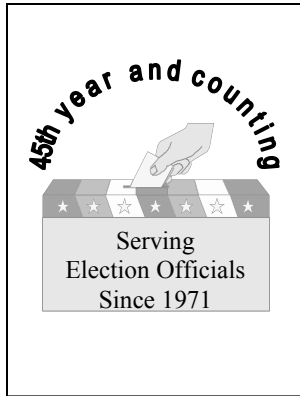


# ELECTION ADMINISTRATION REPORTS

• The Newsletter of Record for Election Officials

Editor: John T. Willis  
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Volume 45, Number 22, November 9, 2015



*Washington Focus: On October 29, 2015, the Federal Election Commission (FEC) delayed ruling on whether certain fundraising tactics used by super PACs and politicians is legal. In September, a group of Democratic lawyers filed a petition to determine if activities, like creating Super PACs for specific House and Senate candidates, is legal. The petition also sought clarity on how candidates can be involved with Super PACs. Two draft opinions on the matter were prepared by FEC lawyers and concluded that some fundraising tactics used by Super PACs were not permissible. FEC Chairwoman Ann Ravel helped prepare one of the advisory opinions. Republican commissions delayed the vote on the issue until November 10, 2015. More information is available at [www.fec.gov](http://www.fec.gov).*

## U.S. ELECTION ASSISTANCE COMMISSION ANNOUNCES APPOINTMENT OF NEW EXECUTIVE DIRECTOR AND GENERAL COUNSEL

The U.S. Election Assistance Commission (EAC) has hired a new executive director and general counsel. On November 2, 2015, Brian Newby was announced as the new executive director and Clifford Tatum was announced as the new general counsel.

Brian Newby most recently served as the election commissioner in Johnson County, Kansas, a position he held for eleven years. He serves on the Election Center Legislative Committee for the International Association of Clerks, Recorders, Election Officials, and Treasurers (IACREOT) and is a former board member of the National Association of County Recorders, Election Officials, and Clerks. Newby received his master's degree in public administration, as well as his bachelor's degree in communication studies, from the University of Missouri–Kansas City.

In a press release announcing the new appointments, Newby said that while it is hard to leave a job that he has loved for eleven years, he is anxious to begin working at the EAC. "I can't wait to be part of the energy that is building at the EAC and be part of high-powered, responsive resource to the election administration community in this important presidential election cycle and in the years ahead," Newby added.

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The new general counsel, Cliff Tatum, has worked as the executive director of the DC Board of Elections for the last four years. Tatum has also held election administration and legal positions in Georgia. He was the interim director of the Georgia State Elections Division and was the assistant director of legal affairs for the Georgia Secretary of State. Tatum was also a trial attorney who practiced commercial and general litigation in Atlanta and served as deputy solicitor general for the city of East Point, Georgia. He received his law degree from the Thomas M. Colley Law School of Western Michigan University and graduated with a degree in administration from Guilford College in Greensboro, North Carolina. More information about the new appointments is available at [www.eac.gov](http://www.eac.gov).

**BRENNAN CENTER REPORT FOCUSES ON  
VOTER REGISTRATION IN THE DIGITAL AGE**

The Brennan Center for Justice at New York University School of Law released a report entitled, *Voter Registration in a Digital Age: 2015 Update*, on October 27, 2015. The report includes the results of a two-year analysis of voter registration systems and finds modernization efforts and new moves to automate voter registration to be beneficial for voters and election officials.

The report begins with the assertion that the system of voter registration in this county needs improvement, as nearly 3 million registered voters could not vote in 2008 as a result of issues with their voter registration records. The same was true for millions of voters in 2012, according to the report. The authors suggest much of the problem stems from outdated voter registration systems used by many jurisdictions and the reliance on paper at a time when much of society uses technology. A promising trend is that many states are moving to electronic systems.

In compiling the report, the Brennan Center spoke with over seventy election officials in thirty-eight states about their voter registration systems. Of the thirty-eight states, twenty-seven offer electronic registration and twenty-six have online options. By comparison, five years ago, only seventeen states electronically registered voters and at least six allowed voters to register

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online. Moving to modernized voter registration systems allows states to more efficiently register voters, according to the report. Elections officials stated that online voter registrations are processed more quickly than paper registrations. Electronic and online registrations are received within twenty-four hours, and negate the need to open envelopes, stamp registration forms, and manually enter information.

