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Lobbyist Bob Hall and Gary Bartlett Planned Attack on Republican Legislature

Posted on December 14, 2012 by Susan Myrick in Corruption & Ethics, Elections and Voting

A Civitas investigation has revealed how lobbyist Bob Hall, Director of the liberal advocacy group Democracy North Carolina, is a behind-the-scenes driving force at the State Board of Elections (SBE) – even to mapping out partisan attacks on Republican legislators to the extent that it is hard to tell where the SBE ends and Democracy NC begins.

In 2012 Hall, a registered lobbyist led an attack on Republican legislators over a budget issue. In planning the lobbying campaign, Hall coordinated with the State Board of Elections staff on tactics and information. Although the actual planning of the legislative campaign began in earnest in January 2012, the public campaign and coordination started in 2011, as seen in this AP article . The article was attached to an email from a vendor sent to the State Controller’s Office, from which it was enthusiastically forwarded to the SBE. The article gives SBE Executive Director Gary Bartlett and lobbyist Hall a platform to push the story that the state-passed budget may cause an election “train wreck,” in the words of Hall.

A January 5, 2012 email from Neil Baddour of the SBE staff gave information to Bartlett, which he forwarded to Hall on Saturday, January 14, 2012. Fifty-six minutes later the real effort got under way when Hall sent a “confidential” email and attached strategy memo to Bartlett, which Bartlett forwarded on January 17 to SBE Deputy Director Johnnie McLean. What was the memo that was attached? It was the game plan from Hall for trying to get the legislature to spend an extra \$660,000, and the political strategy for attacking Republicans in the media. The very same day McLean responded via email directly to Hall saying: “We have reviewed your document and identified a few changes you may want to make.”

We know that at least two SBE employees (Bartlett and McLean) reviewed the memo and it is likely that others also contributed to the edited memo attached. For state employees to conduct partisan political work on state time and equipment is a clear violation of the law (NCGS 126.13). To have state employees do it at the behest and direction of a lobbyist is even worse.

The memo itself contains two direct partisan mentions, one complimenting the 2008 Democratic-controlled legislature and the other critical of the Republican leaders in the current General Assembly. And to make it clear that staff had no doubt that this was a partisan effort; the memo itself contained strategy language at the bottom of the memo that includes the following partisan strategy items:

- *Media/Editorials: ... exposes the selfish partisan agenda of Republicans; fits into the larger story of voter suppression, etc.*
- *We win even if we lose: Even if we don’t get the money, this fight hits the GOP where they are most vulnerable to voter anger over appearing to suppress voting; it will help with the ID fight.*

Hall’s involvement with governmental agencies does not stop with the SBE. He forwarded an email (from Director Bartlett to Rep. David Lewis) on November 15, 2011 to Amy Bason, General Counsel to the

North Carolina Association of County Commissioners (NCACC), to enlist their help to “release the funds.” In the email to Bason, Hall says he gained access to the forwarded email through a public records request. But Civitas has found no evidence of any public records requests made by Hall to the SBE for emails from Lewis specifically or legislators in general. It appears that Bartlett just forwards his email from legislators to a lobbyist for their review and use.

So to summarize, lobbyist Bob Hall and SBE Director Gary Bartlett conspired on a strategy to boost funding for Bartlett’s agency and directly attack the Republican legislature. All of this was done at the direction of Hall with SBE staff assistance and with Bartlett the conduit. The legislative fight over the HAVA (Help America Vote Act) funds actually happened later in 2012 after the legislature convened in May.

The HAVA fight played out as the budget was being crafted, Hall led the attack and the SBE played a supporting role. In the end, fortunately, sound budgeting won the day and despite the gloomy predictions of Hall and his allies the 2012 election went smoothly without the additional money.

The collaboration between Hall and the SBE raises serious questions about who really runs North Carolina’s election system: Officials representing the people, or unelected liberal special-interest lobbyists working out of the public’s sight?

Public Records

From: Bartlett, Gary
Sent: Saturday, January 14, 2012 6:05 PM
To: Bob Hall
Subject: FW: HAVA funds
Attachments: HAVA Funds.docx

From: Baddour, Neil
Sent: Thursday, January 05, 2012 9:57 AM
To: Bartlett, Gary
Subject: HAVA funds

Gary,

Yesterday in our meeting with Johnnie you asked me to write up a short description of the situation with the frozen HAVA funds. Please review the attached and let me know if this is what you wanted and if more is needed.

Thanks.

Neil Baddour
NC State Board of Elections

neil.baddour@ncsbe.gov
919.715.8233(Office)
919.715.0135 (Fax)

Title

Session Law 2011-145, House Bill 200 prohibited the State Board of Elections from spending Federal HAVA Title II funds until the full amount Maintenance of Effort (MOE) funds are appropriated.

