that do not submit many voter registration applications, which suggests more is needed to spur these jurisdictions to register clients; and (3) the effect of the training was larger for jurisdictions that were previously producing the largest number of registrations.”⁴

The Survey (clients)

Although the Virginia local Leagues had been asked to try to interview clients as they left the offices, fewer than half of the Leagues did so. This was for a variety of reasons, including: the reluctance of League members to survey individuals because of privacy concerns; office configurations that did not enable the interviewers to see the clients as they left the office; and problems of timing. In general, League interviewers, however interested they were in voter registration, seemed to be concerned about the needs of the clients. In the words of one interviewer, “Clients are concerned with personal welfare and with corralling children and most looked completely frazzled as they left [the office].” As might be perceived by reading comments of the interviewers, they were all women.

In spite of these caveats, **League members interviewed 18 clients at eight locations.⁵ Of the 18 clients interviewed, ten reported that they were already registered to vote at their current address, one was a felon who had not had his rights restored, one was a new immigrant, two had been asked if they wanted to register but didn’t want to; and another one had been asked and registered while at the office. Three clients (at different offices) said that they had not or were unsure if they had been asked if they wanted to**

register to vote. One of these recalled seeing the question on the application form; another one who was interested was given a registration application form by the interviewer.

We found the number reporting that they were already registered to be higher than expected. Both the SBE and DSS NVRA coordinators agreed with this comment, and believed it is due to the current client base. That is, due to the current economic climate, more DSS clients come from the ranks of those who would normally be more likely to be registered.

Summary Reports of League Interviewers

The League interviewers at nearly all of the offices reported that the staff was cooperative, helpful, friendly, positive, and willing to take the time to discuss their work and the project with the League member(s). At some offices the interviewer was only able to check for the availability of signs and voter registration applications and speak with the receptionist(s). In most of these cases, the interviewers commented that the receptionists were either not very knowledgeable about the subject of the survey, especially with regard to training requirements, or not anxious to provide the information. In one office, the supervisor and deputy director refused to participate in the survey, leaving the interviewer to note only the lack of signs about voter registration and inadequate voter registration materials. The League has reported this to both SBE and DSS NVRA coordinators.

In spite of their very busy offices, some of those interviewed explained in detail how they worked to ensure that they and their staff took compliance with the NVRA requirements very seriously. They were eager for their agency to be in good standing and one case worker said that if voter registration material is not provided it is considered an error. Another said that providing voter registration is a state mandate and seemed surprised that any office would not be in compliance. Others explained the process that they use to ensure that registration applications are turned in to the local registrar on a timely basis and identifiable as coming from a DSS agency.

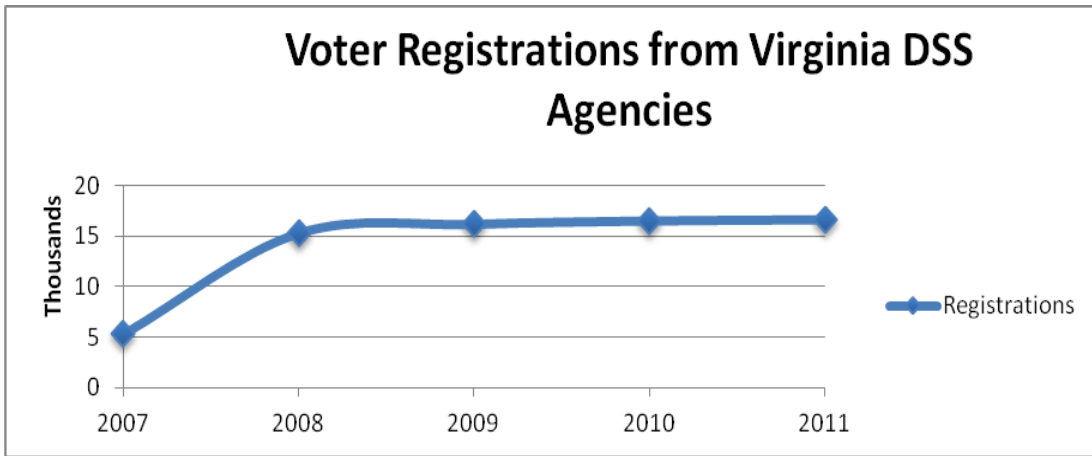
In those offices where the staff was able to take the time to talk with the League interviewers for any length of time, the interviewers received the impression that from the top on down, the Virginia DSS and SBE officials are taking their responsibilities with regard to the NVRA seriously and are disappointed when the registration numbers don't reflect this fact. Several showed or described their log books to the interviewers. We realize that we saw only a small portion of the 138 offices in the state. We do not know if it is a representative sample.