Modernized systems have experienced increased registration rates. Fourteen of the sixteen states examined in one data sample saw sustained or increased registration rates at their respective DMV. The report cited Pennsylvania, which eliminated paper records at the DMV in 2005, and has seen registration rates at the DMV quadruple. Likewise, online voter registration remains a popular choice with voters as states that have used online voter registration for multiple election cycles have seen registration increases. In 2003 when online voter registration was launched in Arizona, it accounted for 25% of all registrants. That percentage increased to 39% in 2008. From November 2010 to November 2012, online registrants accounted for 46% of new registrants in Arizona. Online registrant percentages also increased in Oregon, from 18% in 2011 and 2012 to 28% in 2012. The report does caution that high levels of online voter registrants are not guaranteed and shows that registration percentages fell for many states during the 2014 election cycle when voter turnout was low. Many voters view online voter registration to be more secure than paper forms as well.

Further, the Brennan Center report found online voter registration increases accuracy of voter rolls and decreases costs. While not all states were able to track cost savings, state election officials agreed that online voter registration decreases costs. For example, officials in Washington said they save a quarter for each online registration, which in the first two years of its system equated to a savings of \$176,000. Other states estimate the cost savings to be even higher. California's Secretary of State said the online voter registration system saved them \$2.34 per online registration.

Some states have documented labor cost savings as a result of online voter registration. In its first year of online registration, Delaware reported saving \$200,000 in reduced labor costs. Officials in Colorado, Kansas, and Maryland reported hiring fewer temporary workers as a result of their online voter registration systems. And, Oregon reported that officials spent a tenth of the time registering voters than they did before online voter registration. Cost savings also came from reduced paper, reduced storage needs, and reduced postal costs. Costs to implement online voter registration systems varied greatly from no cost in states like Kansas and Missouri, where in-house staff implemented the systems, to \$1.8 million in California.

In comparing states, the Brennan Center report found variances in how electronic and online voter registration systems work. In most states, electronic registration is available at the DMV. In some states, DMV clerks ask customers about registering or updating registration information. In other states, touchpad devices are used to collect information from the voters, including signatures. The majority of states with electronic registration through the DMV have an entirely paperless system for transferring data.

For states using online voter registration, most require a DMV driver's license or ID number in order to register. States also vary in whether they allow for address updates, political party changes and name changes through an online registration system. In the conclusion of the report, the Brennan Center recommends making online and electronic registrations available to as many voters as possible, insofar as the systems are beneficial to voters and to election officials. The report can be viewed at [www.brennancenter.org](http://www.brennancenter.org).

## **LOS ANGELES COUNTY DEBUTS NEW VOTING SYSTEM DESIGN AT TECHNOLOGY CONFERENCE**

The new voting system for Los Angeles County debuted on October 5, 2015 at a South by Southwest Eco conference in Austin, Texas. The machine was presented at the technology conference by Los Angeles County Registrar-Recorder/County Clerk Dean Logan and Matt Adams from IDEO, a company that worked with the county on designing the system. Los Angeles County is the country's largest voting jurisdiction with over 4.9 million registered voters.

According to Monica Flores, the Voting Systems Assessment Project (VSAP) coordinator, the new system is a tablet based system that allows for customization, software updates, and accessibility. The tablet itself can be angled in order that voters can view it from a seated or standing position. The system also features multiple accessibility options, privacy screens, and compartments for storing printed ballots.

One of the features of the new device is that it allows voters to mark interactive sample ballots on phones, tablets, or home computers. Once marked, the interactive sample ballot will generate a QR code that can be printed if the voter uses a home computer or saved on a phone or other device. When the voter arrives at the polling location, he or she will first check in. Then, voters who completed the interactive sample ballot will scan the QR code to bring up their ballot selections. The voters will have the ability to review and make changes to selections at this point. When the voter casts a ballot, a paper printout of the ballot is generated that the voter can again review. Voters who notice mistakes or want to make changes to this ballot have the option to do so, said Flores, as California allows voters three chances to correctly mark a ballot. The paper ballots are used to tally votes in the county. Flores said that voters who do not complete the interactive sample ballots will still go through the voting process by making selections on the tablet.

Kenneth Bennett, Manager of GIS, Ballot Management and Election Tally for Los Angeles County told *Election Administration Reports* that the county worked "to design a truly universal voting device that can be used by all voters regardless of needs or abilities." Flores added that election officials participated in the design process to create a device that is accessible to minimize voter errors. Voters can select one of ten languages for their ballots and can adjust contrast and font size. Additionally, the integrated ballot box design does not require a voter to touch the ballot in order to cast it, said Bennett. He said in addition to being able to cast a vote hands free, "the assistive devices for accessibility (keypad and headphones), the design for wheelchair access, and the UI design for usability, language support, low literacy and cognitive disability" make the system accessible for all voters. Extensive user testing was conducted with an array of voters. Flores said testing that included veterans, senior citizens, and non-English speakers was conducted before the final system design.

