

## **I. In Focus This Week**

*NOTE: Our colleagues at the Pew Center on the States are putting the final touches on their regular State of the States report, which includes analysis of the recession's effects on state governments and the 2010 elections as well as charts, maps and a 2010 Elections Guide. Pre-order yours - in [print](#) or [PDF copy](#).*

### **New Illinois undervote law not overly loved by voters and clerks**

*Implementation of law varied during this week's primary*

By [Daniel C. Vock](#)

The results were decidedly mixed in the first test of a unique Illinois law to discourage undervotes Tuesday.

As required by a [2007 law](#), voting machines on Tuesday (Feb. 2) were supposed to alert voters if they skipped races for any of the state's six constitutional officers, such as governor and treasurer.

The change drew little notice when the law first passed, but it drew [more scrutiny](#) in the months leading up to Tuesday's election. Champaign County Clerk Mark Shelden, a Republican, sued – unsuccessfully – to stop the law from taking effect. Other local officials turned to the Illinois State Board of Elections (ISBE), which also declined to block the changes.

Objections to the new notification requirements run the gamut from practical to philosophical.

On the practical side, most of the state's election jurisdictions use Accu-Vote machines, which require firmware upgrades to comply with the law. ISBE only approved the upgrades in late November, leaving little time for local authorities to order, install and test their updated machines.

On the philosophical side, officials complained that the notification violates the right to a secret ballot. Opponents note that voters who leave races blank most often do so on purpose, which is why undervotes usually vastly outnumber overvotes.

So on Election Day, many Illinois jurisdictions rolled out the changes exactly as ordered. But some couldn't make the deadline and others did the best they could.

Consider Chicago's suburbs. Within just a short drive of each other, voters encountered far different situations.

Suburban Cook County rolled out the changes just as planned. McHenry County officials objected to the state and opted not to go with the changes. DuPage County decided it didn't have time to get the machines ready for Tuesday's vote but plans to make the changes by November.

And in Aurora, the state's second-biggest city, the changes meant voters got alerts for every undervote they entered, not just ones in the six statewide offices.

At a polling place at a senior home in Bartlett, a Cook County suburb about 30 miles west of Chicago, the Sequoia machines seemed to work as the law specified.

Voters who took paper ballots walked over to the scanner and entered their tickets through the machine, just as they had in the past. (Electronic voting machines already alert voters if they fail to make a choice on individual questions.)

Just as before, the scanner checked to make sure the voter didn't choose too many candidates for the same race.

This time, though, it also checked to see whether the voter left any of the six statewide offices blank.

In either case, the scanner sounded a warning and spit the sheet back, which startled more than a few voters. Then, the machine would print an error message on a paper ribbon, like a cash register printing a receipt.

Usually, an election judge read the error aloud to the voter in a voice that could clearly be heard by others in the room. The voter then chose whether to correct the error or submit the ballot as is. Most voters said they intentionally left the race blank and turned in their ballot.

Voters in Aurora also received notices if they undervoted. But Aurora's Accu-Vote machines aren't capable of distinguishing between undervotes in the six selected races or undervotes in other contests, said Linda Fechner, executive director of the Aurora Election Commission, before the election.

So Aurora residents would get an alarm even if they didn't vote for U.S. senator or precinct committeeman.

Officials in the southwest suburb scrambled to comply with the law by the deadline.

In December, Aurora bought new chips for the machines, which cost less than \$150 each. "No hiccups" occurred during test runs before the election, but some people who came to a practice for the public complained about the new procedure, Fechner said.

Neighboring DuPage County decided against pushing to make the deadline. It, too, uses Accu-Vote machines. But it has 850 of them, compared to roughly 50 in Aurora.

Robert Saar, executive director of the DuPage County Election Commission, said the decision was "strictly a technical issue." He said DuPage officials did not have enough time to test the new arrangement as rigorously as required.

"The legislature has every right to pass a law requiring alerts for undervotes," Saar said. "But by the time there was a firmware fix, our machines could not (be upgraded) to audit for undervotes."

Practically, that made the ballot-scanning process a lot less complicated at one church in Lombard.

When election judges opened the three-precinct polling place at Community Presbyterian Church, they quickly discovered the scanner there would not pull the ballots through. It took nearly three hours – most of the morning rush – before the problem was fixed. In the meantime, voters placed their unchecked ballots in a locked box.

Election judges ran the ballots through the scanner once it was up and running. They scanned roughly 50 ballots at once, and not a single one produced an error.

