



National State Auditors Association

March 08, 2007

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The Honorable Rush Holt
United States House of Representatives
Washington, DC 20515

Dear Representative Holt:

On behalf of the National State Auditors Association (NSAA), I am writing to bring to your attention a provision in HR 811, the *Voter Confidence and Increased Accessibility Act of 2007*, which could be perceived as a conflict of interest for the state audit community and, in some circumstances, could create a perceived independence issue for state auditors.

Section 321(a) of the bill states that the Election Audit Board and mandatory manual audits of paper ballots would apply to "each election for Federal office held in the state" and "at the option of the state or jurisdiction involved, of elections for state and local office held at the same time as such election." It is this latter provision (applicability to state and local elections) that causes concern for **elected** state auditors. Under this provision, the Election Audit Board could be verifying the ballots of an elected state auditor, the same person who appointed the members of the Board. This creates an independence impairment as outlined in *Government Auditing Standards* issued by the Comptroller General of the United States.

We are similarly concerned with Section 321(d) which defines 'chief auditor.' The definition allows the attorney general of the state to designate and certify the chief auditor. In some states, there are two individuals that would qualify as auditing the operations of the state government. Some states do not use specific constitutional or statutory language to define the duties and responsibilities of their auditors, which also raises the questions of who the attorney general will designate and certify as the chief auditor. In addition to this concern, a conflict of interest could exist as the Election Audit Board could be verifying the ballots of an elected attorney general, who ultimately is the person designating the "chief auditor" to appoint members to the Election Audit Board.

Furthermore, it would be very difficult -if not impossible- for a state audit office to preserve its independence for the core function of auditing state government as is required under the independence standards in *Government Auditing Standards*. State audit offices are generally non-partisan having no interaction - in either professional or personal capacities - with political parties. To the extent that the proposed Election Audit Board would consist of political appointees as well as "unaffiliated members" appointed by the chief auditor, the opportunity for political influences would exist. Additionally, the pool of individuals qualified as "unaffiliated members" for appointment to the Election Audit Board is inherently limited. While employees of a state audit office would be qualified, such service would deviate from the duties those individuals are paid to perform. Staff of

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private accounting firms may qualify, however, the state audit office often contracts with such firms to perform (in many instances by state statute) auditing of state agencies and, for independence purposes, the audit office does not have any other relationship with such private accounting firms. State agency employees may qualify to serve on the Election Audit Board however a state auditor's independence to audit them in their routine state capacities could be called into question by virtue of the state auditor appointing those individuals to serve on this new Board.

Lastly, we do not believe the state auditor is the appropriate person to be given such appointment responsibilities. While we understand the need for such audits, the responsibility for these audits seems to be an internal control/internal audit matter. Establishing internal control is not the purpose of the external audit function; rather, it is management's responsibility to establish and monitor internal control. We believe the audit function as outlined in the bill should be internal to a state agency, such as the state board of elections or other similar type agency.

We look forward to working with your staff to amend the bill's language to address these issues. Should you have additional questions or desire further information, please contact NSAA association manager, Sherri Rowland (srowland@nasact.org or 859-276-1147) or NSAA Washington director, Cornelia Chebinou (cchebinou@nasact.org or 202-624-5451).

Sincerely,

A handwritten signature in cursive script that reads "Ernest A. Almonte".

Ernest A. Almonte
Auditor General, Rhode Island
NSAA President