Advocates: Ex-felons denied vote

By CARA MATTHEWS
Gannett News Service
March 18, 2006

ALBANY - Thousands of ex-prisoners are being denied the right to vote, according to a survey released Wednesday by two advocacy groups.

Representatives at more than one-third of New York's county election boards responded incorrectly to questions about the rights of probationers and people with felony convictions to vote.

The results are an improvement over a similar survey in 2003, but they are still unacceptable, said speakers from the Brennan Center for Justice at New York University Law School and Demos, a group that promotes democratic ideals.

"Local boards are illegally blocking thousands of eligible voters from registering to vote," said Lawrence Norden of the Brennan Center.

Two years ago, more than half of election boards refused to register people with felony convictions until they provided various documents not required by law.

Those results prompted the state Board of Elections to send a memo to county boards in October 2003, clarifying what people's rights are.

It told county elections commissioners that anyone who completes the registration form and affidavit is presumed eligible, even if the voter's registration was previously canceled for a felony conviction.

Elections boards cannot request documentation except in rare instances when a question arises, the memo said.

What they said
This is how some local boards of election fared in a telephone survey of probationers' and former prisoners' right to vote:
• In the following counties, at least one respondent said people on probation could not register to vote or did not know: Chemung, Genesee, Niagara, Oneida, Ontario, Orleans, Putnam, Schuyler, Steuben, Tioga, Tompkins, Ulster, Wayne, Westchester, Yates.
• In the following counties, at least one respondent stated individuals must provide documentation: Cayuga, Cortland, Dutchess, Genesee, Madison, Niagara, Oneida, Putnam, Schuyler, Steuben, Tompkins.
"Doing so has the effect of disenfranchising people, and we are in the business of enfranchising people," it said.

But the new survey, conducted late last year, found that boards are still requesting information they are not authorized to and denying voters their rights.

The documents some are asking for frequently do not exist, such as a "certificate of release," a "document of relief from a judge," and a "release form showing that a person has paid his dues."

"Individuals who have been instructed to obtain these non-existent documents are simply prevented from voting," the report said.

As problems continue, based on the groups' findings, Democratic lawmakers working with the Brennan Center and Demos said they are drafting legislation that would require the state to crack down on non-compliant election boards and assess penalties.

"If we are waiting for them to enforce state election rules and regulations, they obviously have to be prodded, pushed and cajoled into doing their job," said Assemblyman Keith Wright, D-Manhattan.

Responses from area election commissioners on the survey varied, although no one was aware of the report issued Wednesday.

In Steuben County, a woman who identified herself as an elections commissioner said she would not have any comment on the matter until she read the report, which said the survey respondent stated that people convicted of a felony must present "a pardon from the court."

A pardon, which is unnecessary to vote in New York, is available only from the governor.

Steve DeWitt, Democratic commissioner in Tompkins County, said the board generally accepts people's word when they sign the registration form affidavit and affirm they have a right to vote.

The person who responded to the survey said the potential registrant has to get a statement from the district attorney's office that affirms eligibility.

According to the Brennan Center and Demos, the DA rarely knows when someone gets out of prison or is released from parole.

DeWitt said he was not certain who responded to the survey and would review the issue with staff members.

The Tompkins board often receives calls about whether someone with a felony
conviction can vote.

"I think that what happens is convicted felons really don't know whether they have the right to vote," he said.

Genesee County was one of four counties in which respondents said people on probation need notes from probation officers. In actuality, people on probation do not lose their right to vote.

The Brennan Center and Demos made several recommendations, including that the state simplify the law by restoring voting rights upon release from prison.

New York should notify individuals registered to vote before their convictions in writing about their eligibility and provide them with registration forms; provide training and materials to local election boards; establish a telephone complaint hotline; and take other action, the groups said.

Lee Daghlian, a spokesman for the state board, said the statewide voter database, when completed, will make it easier to track individuals and confirm eligibility. The database is one of the requirements under the federal Help America Vote Act.

These are some of the survey's findings:

- 24 of the 63 election boards incorrectly responded that people on probation are not eligible to vote.

- 20 boards continue to illegally request documentation before allowing individuals with criminal convictions to register.

- Officials from four counties said they were familiar with a 2003 state Board of Elections memo on the issue.

- Illegal practices by New York City boards are particularly harmful because nearly one-third of New Yorkers sentenced to probation, 50 percent sentenced to prison and 61 percent on parole live in the city.