Part of the implementation of the new system, anticipated for some time in 2018, will involve the consolidation of polling places in Los Angeles County into vote centers. Residents will be allowed to vote at any of the vote centers in the county, and the voting process will be extended over a multi-day period, Flores said. The county is working on analyzing data to determine how many vote centers will be required and how many voting machines will be required at each center.

The VSAP coordinator Flores also said that vote-by-mail ballot design and the ballot tally system were considered when the new voting machine was being designed. "We tried to envision

the whole voting experience,” she said. She added that sample vote-by-mail ballots have been sent to voters, and the county will follow up with phone surveys to gauge reaction to the ballots.

Plans for the new system were first considered in 2009. Thus far, the system has cost \$15 million to produce with final costs to be determined, said Flores, the VSAP coordinator. The current design and engineering phase of the project will be complete by early summer 2016, after which a competitive bidding process for manufacturing of the system will begin. Although the precise details of the bidding process have not been announced, Flores said they anticipate having multiple RFPs for developing system components. More information about the new Los Angeles County voting system is available at [www.lavote.net](http://www.lavote.net).

## **PROJECT VOTE RESEARCH HIGHLIGHTS POSITIVE AND NEGATIVE 2015 LEGISLATIVE ACTIVITY AFFECTING VOTERS**

A recent Project Vote research memo entitled, “Legislative Threats and Opportunities: Fall 2015,” details the state and federal legislative activity affecting voters and voter rights in 2015. The memo, by Erin Ferns Lee, examines proposed legislation as well as passed legislation that may be encouraging or restricting voter access, requirements and rights.

The 50<sup>th</sup> anniversary of the Voting Rights Act (VRA) was celebrated this year with advocates convening in Selma, Alabama to commemorate Bloody Sunday and other activists rallying for a restored VRA in Virginia and against laws passed in North Carolina. According to the report, some legislative activity threatened voting rights and access to the polls.

In 2015 there was significant legislative activity regarding the requirement to provide legislation proof of citizenship when registering to vote. The report attributes this trend to “the rise in fanatical, xenophobic commentary from political figures in 2015.” In ten states legislation was proposed that would require applicants provide proof of citizenship, in addition to attesting to citizenship on voter registration applications, and also face stiff penalties for violations. Legislation about proof of citizenship failed to pass in Connecticut, Maryland, Mississippi, Nevada, Oregon, Texas, and Virginia. Legislation was passed in Louisiana that allows the state to notify the U.S. State Department when jury duty questionnaires are returned because individuals are not U.S. Citizens. A bill that allows for the study of the verification of citizenship status when registering to vote was passed in North Dakota. A Massachusetts bill about citizenship requirements is pending.

The report notes that these state citizenship requirement laws are often subject to legal challenges. While the U.S. Supreme Court refused to hear the cases from Kansas and Arizona requesting citizenship information on federal voter registration forms, legal questions surrounding state-produced forms remain open. In Congress, bills have been introduced to require proof of citizenship (HR 951 and HR 2392).

Voter identification requirements were also dominant in voting legislation considered by states. The report says that while the push to enact these laws in some states is strong, the opposition to voter identification requirements is just as strong in other states. Voter identification laws have posed legal challenges, and most of the legislation that introduced or strengthened voter identification laws was defeated. Many voter identification laws were introduced in Missouri, but none passed. In New Mexico, where Secretary of State Dianna Duran campaigned on stricter voter

identification laws, one bill passed in the house but failed in the state senate. Some municipalities in New Mexico are enacting their own local voter identification laws. Voter identification legislation that could affect 300,000 registered voters was tabled in Nebraska. According to the report, Ohio is considering voter identification laws that have the potential to impact 930,000 voters even though the state secretary of state has said voter fraud is rare.

In some states that already have voter identification laws, additional restrictions were proposed. These laws were considered but failed in Alabama, Indiana, Michigan, and Texas. In Virginia, legislation passed but was vetoed by the governor.

In four states (Arkansas, Georgia, Maryland, and Texas), bills were proposed to reduce or limit early voting periods but failed in every state. These bills varied and often proposed shortening the period of early voting or removing the Sunday prior to Election Day from the early voting period. Bills that would have altered or repealed same day voter registration were considered in Connecticut, Minnesota, and New Hampshire, but all failed in this legislative session. States also considered legislation related to vote purging after using crosscheck programs this year. The report said that the more data that is matched before purging voters, the better and highlights provisions in the National Voter Registration Act (NVRA) to safeguard the removal of voters from the rolls.

