

I. In Focus This Week

Election officials share mixed emotions on Voting Rights Act

Administrators ponder world without Section 5

By [Kat Zambon](#)

In April 2006, Alabama Gov. Bob Riley (R) signed a bill updating state election law to comply with the [Help America Vote Act](#) (HAVA).

However, because Alabama is [covered](#) by Section 5 of the Voting Rights Act (VRA), the law still needed U.S. Department of Justice pre-clearance before it could be enacted.

After several weeks of preparation, the shipping label for the pre-clearance materials indicated that they weighed 42 pounds.

“42 pounds is a small child,” said Jean Brown, Alabama attorney general chief legal advisor.

Ultimately, the Justice Department determined that the 42 pound submission was not sufficient, requiring an additional 100 hours of work from the attorney general’s office. The changes were finally pre-cleared in October 2007, 18 months after they were signed into law.

All that work and postage could come to end though depending on how the U.S. Supreme Court rules in the case of [Northwest Austin Municipal Utility District No. 1 \(NAMUDNO\) vs. Eric Holder](#). Oral arguments were heard last week.

Within the elections administration community, opinions are mixed on the impact Section 5 has and of the pending case. [Riley](#) and [Georgia](#) Gov. Sonny Perdue both submitted amicus briefs in support of NAMUDNO.

But Travis County, Texas, where Utility District is located, has argued against the lawsuit.

"From our experience it still is needed, important and helpful," Rena Hicks, attorney for Travis County [told](#) the *Austin-American Statesman*.

Those opposed to the act argue that it is burdensome, infringes on state’s rights and is no longer necessary in this day and age.

“The Section 5 requirements place unnecessary bureaucratic and time-consuming burdens on Georgia’s state and county election officials. These requirements limit flexibility to address even the smallest administrative change because the pre-clearance process can take months,” Matt Carrothers, media relations director for Karen Handel, [Georgia secretary of state](#) said.

For example, before the November 2008 elections, Georgia counties were barred from increasing early voting hours and number of polling places because the changes required pre-clearance.

Brown also spoke about the experience of Calera, Ala. where district lines were redrawn and an election was held before the new districts were approved by the Justice Department. After rejecting the redistricting plan, [the department met with a delegation from](#) Calera to discuss how to resolve the issue.

"People who had hoped to retire from elected office, as far as I know, they're still the carryover election officials. The newly elected mayor cannot take office," Brown said. "I have no idea what the eventual outcome will be in that city."

Phyllis Busansky, [Hillsborough County \(Fla.\)](#) elections supervisor said that her county is covered by Section 5 because they didn't have ballots available in Spanish when the county's Hispanic population grew. Since the county started printing bilingual ballots, Busansky thinks Hillsborough should be able to bail out of Section 5 coverage. "It would be nice if that could be acknowledged ... but it's not a huge burden."

Should Section 5 be struck down, Busansky doesn't anticipate many, if any changes coming to the elections department in Hillsborough.

"Having been under this for 25 years, we're pretty alert. We don't want to go back under it ... but it is an extra sense of security for a lot of voters and that's important," she said. "Anything that makes the voter trust the voting process is something I support ... Trust is very important, especially here in Florida."

Section 5 is just a part of the process of making election administration changes, Vickie Reed, [Wayne County \(N.C.\)](#) board of elections director said.

"As long as you lay out exactly what you want and include all of the information required I have not had any problem. It just takes a long time but as long as you put that into your schedule it's just like everything else," she said. "We figure that it takes about sixty days as long as we get all of our information in there."

Reed seemed pleased with the level of support the Justice Department gives jurisdictions covered by Section 5.

"They seem to work pretty closely with us ... I don't know how they could streamline it any more," she said. If the court strikes down Section 5, "It would only require one less step than we take now. We still go through our state boards and our local boards."

The Supreme Court is expected to rule sometime before its current session ends in June.

II. Election Reform News This Week

- Once again this year, just as [Oregon voters are heading to the mailbox](#) (Oregon is the only all vote-by-mail state), the U.S. Postal Service has decided to raise rates. Postal rates will increase to \$.44 just eight days before the May 19 primary. "We have a close working relationship with each of the county elections offices," Ron Anderson, customer relations coordinator for the Postal Service in Portland told *The Oregonian*. "They get the ballots, the vote counts and we work out the difference later." In practice, what this means is that county elections offices reimburse the Postal Service for postage shortfalls on ballots. Nonetheless, Secretary of State Kate Brown would like the Postal Service to reconsider the timing of its annual rate increases. In a letter Friday to Postmaster General John Potter, she said she feared that raising the price of stamps just as Oregonians are voting "has the potential to dishearten and discourage our voters just as we're working hard to increase voter turnout."
- Voter registration legislation made headlines in two states this week. In Georgia, Gov. Sonny Perdue signed legislation into law that would require [proof-of-citizenship](#) to register to vote. Of course because Georgia falls under section 5 of the Voting Rights Act, the law must first receive approval from the Justice Department before taking effect. Georgia Secretary of State Karen Handel, a top backer, said proof of citizenship is needed to prevent voter fraud and she expressed confidence the law could withstand a challenge, noting it was modeled after Arizona's law. In Indiana, Gov. Mitch Daniels signed legislation that makes Indiana the fourth state to institute [online voter registration](#). "I'm pleased our representatives in the General Assembly

recognize that we can use online tools to streamline the registration process and make voting more convenient and attractive," Secretary of State Todd Rokita, said in a statement. "Because of the technology we have, coupled with our state's Photo ID law, we can offer online registration and maintain, even enhance, the integrity of our elections."