McHenry County Clerk Katherine Schultz informed the ISBE in December that her county, which is along the Wisconsin border in the far stretches of Chicago's suburbs, would not implement the undervote law. Schultz cited the lack of time and reports of glitches in the upgrade for her decision.

"I am obligated to not take any action which I believe could vitiate the fundamental fairness of the upcoming... primary election," she wrote.

In January, a state's attorney from a central Illinois county just outside Peoria tried to convince the board to put the law on hold for a variety of reasons, including the ones Schultz listed and ballot secrecy.

"A voter has no right to over-vote but retains the privilege and right to under-vote. An over-vote is likely an error by the voter. An under-vote is most likely an intentional act by the voter, exercising their constitutional rights," wrote Stewart Umholtz, the state's attorney for Tazewell County.

Rupert Borgsmiller, ISBE's assistant executive director, said the state board can direct local jurisdictions on how to follow the law, but it has no enforcement authority. That power rests with the attorney general, he said.

Robyn Ziegler, a spokeswoman for Illinois Attorney General Lisa Madigan (D), would not comment on the specific situation.

But generally, Ziegler said, "the attorney general's office has enforcement authority over violations of the Elections Code and those alleged violations are customarily brought to our attention by the Board of Elections."

State Rep. Elaine Nekritz, a Democrat from Chicago's north suburbs, helped fashion the 2007 omnibus election bill that included the new undercount notification requirement.

She said Illinois lawmakers included the provision in response to the Help America Vote Act. That law requires election authorities to use machines that will notify voters if they cast an overvote. Illinois is the only state to apply a similar requirement for undervotes, although New York authorities proposed a similar rule before backing away from it.

Originally, Illinois legislators discussed requiring notifications if voters left any races blank. But they scaled back the proposal, because they thought it would be too cumbersome. In Cook County, for example, many voters don't get to the end of the ballot because it includes dozens of races for local judges.

But Nekritz said she was disappointed by some of the objections to the new requirements. "It's always a problem," she said, "when election authorities don't want to comply with the law."

## **Illinois officials not looking for a repeat of 2010 turnout**

*Earlier primary faced several hurdles*

By [Daniel C. Vock](#)

Illinois primary election this year was held on Groundhog Day, a full six weeks before its traditional spot that fell closer to St. Patrick's Day.

Preliminary reports from election officials suggest turnout was low across the state – near the record low of 25 percent set in 1978 and repeated four years ago. (The highest turnout in the last 30 years was 33 percent in 2002, the last time no incumbent ran in the governor's race.)

Some observers have suggested the earlier date might have contributed to the paltry turnout. But other factors could've contributed too, including a snowstorm that hit much of the state and highly negative voter attitudes toward politicians.

The reason Election Day came so early in 2010 has a lot to do with 2008, when Illinois lawmakers moved up the date in a bid to give an early boost to Barack Obama's candidacy in the presidential race.

The earlier date has other effects too. It meant state candidates started circulating their nominating petitions in August, some 17 months before the beginning of the terms they seek.

But the earlier deadlines didn't seem to discourage candidates from filing for office, said Rupert Borgsmiller, assistant executive director of the Illinois State Board of Elections. For instance, nine candidates filed to run for governor and 12 made the ballot for lieutenant governor, he noted.

"I've been involved with this office for 30 years," Borgsmiller said, "and I really don't see a drop-off in candidates that have filed nominating petitions for these elections."

For the state board, adjusting to the new primary date simply meant moving all their previous deadlines six weeks earlier. The logistical concerns remain the same, said Borgsmiller.

"Are there complaints? Our staff was working over Thanksgiving (in 2009). In the old elections, they were working over Christmas," he said.