In addition to discussing what were viewed as threats, the report highlighted several positive opportunities in voting rights. Automatic voter registration was passed in Oregon and California (see *Election Administration Reports*, Vol. 45, No. 22, October 26, 2015). New laws that would allow for automatic registration were introduced in nineteen states and in Congress. While some of these efforts have failed, others are pending. The author recommends automatic voter registration proposals comply with, and enhance, voter registration services offered through NVRA.

Several state lawmakers proposed legislation to expand early voting periods or enact an early voting system if the state does not currently offer early voting. Although early voting measures failed in Arizona, Minnesota, Missouri, Oklahoma, South Carolina, Texas, and Virginia, early voting measures are still pending in Michigan and Pennsylvania. Support for another measure that would expand voting rights—restoring felon voting rights—has also grown, according to the report. Bills that would restore voting rights after individuals are released from incarceration were proposed in a dozen states and passed in two—Wyoming and Maryland. However, Maryland Governor Larry Hogan vetoed the legislation with the legislature to consider a veto override in January 2016. Other administrative changes, like removing a requirement for felons to pay court costs before registering to vote, were removed in Virginia. This restored voting rights to 8,250 people, 70% of whom have registered to vote.

Online voter registration, adopted by half of the states, is also a promising practice to expand voting rights, according to the author. Three states passed legislation to facilitate online registration, and other states implemented systems this year. In other states, like North Carolina and Texas, bills that would reverse or weaken regressive voting laws were considered. These laws came after the Supreme Court's *Shelby v. Holder* decision that weakened the VRA. The Texas and North Carolina laws have also faced court challenges.

Same day registration legislation was proposed in a dozen states and in Congress. Legislation is still pending at the federal level and in Massachusetts, Pennsylvania, and Vermont. A law that will expand Utah's Election Day Voter Registration Pilot Project to permit individuals to

register and vote during the early voting period was passed in the state. Measures to update the Voting Rights Act have also been introduced in Congress. A California law that would have established a state preclearance system was passed by the legislature but vetoed by Governor Jerry Brown. The Project Vote report with specific information about bills introduced, passed or rejected in each state is available at [www.projectvote.org](http://www.projectvote.org). Project Vote is a nonpartisan organization dedicated to building an electorate that accurately reflects the diversity of American through advocacy and litigation and to ensure that every eligible citizen can register, vote, and cast a ballot that counts.

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## ***ELECTIONotes***

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***Philadelphia woman wins \$10,000 for voting in mayoral election.*** Bridget Conroy-Varnis, a resident of south Philadelphia, was the winner of a \$10,000 lottery for voting in the city's November 3, 2015 mayoral election. Conroy-Varnis was selected to win the \$10,000 prize just for voting in the election. The contest was sponsored by a non-profit media organization, Philadelphia Citizen, and by the Pamela and Ajay Raju Foundation. The media organization randomly selected the Murphy Recreation Center and the time 6:32 pm, when Conroy-Varnis walked out of the polling place and was given the \$10,000 check. According to media accounts, the winner was "absolutely shocked" upon winning and said, "She had seen it on the news and knew about the contest but was totally surprised that she won," see [www.reuters.com](http://www.reuters.com). Insofar as the sponsors of the lottery were not advocating for specific candidates, commentators thought this municipal election activity was not illegal under Pennsylvania state and local law. The goal of the contest was to increase voter turnout in the Philadelphia municipal election. Turnout for the 2007 mayoral election was 29 percent. The unofficial machine turnout figures for the November 3 election show an overall turnout of 25.67% with absentee and provisional ballots to be counted. More information about the contest is available at [www.philly.com](http://www.philly.com).



**Voting rights activists question why voter registration information not included with affordable care act enrollment.** In an October 28, 2015 letter to President Obama, representatives from voter organizations question why voter registration is not provided through the federally-facilitated health care exchanges. The letter is signed by representatives of Demos, ProjectVote, and the League of Women Voters of the United States. The letter states that the fact that eligible applicants are not receiving voter registration information when enrolling for healthcare is a violation of the National Voter Registration Act (NVRA). The NVRA provides that eligible individuals should receive voter registration information when applying for services through a variety of government programs, including Medicaid; however, the same opportunities to register to vote are not provided to those who enroll in the federal health care exchange. The group representatives assert the numbers of voter registration applications submitted has decreased in states using the Federally Facilitated Health Benefit Exchange. Further, the letter states that this impartial voting rights issue can no longer be ignored as the thirteen states that offer their own health care exchanges are complying with the NVRA obligations. Therefore, as the regulator of health care exchanges in other states, the group representatives believe the federal government has an obligation to offer voter registration information. The letter was signed by Heather McGhee, president of Demos, Michael Slater, president of ProjectVote, and Elisabeth MacNamara, president of the League of Women Voters and can be viewed at [www.lwv.org](http://www.lwv.org).