SL 2011-145:

NO EXPENDITURE OF HAVA TITLE II FUNDS FOR STATE FY 2011-2012
SECTION 26.1. *The State Board of Election shall not expend any Help America Vote Funds (HAVA) Title II Funds for the 2011-2012 fiscal year and, unless prohibited by federal law, shall retain those funds until Maintenance of Effort funds are appropriated.*

In order to fully fund MOE \$3,457,585.06 must be appropriated. This fiscal year the General Assembly appropriated \$2,793,649.06 in funds that qualify as MOE. This leaves a balance of \$663,936 needed to be appropriated to fulfill the MOE requirement and free the Title II funds. This freeze of HAVA funds effects two types of HAVA funds, Title II Section 251 and Title II Section 261.

HAVA Title II Section 251 funds are to be used for improvements to the administration of Federal elections. The balance of Title II Section 251 funds is \$4,057,871.00 when unfrozen.

HAVA Title II Section 261 funds are to be used to make polling places accessible to individuals with disabilities, including the blind and visually impaired in a manner that provides the same opportunity for access and participation as for other voters. The current balance of Title II Section 261 is \$602,083.00 when unfrozen.

Public Records

From: Bob Hall [sprc@mindspring.com]
Sent: Saturday, January 14, 2012 7:01 PM
To: Bartlett, Gary
Subject: RE: HAVA funds
Attachments: HAVAFundsRelease012012.doc

Confidential - ignore typos; flagging factual errors will be appreciated.

HAVA Heart - Release the Early Voting Funds!

(EV)

In 2008, the State Board of Elections used more than \$1 million in federal funds to expand Early Voting opportunities across North Carolina. The money came from a large grant received under the Help America Vote Act (HAVA) to improve election systems. The Elections Board used the money (along with over \$2 million provided by the Democratic-controlled General Assembly in 2008) for grants to county election boards to add scores of Early Voting sites, expand their hours/days, and buy new equipment to efficiently run Same-Day Registration at EV sites.

Today, there is still over \$4 million of HAVA money in a NC government bank account. But Republican leaders in the General Assembly have frozen the HAVA account and won't let the State Board of Elections use it to ensure that North Carolina doesn't become the next Florida.

Ironically, Congress passed HAVA to prevent another Florida Fiasco. The law set minimum standards for election administration and voter registration. There are different pots of HAVA *disabilities* money – for example, to ensure access to voting for people with disability. The biggest pot (Title II) is for computerized, statewide voter registration/record systems, purchasing and maintaining compliant voting machines, and improving central office and poll-site election administration.

To ensure that Title II HAVA funds were not just used to replace existing state funding, HAVA requires states to maintain their core election budgets at no less than their ²⁰⁰⁰2004 level. HAVA funds can only be used as long as the state appropriates its Maintenance of Effort (MOE) level of funding. (Private funding would not release HAVA money; it must be a state appropriation.)

The MOE for North Carolina – the core budget ²⁰¹¹⁻²⁰¹³ of the State Board of Elections – is \$3.46 million per year. But the General Assembly purposely went below that level by funding the MOE with only \$2.79 million for each year of the 2010-2012 biennium – or about \$660,000 less than the MOE required. The General Assembly also adopted a provision in the state budget saying that the Board of Elections can not use Title II HAVA funds until the MOE threshold is met.

We must launch a campaign to release the HAVA funds for quality Early Voting plans.

* *The needed MOE money is not hard to find:* More than \$400,000 is in a fund Republican legislators have their eyes on for implementing a photo ID system.

* *Experts are on our side:* County boards of elections know about the frozen funds and they're worried. The \$4 million in HAVA money would also greatly help them with machine upgrades, training, software, etc. – so it's not all for EV sites. The local election boards are worried about relying on money from already strained county commissioners. They will tell media/etc. that a weak EV plan will push more voters, problems and stress onto Election Day.

* *Media/editorialists* will jump on this: Penny wise, pound foolish; NC as the next FL; exposes the selfish, partisan agenda of Republicans; fits into the larger story of voter suppression, etc.

* *Public will be mad:* EV is very popular and freezing funds for EV is the core story. The funds to improve accessibility for people with disabilities are sub-part of Title II and are also frozen!

* *We win even if we lose:* Even if we don't get the money, this fight hits GOP where they are most vulnerable to public anger over appearing to suppress voting; it will help with the ID fight.

* *There is other EV money:* There is still \$1.6 million in Title I HAVA money that does not require MOE and the State Board of Elections can use for grants. But that's only about \$16,000 per county. We really need at least \$3 million for a decent EV plan, \$4 million for a good one.