## II. Election Reform News This Week

- This week, a New Jersey judge ordered a [panel of experts to evaluate the security of the state's 11,000 voting machines](#) but stopped short of decommissioning the Sequioa Voting Systems devices or requiring them to be retrofitted to produce a paper trail. Ruling in a five-and-a-half-year-old case, Mercer County Superior Court Judge Linda Feinberg ordered the creation of a new panel of computer security experts to re-evaluate the machines within 120 days to determine whether they comply with a law requiring that they be accurate and reliable, plaintiffs said yesterday. "I am disappointed the court did not take the step of mandating a voter-verified paper trail or scrapping the electronic machines altogether," Assemblyman Reed Gusciora, D-Princeton Borough, who is one of the plaintiffs told *The Times of Trenton*. "However, the court did acknowledge glaring deficiencies with the electronic machines which need to be addressed." Gusciora said he would urge Gov. Chris Christie and Lt. Gov. Kim Guadagno, who serves as secretary of state, "to carry out the court's instructions to the fullest."
- A bill to allow [military and overseas voters in Washington State to vote via email](#) is making its way through the state legislature. Secretary of State Sam Reed is pushing the change and says there is little security risk in having tens of thousands of voters all over the world send e-mails to Washington. "Any system we use, paper balloting, punch-card voting, there are ways of people perpetrating fraud," said Reed. "So what you do is you set up all kinds of ways of checking it and monitoring it." In this case, that includes a signed affidavit that voters would have to scan into a computer and attach as a file to their e-mail. The House unanimously passed a bill that won approval from a Senate committee last week and is moving toward the Senate floor. But not everyone likes it. Holly Jacobson, executive director of Seattle-based Voter Action, told the News Tribune the current system provides good access to the ballot box by overseas residents.
- Richmond County, Georgia voters have cast ballots in three unscheduled elections already this year. [They cost thousands of dollars in taxpayer money](#). Lynne Bailey, the Board of Elections Director says voters start to get fatigued after so many unscheduled elections. But, either way, they cost taxpayers thousands of dollars. The original special election for the District 22 Senate seat cost about \$60,000 according to Bailey. Tuesday's runoff cost an additional \$54,000 for a total of about \$114,000. Even with a high cost and low turnout, poll worker Mike Sanders told a local television station he will always be at the polls both to work and to vote. "It's like giving blood," said Sanders. "It's something you should just do."

## III. Research and Report Summaries

*electionline provides brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to [sgreene@pewtrusts.org](mailto:sgreene@pewtrusts.org).*

[Evaluating On-line Training: A Study of Poll Worker Training in Butler and Delaware Counties, Ohio for the March 4, 2008 Presidential Primary Election and in Bexar and Travis Counties, Texas for the November 4, 2008 General Election](#) - Stephen T. Mockabee, J. Quin Monson and Kelly D. Patterson, Brigham Young University Center for the Study of Elections and Democracy, Dec. 21, 2009: Scholars from the Brigham Young University Center for the Study of Elections and Democracy examine the effectiveness of on-line poll worker training in Texas and Ohio during the 2008 elections. The researchers found that supplementary online training (in addition to in-person training) benefited poll workers in several ways – they were more confident ballots would be counted accurately and fared better on post-election quizzes assessing poll worker knowledge of administering elections. The online training did not have any statistically significant effect on poll worker job satisfaction. This work was funded by the Pew Charitable Trusts and the JEHT Foundation as part of the Make Voting Work Initiative.

[Public Assistance Databases and Automatic Voter Registration: A Survey](#) - David Myers, Youjin B. Kim, Scott Novakowski and Steven Carbó, Demos, January 2010: In surveying 40 states and the District of Columbia about their public assistance agencies' computerized eligibility databases, Demos found that most of these systems would be ready for a voter registration system which automatically registers eligible citizens to vote.

[Paperless Voter Registration: Innovations in Three States](#) – Steve Rosenfeld, Project Vote, January 2010: South Dakota, Kansas and Delaware are profiled, focusing on how election officials in these states use computer technology to automate voter registration procedures and transactions at motor vehicle agencies.

[Ensuring that Provisional Ballots are Counted](#) – Project Vote, January 2010: This legislative brief describes why provisional ballots are not counted and makes recommendations to reduce their use and when used recommends how to improve procedures so there is a better chance these ballots will be counted.

[U.S. Election Assistance Commission Annual Report on Grant Programs, Fiscal Year 2008](#) – Feb. 3, 2010: As of September 30, 2008, states have spent 76 percent of the \$2.96 billion they received per the Help America Vote Act, according to the most recent annual report from the EAC. More than half of the funds spent - \$1.6 billion - have been spent on voting systems and another \$355 million has been spent on voter registration systems.

[Memorandum of Understanding Between the United States Election Assistance Commission and the General Secretariat of the Organization of American States](#) – Jan. 19, 2010: This [agreement](#) describes areas for cooperation between the two organizations on issues including “the standardization, testing, auditing and implementation of electronic voting initiatives; systems of quality management for electoral administration; training of electoral administration managers; development of manuals and other documents on electronic voting; and the development of materials and programs for the education of voters.”