## ***ELECTION LEGISLATION INTRODUCED AND ACTION TAKEN***

| TOPIC   | MAJOR<br>BILLS,<br>SPONSOR   | CONGRESSIONAL ACTION  |
|---|--|---|
| <b> Voter Empowerment Act of 2015</b> —Proposes new initiatives to modernize voter registration, make available requirements payments under HAVA, provide for uniform rules for the counting of provisional ballots, provide for the use of early voting and vote centers, promote access for individuals with disabilities and protect the right to vote in federal elections. | J. Lewis<br>(D-GA)<br>HR 12<br>(179 co-sponsors)   | Introduced on March 19, 2015, and referred to the Committee on House Administration and to other committees Bill referred to Subcommittee on Economic Opportunity on March 27, 2015 and to the Subcommittee on Higher Education and Workforce Training on April 29, 2015. The bill has 179 co-sponsors.                             |
| <b> Election Assistance Commission Termination Act</b> —Bill ends EAC, returning some functions to the Federal Election Commission and eliminating other functions.   | G. Harper<br>(R-MS)<br>HR 195  | Referred to the Committee on House Administration on January 7, 2015. Bill was ordered to the full chamber on a committee voice vote on March 4, 2015.  |
| <b> Streamlined and Improved Methods at Polling Locations and Early (SIMPLE) Voting Act of 2015</b> —Would amend HAVA to require early voting for fifteen days; require states to take action to ensure fair and equitable wait times not exceeding one hour; prescribe requirements for counting of provisional ballots.   | S. Cohen<br>(D-TN)<br>HR 411<br>(29 co-sponsors)   | Referred to the House Administration Committee on January 20, 2015. The bill has twenty-nine co-sponsors.   |
| <b> Voting Rights Amendment Act of 2015</b> —Amends the 1965 Voting Rights Act to clarify the jurisdiction of federal courts over certain types of violations and revises the requirements for determining which states and political subdivisions are covered by the criteria. The bill is a response to the Shelby v. Holder decision of the U.S. Supreme Court in 2013.      | F. J. Sensenbrenner<br>(R-WI)<br>HR 885<br>(95 co-sponsors)  | Introduced on February 11, 2015, and referred to the House Committees on Judiciary. Referred to the House Subcommittee on the Constitution and Civil Justice on March 16, 2015. The bill has <i>ninety-five</i> co-sponsors.  |
| <b> Democracy Restoration Act of 2015</b> —Prohibits denial of an individual right to vote in a federal election for conviction of a criminal offense unless, at the time of an election, such individual is serving a felony sentence in a correctional institution or facility.   | J. Conyers<br>(D-MI)<br>HR 1459<br>32 co-sponsors<br>B. Cardin<br>(D-MD)<br>S. 772<br>(10 co-sponsors)   | HR 1459 was introduced in House on March 19, 2015, and referred on April 21, 2015 to Subcommittee on the Constitution and Civil Justice. The bill has <i>thirty-two</i> co-sponsors.<br>S. 772 was introduced in Senate on March 18, 2015, read twice and referred to the Committee on the Judiciary. The bill has ten co-sponsors. |
| <b> Voting Rights Advancement Act of 2015</b> —Establishes new criteria for Section 4 of the Voting Rights Act s under which a state, and all of its political subdivisions, would be subject to preclearance procedures. Also would provide for location of polling places at no expense to Indian tribes on tribal lands under certain criteria.                              | T. Sewell<br>(D-AL)<br>HR 2867<br>(137 co-sponsors)<br>P. Leahy<br>(D-VT)<br>S. 1659<br>(39 co-sponsors) | HR 2867 was introduced in House on June 24, 2015, and referred on July 9, 2015 to Subcommittee on the Constitution and Civil Justice. HR 2867 has 137 co-sponsors. S. 1659 was introduced on June 24, 2015, read twice and referred to Senate Committee on the Judiciary. The bill has <i>thirty-nine</i> co-sponsors.              |

Bills listed above are those most likely to be acted upon or have the greatest potential impact on state and local election administration. Election related bills not listed above do not appear to have sufficient support to be considered seriously in the near future. Information current as of date of publication. *Changes from previous issue are presented in italics.*

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