The Results (Numbers)

Two office managers, when explaining why the number of registrants was not higher – “little bang for the buck” as one said – noted that clients are often not all that interested in voting. They have other things on their mind or to worry about; are not citizens but there to get help for their children; are already registered; or, like so many citizens, are interested in voting only in presidential election years.

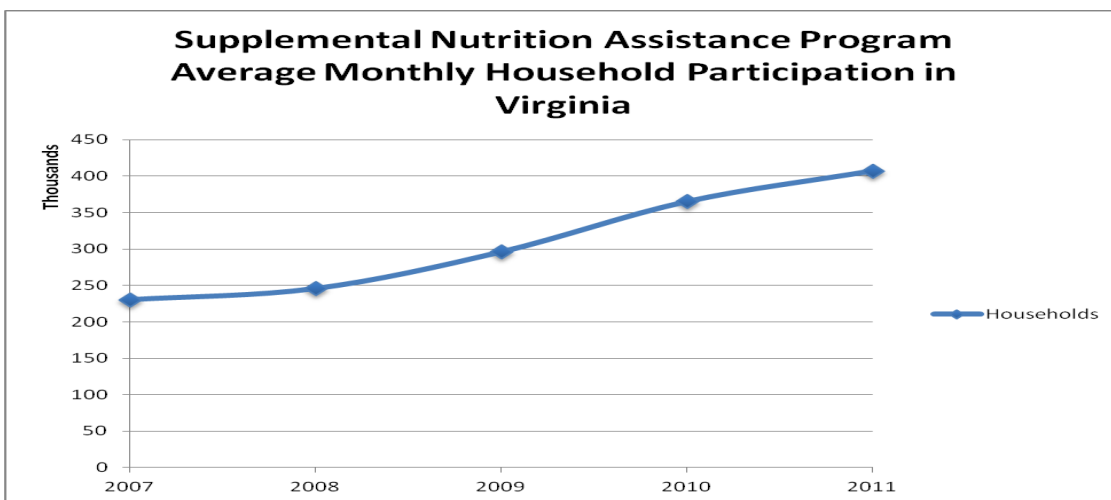
Nationally, an Election Assistance Commission report comparing the sources of voter registration forms received by states in 2010 with 2008 showed that the total registration forms decreased by 22.5 percent from 2008 to 2010. This reflects the usual greater attention to voting that occurs in presidential election years. However, the percentage of forms received from public assistance agencies *increased* by 18.8 percent. There is a likelihood that this is due to a greater attention being paid by organizations (such as Dēmos, Project Vote and the League of Women Voters) and the U.S. Department of Justice to voter registration at public assistance agencies during the two-year period. There has been a similar experience in Virginia. Statewide, the number of new (not net) voter registrations increased by only 3.3 percent in 2010 compared with an increase of 11.6 percent in 2008. The number of voter registrations from DSS agencies in Virginia represented *only* 3 percent of the total in 2008, but 10 percent of the total in 2010. Overall, the number of voter registrations from Virginia DSS agencies was 8 percent higher in 2010 than in 2008. While these statistics might reflect nothing more than the old adage that you can use statistics to prove whatever you want to prove, it does seem that the attention

being given to compliance with the NVRA has had a positive effect, with DSS registrations trending higher than those from other sources.⁶



Approximately 70,000 voter registration applications were turned in by Virginia DSS offices in the last five years and have been relatively consistent on a statewide basis for the past four years. (See table above.) The major increase in 2008 occurred after DSS revised its procedures and re-trained its personnel in response to being notified of compliance problems found by Dēmos in early 2008. Since 2008, DSS has maintained this higher level of voter registration applications, but has not seen significant additional increases. The monthly average increased from 442 in 2007 to 1,388 in 2011, with the strongest month each year being September, when pre-election voter registration “hype” is usually its strongest.

