

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

### **Scantegrity comes to Takoma Park**

*End-to-end system to be tested in April, used in November*

By [Kat Zambon](#)

Takoma Park, Md. has long been considered a bastion of progressive thinking. The town is a nuclear-free zone, the city, by statute, is forbidden to do business with the country of Burma (Myanmar), and residents must apply for a city permit to cut down trees even on private property.

And the city's progressive thinking doesn't stop with environmental and social issues, it also extends to elections. Takoma Park allows non-citizens to vote in local elections, uses instant-runoff voting and recently, more than 20 election integrity advocates, poll workers and concerned citizens gathered at a community center to discuss [Scantegrity](#), an end-to-end voting system built on top of an optical scan system that allows voters to confirm that their ballots were counted as cast after the election.

The November 2009 municipal elections in Takoma Park will mark the first time that Scantegrity is used for a binding public election but first, it will be tested in a mock election on April 11 in conjunction with the Takoma Park Arbor Day celebration.

Previously Scantegrity has been used in student government elections, according to Dr. Alan Sherman, University of Maryland – Baltimore County computer science professor and Scantegrity contributor.

Scantegrity uses open source software and interested parties can examine the source code [here](#).

After deciding how to vote, a voter using a Scantegrity ballot uses a special pen to darken the oval next to their choice and the pen reveals a confirmation code in yellow. The voter can record the confirmation code on a tear-off portion of the ballot or receipt with a serial number that the voter can take home.

After the election, the voter can go to a Web site and enter the serial number to ensure that the confirmation code matches the code displayed, proving that the ballot was counted as cast without revealing the voter's choice.

"Anyone in China can verify our election," Richard Carback, a University of Maryland – Baltimore County computer science graduate student and Scantegrity contributor said.

Workshop participants talked about the nuts and bolts of running a Scantegrity election, such as what happens to the receipts that voters don't keep (they will be shredded).

#### **April mock election scheduled**

Takoma Park residents have the opportunity to check out the new system in a mock election on April 11 at the community center. The goals of the mock election are to demonstrate that Scantegrity is trustworthy and collect data on how voters use the system, Sherman said.

Select mock election participants will be asked to participate in a focus group which will be facilitated by a professional moderator, he said. Voters will also be videotaped to study how easy it is to use the system. Sherman hopes 400 voters try the system in April.

Of course, whether or not a voter chooses to actually verify their votes remains unknown. Using the mock election, election officials hope to find out who verified their votes and why, though Sherman pointed out that it's hard to poll people who didn't verify.

"I do not believe that any significant percentage of voters will use the Scantegrity system to confirm their ballots were counted as cast," Paul Valette, former Montgomery County election operations manager said.

In the 2004 elections in Nevada where voters had touch-screen machines with a printer allowing them to check their ballots, observers found that only a small percentage actually did, he said. "The likelihood that people will write down numbers, take them home, and actually check them online seems to me to be remote," he said.

However, Valette added, the fact alone that voters will have the opportunity to validate their votes will "provide both a deterrent to tinkering with the software, and an increase in confidence on the part of the handful of people who insist that black box voting is unreliable," he said.

Anne Sergeant, [Takoma Park board of elections](#) chair agreed. "Just because [the voters] say it's important and don't do it doesn't mean they don't believe it's important," she said. Sergeant thinks Takoma Park voters generally trust the process and said that the mock election should be informative.

"I'm beginning to see the light" on Scantegrity, said Jane Johnson, an election judge for eight years. "Now I understand what it's all about and where they're trying to go."

**Correction:** In last week's story "[State and local election officials struggle with economic crisis](#)" it should have been listed that the U.S. Election Assistance Commission held meetings for state and local election officials on ways the federal certification process can save them money.

## II. Election Reform News This Week

A [study](#) out this week found that [twice as many ballots in Florida in 2008 were rejected](#) as invalid than were rejected in 2004. Still, the rejection rate of 0.75 percent was far lower than in 2000, when it was 2.9 percent. According to *The New York Times*, Secretary of State Kurt S. Browning said he was not surprised by the jump in invalid ballots in 2008, saying the main reason was that Florida forced 15 counties — including Miami-Dade — to switch from touch-screen machines to optical scan machines. Touch-screen machines do not allow voters to choose more than one candidate. "Obviously there's a tradeoff when changing voting machinery," said Browning, a former county elections supervisor. "You are not going to find a voting system that protects voters from themselves."