Public Records

From: McLean, Johnnie
Sent: Tuesday, January 17, 2012 4:58 PM
To: Bob Hall
Cc: Bartlett, Gary
Subject: RE: HAVA funds
Attachments: bob hall.pdf

Bob,

We have reviewed your document and identified a few changes you may want to make.

Johnnie McLean

Deputy Director

919-715-1790

From: Bartlett, Gary
Sent: Tuesday, January 17, 2012 6:04 AM
To: McLean, Johnnie
Subject: FW: HAVA funds

Please review for accuracy and respond to Bob. Thanks.

From: Bob Hall [sprc@mindspring.com]
Sent: Saturday, January 14, 2012 7:00 PM
To: Bartlett, Gary
Subject: RE: HAVA funds

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HAVA Heart - Release the Early Voting Funds!

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To ensure that Title II HAVA funds were not just used to replace existing state funding, HAVA requires states to maintain their core election budgets at no less than their 2004 level. HAVA funds can only be used as long as the state appropriates its Maintenance of Effort (MOE) level of funding. (Private funding would not release HAVA money; it must be a state appropriation.) *2000*

The MOE for North Carolina – the core budget of the State Board of Elections – is \$3.46 million per year. But the General Assembly purposely went below that level by funding the MOE with only \$2.79 million for each year of the 2010-2012 biennium – or about \$660,000 less than the MOE required. The General Assembly also adopted a provision in the state budget saying that the Board of Elections can not use Title II HAVA funds until the MOE threshold is met. *2011-2013*

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Public Records

From: Bob Hall (sprc@mindspring.com)
Sent: Tuesday, November 15, 2011 8:51 AM
To: amy.bason@ncacc.org
Subject: Funds for election administration
Attachments: MOE & HHS.PDF

Amy,

Here is the email from State Board of Elections Exec Dir Gary Bartlett to Rep. David Lewis that I obtained through public records request. Your help in advocating for critical importance of counties having adequate infrastructure to handle the demands of the 2012 elections will be greatly appreciated. County commissioners will be stuck with more expenses if the HAVA Title II funds are not released, as well as the embarrassment and "clean-up" cost if an election foul-up happens in their jurisdiction.

Thanks,

Bob Hall
Democracy North Carolina
Direct line: 919-489-1931

From: Bartlett, Gary
Sent: Monday, November 07, 2011 12:20 PM
To: 'Rep. David Lewis'; Sen. Peter Brunstetter
Cc: 'Erika Churchill (Research)'; Kara McCraw (Research); Denise Huntley Adams (Research)
Subject: Elections

Four crucial areas in which the State can assist counties in the 2012 elections are as follows:

- 1) Provide funding for training and testing of voting equipment;
- 2) Provide funding for primary and general election day support;
- 3) Provide funding for licenses and maintenance of voting equipment;
- 4) Provide funding for additional one-stop absentee voting sites to cut down on excessive lines on election day.

All the items above can be paid for through unfreezing Title II Help America Vote Act (HAVA) and appropriating sufficient Maintenance of Effort (MOE) funds. It is my understanding that approximately \$670,340 is needed to meet MOE requirement to utilize the remainder of the HAVA Funds. This appropriation would allow us to expend \$4 million+ HAVA funds. It seems prudent to ultimately expend all HAVA funds in FY 2011 - 2012 to improve the administration of elections.

We requested Election Systems & Software (ES&S) to provide pricing for on-site Election Day support to assist the county boards of elections in performing duties leading up to and on the 2012 primary and election days.

One of the most successful recent steps to ensure successful elections has been the use of technicians specifically trained on NC voting equipment. On Election Day these are stationed throughout the State in assigned geographic areas to provide more efficient response time to an identified equipment problem. Recent plans at the county level involve the use of rovers and has helped to avoid problems at the polling locations and makes county board of elections members available at the board office on election day to deal with emergencies. Due to budget cuts at all levels, we fear this coverage may be an election cost the counties look to cut, but it is important and has proven that having a trained technician more readily available is good common sense.

A proposed plan provides four training sessions geographically located for the primary and two training sessions for the general election for rovers (training for a Lead Rover that then trains the other rovers assigned to that area), eight technicians for the Primary and 13 technicians for the General located for maximum statewide coverage plus one ES&S representative at the State Board office.

We were shocked at the pricing for the recommended coverage. We have been advised it is standard ES&S pricing, however, I have requested they review and provide a different proposal providing significant cost savings from the original submission.

Please let me know if there is interest in pursuing or providing additional information. Thanks.