The DSS registrations as a percentage of clients served (using households receiving supplemental nutrition assistance--SNAP-- as the base) increased from 2.3 percent in 2007 to 4 percent in 2011. Because of the small number of registrations in 2007, however, the significant increase over the whole 2007-2011 period is not very meaningful in view of the slow increase since 2008. The increase in the SNAP client population by over 77 percent during the same period (see table below) has been more consistent – and certainly larger in absolute terms.⁷



It is not the purpose of this report to say how many new voter registrations should be expected as the client base goes up. Because of the number of unknowns, there seems to be no satisfactory way to project what should be expected.⁸ We can’t determine how many eligible but unregistered DSS clients there are. Does the change in

the client base during the period have an effect on the number? Are many of the new clients likely to be registered already? How many of the clients are new or continuing? Does the effect of the increase in the number of clients at the same time as the decrease in the number of personnel to handle the workload have an effect on the total? Can any conclusions be drawn from a comparison of the increase in SNAP client households with the increase in DSS registrations? Probably not. Even if we were able to calculate the number of clients eligible but not registered to vote, should we realistically expect the percentage of DSS clients who are registered to be the same or higher than for the population at large? Can we expect a larger increase in DSS registrations in the 2012 presidential election year? We hope so.

In summary, most of the DSS offices that League members visited had registration forms available, signs posted, forms containing the necessary elements about the opportunity for clients to register to vote, and trained staff who were conscientious and doing what they could to ensure compliance with the NVRA. We don't know if this is true of all local agencies throughout Virginia, and there is concern about very low numbers of voter registrations being generated in some locations. But we believe that the SBE and most DSS agency NVRA coordinators were fulfilling their responsibilities to the extent that resources allowed. While retrogression is always possible, the LWV-VA hopes that it will be just one of several groups looking at the numbers of voter registrations from DSS agencies during 2012 and future years to see if the progress made since 2007 continues.

Resources and Endnotes

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¹ Noted in "Voter Registration Services at Public Assistance Agencies," April 2010, by Project Vote, www.projectvote.org.

² "Expanding Voter Registration for Low-Income Virginians: The Impact of the National Voter Registration Act," October 2008, by Allegra Chapman and Scott Novakowski, Dēmos. www.demos.org.

³ The jurisdictions were: Albemarle, Arlington, Fairfax, Fluvanna, Henrico, James City, Prince William, and York counties; and the cities of Charlottesville, Chesapeake, Hampton, Lynchburg, Manassas, Manassas Park, Newport News, Norfolk, Richmond, and Williamsburg. The cities of Fairfax and Falls Church were covered in the Fairfax County Survey. The name of the office that refused to be interviewed has been reported to the SBE and DSS NVRA coordinators.

⁴ See [draft] report to the DSS prepared by Michael Hanmer, Douglas Hess, and David Nickerson. Draft provided to the author of this report by the DSS NVRA coordinator.

⁵ Albemarle, Fairfax, Fluvanna, and James City counties; and the cities of Charlottesville, Lynchburg, Norfolk and Williamsburg.

⁶ Virginia registration statistics are available on the Virginia SBE web site, www.sbe.virginia.gov/cms.

⁷ SNAP statistics are available at: www.fns.usda.gov/pd/16SNAPpartHH.htm. The household totals (rather than total participants) were used to eliminate counting, to the extent possible, some persons who would not be eligible to vote.

⁸ Despite the good effort of Project Vote in attempting to develop performance indicators as reported in May 2008.

This report was prepared by Therese Martin, LWV-VA PAVP Coordinator, January/February 2012.