Citing rising costs and decreasing resources, [the New Jersey Senate voted this week to postpone indefinitely the requirement to attach paper printers](#) to the state's 10,000 electronic voting machines. According to *Newsday*, lawmakers had budgeted \$20 million for the voting-machine project but recently decided to use \$19 million of that money to help close what was then an estimated \$2.1 billion budget gap. That number has since swelled, with state officials now expecting \$3.6 billion less in revenue this year than they had anticipated. The deadline for adding the printers was originally set for Jan. 1. The legislation, passed Monday, postpones the deadline until the federal government supplies enough cash for the retrofit, among other requirements.

California Secretary of State Debra Bowen is [considering withdrawing the state's approval of the Premier Elections Solutions software](#) that resulted in almost 200 ballots disappearing from Humboldt County's final November election results. According to the *Times-Standard*, a public hearing will be held in mid-March to discuss the findings of an investigation into the problem, and to take public comment on the possible withdrawal of the state's approval of the voting system. Meanwhile, the two other counties in the state that use the system are left contemplating what its decertification would mean, and some election advocates are lobbying for some punitive action to be taken against Premier Elections Solutions. "The public hearing is typically the last step in the process," Secretary of State spokeswoman Nicole Winger told the paper. "It

offers one final opportunity for input, for the vendor to state their side of the story and for the public to give comments or input as well. It's a chance for everyone to be on the same page and see where things stand.”

[Rosemary Rodriguez](#), the recently-appointed chair of the U.S. Election Assistance Commission (EAC) submitted her letter of resignation this week, effective February 28. In a [statement](#) released by the EAC, Rodriguez, who will return to Colorado to head up U.S. Senator Michael Bennett’s office, thanked her colleagues on the commission and the staff and urged work to continue on a federal certification system. According to *The Denver Post*, many of Rodriguez's supporters criticized Gov. Bill Ritter for not considering her as a candidate for Secretary of State. In addition to her experience as commissioner, she served five years overseeing city elections as Denver's Clerk & Recorder.

In other federal news, *The Wall Street Journal* was reporting this week that [Thomas Saenz](#) has been tapped to head the Department of Justice’s Civil Rights Division. Saenz, 42, the former vice president of litigation for the Mexican American Legal Defense and Educational Fund in Los Angeles, is currently serving as counsel to Los Angeles Mayor Antonio Villaraigosa. Civil rights attorneys and academics in southern California praised the choice. “I don’t think the president or attorney general could make a better selection,” Mark Rosenbaum, legal director of the ACLU of Southern California told the paper. “He’s a throwback to the great civil rights attorney pioneers, like Thurgood Marshall.”

### 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).

[The Democracy Canon](#) – Rick Hasen, Loyola Law School, Los Angeles, Legal Studies Paper No. 2009-6, February 2009

Hasen describes what he terms the “Democracy Canon,” a rule of thumb applied by state courts where state laws that potentially limit citizens’ voting rights are construed in the voter’s favor. A history and a defense of the canon are provided first, followed by a discussion of one of the arguments against the use of the canon, the role it plays in the real and perceived politicization of the judiciary. This is explored by examining the New Jersey Supreme Court's controversial opinion in *New Jersey Democratic Party v. Samson* which let Democrats replace a U.S. Senate candidate's name on the ballot close to election time. Finally, constitutional questions that emerge when a federal court is asked to overturn a state court's use of the canon are addressed.

[EAC Research Areas for the TGDC VVSG Recommendations](#), National Institute of Standards and Technology (NIST), January 2009

In the summer of 2007 the National Institute of Standards and Technology (NIST) provided the federal Election Assistance Commission with recommendations for the Voluntary Voting System Guidelines (VVSG). Subsequently the EAC held several meetings with its Board of Advisors and Standards Board. In response to resolutions passed by these boards, the EAC requested NIST examine the feasibility and scope of impact of six areas of research. This report includes that research in the following areas:

1. Alternatives to the requirement of software independence;
2. Standards for ballot-on-demand systems;
3. The impact of the guidelines on vote-by-phone-systems;
4. A feasibility study of the ramifications of the EAC separately testing and certifying components of a voting system, and requirements for interoperability between systems and system components;
5. The impact of early voting and vote centers on the guidelines; and
6. Identification of "goal-level requirements" (requiring a desired performance but not specifically stating how that performance should be met) in the VVSG and developing alternatives.