[The U.S. Election Assistance Commission Fiscal Year 2011 Congressional Budget Justification](#) - February 1, 2010: The federal Election Assistance Commission has submitted its FY2011 budget request to Congress.

[Modern Democracy](#) – E-Voting.CC, Issue 2, 2009: The most recent issue covers topics related to e-participation and e-voting.

## IV. Opinion

Arkansas: [Polling places](#)

California: [Instant-runoff voting](#); [Election-day registration](#)

Colorado: [Vote-by-mail](#)

Florida: [Accounting snafu](#); [Reimbursement for special elections](#)

Illinois: [Election judges](#); [Undervote law](#); [Instant-runoff voting](#)  
Indiana: [Vote centers, II](#)  
Michigan: [Secretary of state race](#)  
New Jersey: [Voting machines](#); [Voter fraud](#)  
North Carolina: [One-stop voting](#)  
South Carolina: [Voter ID, II](#); [Florence elections](#)  
Vermont: [Instant-runoff voting](#)  
Virginia: [Election reform](#)

*\*\*some sites require registration*

## V. Job Opportunities

*All job listings must be received by 12 p.m. Eastern on Wednesday for publication in our Thursday newsletter. Job listings are free but may be edited for length. Whenever possible, include Internet information. Please email job postings to [mmoretti@electionline.org](mailto:mmoretti@electionline.org)*

**Chief, U.S. Dept. of Justice Civil Rights Division (Voting Section)** — The successful candidate will: Serve as the Chief of the Voting Section to supervise, directly and through subordinate supervisors, approximately 100 attorneys, Civil Rights Analysts, Paralegal Specialists, Social Scientists, and support employees. Manage the development of the Section's enforcement strategy and implementation plan, including appropriate allocation of staff resources and oversight of personnel matters. Plan and direct a nationwide program to enforce the applicable statutory provisions for safeguarding citizens' right to vote. Supervise the preparation of cases, including the investigation, records analysis, drafting and filing of complaint, pre-trial discovery, writing of the trial brief, and trial. Intervene in significant cases brought by private litigants involving voting rights. Supervise the Section's administrative review of submissions by states, counties, and other jurisdictions of voting changes pursuant to Section 5 of the Voting Rights Act. Direct and review investigations that arise from complaints regarding violations of applicable federal statutes. Consult and advise the Assistant Attorney General for the Civil Rights Division and other Department of Justice officials regarding issues in voting rights policy and litigation. Play a critical role in a range of policy, regulatory, and outreach issues involving voting rights, including engaging in public speaking, as appropriate, to educate the public on the Division's voting rights enforcement program. Coordinate with other components throughout the federal government to ensure a comprehensive effort to enforce voting rights. Confer with U.S. Attorneys and oversee the handling of U.S. Attorney cases related to voting rights issues. Resolve cases through settlement agreements, consent decrees, or litigation. Prepare recommendations for or against appeal, including appeals to the Supreme Court, and may brief or assist in the argument of the case or appeal. [Click here for a complete job description and application.](#)

**Deputy Chief, U.S. Dept. of Justice, Civil Rights Division (Voting Section)** — seeking an experienced attorney for the position of Deputy Chief in the Voting Section in Washington, D.C. The Civil Rights Division is primarily responsible for enforcing federal statutes and executive orders that prohibit, among other things, unlawful discrimination in voting, education, employment, housing, police services, public accommodations and facilities, and federally funded and conducted programs. The Voting Section enforces federal statutes designed to safeguard the right to vote. These statutes include the Voting Rights Act, as amended; the National Voter Registration Act; the Uniformed and Overseas Citizens Absentee Voting Act; and the Help America Vote Act. The Section brings lawsuits against states, counties, cities, and other jurisdictions; monitors local elections; and reviews submissions for compliance with Section 5 of the Voting Rights Act. The Deputy Chief will be responsible for managing and supervising attorneys, non-attorney professionals, and support staff in the full range of the Section's duties, and will report directly to the Section Chief. In addition, the Deputy Chief will supervise investigations and litigation addressing one or more aspects of the Section's enforcement program and may personally handle sensitive or particularly complex matters, at the discretion of the Section Chief. The Deputy Chief may also be required to perform a wide variety of duties in the Section, including responding to urgent requests from the Civil Rights Division's highest management levels. The Deputy Chief will also assist the Section Chief in the

personnel supervision, staff development, and administrative management of the Section. The post will likely require extended hours and some travel. [Click here for complete job description and application.](#)

**Elections Administrator, Everyone Counts, San Diego** — work directly with private and public sector clients to administer high integrity elections for Everyone Counts, the global leader in the delivery of accessible, auditable, verifiable and transparent elections using modern technology. Ideal candidate will possess skills that encompass the following qualities and experiences: delivery of elections or other similar electronic business process, administration, project management, customer service, sales, helpdesk assistance, invoicing and employee supervision. **Duties:** Under the supervision of the Lead Elections Administrator, a successful candidate will work day-to-day with worldwide clients to coordinate elections conducted over the Internet. Duties include: working with client on detailed job specifications, ensuring elections conform to various local and federal laws, set up election using the Everyone Counts voting administration system, testing of the election application, monitoring of election during voting period, responding to voter inquiries, delivering results, and administrative reporting. The Election Administrator will develop contracts with clients, invoice clients for services performed, and work with other employees involved in the administration of elections. Customer service skills and attention to detail are crucial elements of this position. Periodic travel to clients and conferences may also be required. **Qualifications & Skills needed:** minimum of a Bachelor's degree is required; qualifications beyond the degree include professional office and supervisory experience; must demonstrate ability to work independently and provide supervision, where necessary; must demonstrate strong listening skills and respect for all clients; excellent written, oral and presentation communications are required; attention to detail and accuracy is a must; requires proficiency in general computer software, such as Microsoft Office or Open Office, and a strong comfort level with the use of the Internet and technology; must collaborate with a variety of people, taking the initiative to reach out to others and to accomplish tasks with high quality in a time-efficient manner. Those interested should email a cover letter, one page resume, and salary requirements to [careers@everyonecounts.com](mailto:careers@everyonecounts.com). Compensation will be based on qualifications and experience. This position reports to the Lead Elections Administrator.

**Programmer, Voting Information Project, Washington, DC** — The New Organizing Institute (NOI) is seeking a full-time employee to take on responsibilities associated with the Voting Information Project (VIP), a cooperative project with the Pew Charitable Trusts and Google. The Voting Information Project (VIP) is a long-term, non-partisan effort to connect voters, via the web, with the information they need to be more engaged citizens. More specifically, the project works to get all 50 states to publish polling place information and candidate information in a standard format. These "feeds" of voting information will be available to all information providers in a recognized format. Thus, any organization – national or local, large or small – will be able to serve as a distribution channel for voting information-- directly from election officials to voters. The Programmer will be primarily responsible for working directly with tech staff in the states, VIP technical support staff, and Google to implement new feeds and update or maintain existing feeds. NOI itself is a progressive organization that builds capacity and sophistication in the progressive movement in the areas of technology and new media, especially as they relate to organizing. NOI offers numerous trainings for progressive practitioners, engages in data research, and coordinates with a wide range of progressive partners to leverage common interests in the improvement of technology options in the field. The position is hosted out of NOI offices and will include involvement in other NOI projects, but will primarily focus on VIP. **Responsibilities:** Technical Support and Development including: coordinate with technical collaborators to implement feeds; develop controls for monitoring status of VIP data feeds; assist with outreach and development of promotional materials; create materials explaining technical aspects of VIP; answer incoming technical questions from public and other stakeholders. **Qualifications:** Basic knowledge of political data; 1+ yrs database management experience; 3+ yrs programming experience; familiarity with XML, JSON, other data standards, EC2 and other cloud services, REST concepts, and comfortable in a Linux environment. The position goes through Jan, 2011, and may be extended at that time. Salary is commensurate with experience, and includes health care. Candidates should submit a resume and cover letter to [data@neworganizing.com](mailto:data@neworganizing.com). The email must have the subject line "Programmer Application"

**Trial Attorney, U.S. Dept. of Justice Civil Rights Division (Voting section)** — seeking up to 10 experienced attorneys for the position of Trial Attorney in the Voting Section in Washington, D.C. The

Civil Rights Division is primarily responsible for enforcing federal statutes and executive orders that prohibit, among other things, unlawful discrimination in voting, education, employment, housing, police services, public accommodations and facilities, and federally funded and conducted programs. The Voting Section enforces federal statutes designed to safeguard the right to vote. These statutes include the Voting Rights Act, as amended; the National Voter Registration Act; the Uniformed and Overseas Citizens Absentee Voting Act; and the Help America Vote Act. Trial attorneys are responsible for conducting investigations, litigation, and other activities addressing all aspects of the Voting Section's enforcement duties. These positions may require extended hours and some positions may involve significant travel. [Click here for a complete job description and application.](#)