[Historical Considerations and Congressional Representation for the District of Columbia: Constitutionality of the D.C. House Voting Rights Bill in Light of Section Two of the Fourteenth Amendment and the History](#)

[of the Creation of the District](#) – Mark S. Scarberry, Pepperdine University School of Law, *Alabama Law Review*, forthcoming, February 2009

As Congress moves forward with a bill to give the District of Columbia representation in the U.S. House of Representatives, Scarberry joins those who argue if it does become law it will be unconstitutional. Historical evidence is cited, specifically focusing on Section Two of the Fourteenth Amendment. While some have argued that not including the District in the apportionment of House seats was inadvertent, according to Scarberry an examination of the history of the amendment demonstrates otherwise.

[Election Law Journal: Rules, Politics and Policy](#) – March 2009

The most recent edition of the Election Law Journal is now available. A subscription is required.

## IV. Opinion

National: [Voter ID](#); [Voting Rights Act](#)

Technology: [Open source](#); [E-voting security](#)

California: [Top-two primary](#)

District of Columbia: [Voting rights](#)

Florida: [Vote-by-mail](#); [Supervisor of elections](#)

Illinois: [Special elections](#)

Maryland: [Polling places](#)

Michigan: [Election clerks](#); [Election reform](#)

Mississippi: [Voter ID, II](#)

Oklahoma: [Voter ID](#); [Early voting](#)

Oregon: [Top-two primary](#)

Pennsylvania: [Early voting](#)

Utah: [Voter fraud](#)

Washington: [Ex-felon voting rights](#)

*\*\*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)*

**Associate, Make Voting Work, Pew Center on the States, Washington, D.C.**-- will help design and implement research and analysis for MVW, coordinate convenings, manage special projects, maintain internal and external communications and support other programmatic investments and budget activities. The associate may also undertake special projects aimed at improving the overall operation of MVW and other projects in the PCS elections portfolio. Qualifications: Bachelor's degree required; advanced degree preferred; one to three years of relevant professional experience, including demonstrated research and analytical and writing skills. Experience in public policy in general and election administration in particular preferred; ability to write clearly and cogently for internal audiences, policy makers, the media and public; ability to synthesize and summarize large amounts of information and to focus quickly on the essence of an issue, as well as to identify, understand and synthesize different policy perspectives; experience working with academics, nonprofits and other contractors conducting research and policy analysis, helping ensure the results are rigorous, policy relevant and timely and are communicated clearly and persuasively to target audiences; strong systems skills including Microsoft office products required; database and online research applications preferred; demonstrated time- and project-management skills, including an ability to meet multiple deadlines by maintaining a high level of organization; ability to set priorities and identify resources; ability to work independently with limited supervision. Flexible and able to routinely juggle multiple competing priorities and work in teams of both support and senior staff to meet project goals. For more information on the position and how to apply, click [here](#).

**Voter Registrar, City of Fairfax, Va.** — appointive office of the General Registrar. This is a four-year appointment. Must be a qualified voter of the City of Fairfax or be willing to become a qualified voter before appointment. The General Registrar is responsible for voter registrations and election management. Must perform the duties outlined in Virginia Code Sec. 24.2-114 to include timely processing of registration applications and maintaining accurate and current registration records; assuring compliance with all laws and regulations regarding voter registration. Election management duties are carried out at the direction of the Electoral Board and include the maintenance, preparation and deployment of the voting machines; assuring the availability of the polling places; posting of precinct signs and preparation of election materials for polling places; assisting the electoral board to insure the uniformity, legality and purity of elections. Required to manage all personnel, fiscal and physical resources as needed to provide all required and desired services of the office; develop and administer a public information program to encourage registration and voting; deal with inquiries and complaints from the general public. **Qualifications:** Candidates must possess expertise in the voter registration process and in election management. Applicants must possess knowledge of and ability to easily deal with cutting edge technology, including both standard and proprietary computer programs. Candidate must also be able to deal with the public in a polite, courteous, pleasant and professional manner in writing, in person and by telephone. Knowledge of local government, community and political structure; budgeting; standard office procedures; federal and state election laws; management skills, including prior supervision of personnel; ability to recruit volunteers; public relations; good oral and written communications skills are required. The candidate must be able, when necessary, to work nights and weekends. Candidate must possess a valid Virginia driver's license and be able to travel within the City with their own vehicle. **Salary:** \$52,188 - \$57,537. **Application:** All interested candidates should send a cover letter, resume, and city application to: City of Fairfax Personnel, 10455 Armstrong Street, Fairfax, VA 22030. Applicants may also apply online at <http://www.fairfaxva.gov> and attach a resume and cover letter. **Deadline:** 5:00pm on Monday, March 9, 2009.