- Kansas and Oregon both took steps this week to make voting for military voters a bit easier although the final fate of the proposed legislation is still pending. In Kansas, the House approved a bill that would allow [soldiers and diplomats to vote by e-mail](#). While the e-mail provisions in the proposed legislation have broad, bi-partisan support, an additional provision within the legislation regarding the delivery of ballots by a third-party is being opposed by the Democrats. A House committee in Oregon advanced a bill this week that would allow military and overseas voters to [cast their ballot via fax](#) (something Kansas already does). If approved, the new law would allow election officials to compare the signature on a fax with the signature on a voter registration card to verify an identity. That's an exception to the rule that only an original signature can be used for verification.
- Nevada [authorities filed criminal charges Monday against the political advocacy group ACORN](#) and two former employees, alleging they illegally paid canvassers to sign up new voters during last year's presidential campaign. ACORN denied the charges and said it would defend itself in court. According to *The Associated Press*, Nevada Secretary of State Ross Miller emphasized the case involved "registration fraud, not voter fraud," and insisted that no voters in Nevada were paid for votes and no unqualified voters were allowed to cast ballots.
- This week, [Essex County became the sixth county in New York](#) to approve a resolution asking the state to keep using the lever voting machines. Lewis Sanders, commissioner of the Essex County Board of Elections, told a local television station that the state is pushing for counties to switch entirely to the electronic machines. Sander feels it's costly and it's not something he wants to do. "A lot of states have had big problems with these electronic machines," said Sanders.
- Schools are closed, people are being told to stay home, but nothing, not even the threat of the H1N1 virus, will stop voters in Texas and California from casting ballots. In Texas, where early voting began last week, all polling places originally scheduled to be open are open and in Tarrant County, voters are being [given hand sanitizer and wipes](#). On the Tarrant County Web site an [alert](#) reassures voters that all polling locations remain open. The alert also noted there have been no election related closures due to this influenza strain at this time. In [Placer County, Calif.](#) registrar of voters Jim McCauley is reminding voters who are concerned about the flu that they may vote-by-mail to avoid polling places.

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.

[Saving Dollars, Saving Democracy: Cost Savings for Local Election Officials through Voter Registration Modernization](#) – U.S PIRG Education Fund, May 2009

In a survey of 100 counties, U.S. PIRG found that over \$33 million dollars was spent on voter registration implementation and error-correction issues in 2008. The survey covered six areas of extra voter registration costs: missing information, citizen confusion, overtime/staffing, acknowledgment card costs, reaching voters in rural areas, and provisional ballot printings, mailings, and outreach. PIRG describes the current paper-driven registration process as mistake-riddled and wasteful and recommends a modernized, automatic and permanent voter registration system achieved through funding from the federal government.

[Poll Workers, Election Law, and the Problem of Implicit Bias](#) - Antony Page and Michael J. Pitts, *Michigan Journal of Race & Law*, Forthcoming

The role of unconscious racial bias in the interaction between poll workers and voters is examined, including a discussion of how to potentially address this issue. Polling places are described as an optimal place for unconscious bias to take place, for example in making judgments about whether or not people are eligible to vote. Improvements are suggested at two levels:

- At the individual level addressing racial bias in poll worker training, hiring African-Americans and other minorities as lead poll workers, and random tests of poll workers to see if they are engaging in bias are suggested.
- At the institutional level, possibilities include eliminating poll workers by moving to vote-by-mail or Internet voting, moving to Election Day registration, improving polling place conditions by reducing time pressures on poll workers through additional poll workers or the reduction of precinct size, and increasing the diversity of poll workers.

[Los Angeles County Registrar-Recorder, Post-Election Report: 2008 General Election](#) – Dean Logan, Registrar-Recorder/County Clerk April 2009

The report describes election preparation activities and provides detailed data from the November 2008 general election.

IV. Opinion

National: [Election reform](#)

Voting Rights Act: [I](#), [II](#), [III](#), [IV](#), [V](#), [VI](#), [VII](#), [VIII](#), [IX](#)

California: [Vote count](#), [II](#)

Florida: [Buddy Johnson](#)

Illinois: [Primary dates](#)

Maine: [Immigrant voting](#)

Missouri: [Voter ID](#)

New Hampshire: [Voter fraud](#)

Ohio: [Election process](#); [Voter fraud](#); [Election reform](#)

Oregon: [Postal rates](#)

South Carolina: [Early voting](#)

Vermont: [Instant-runoff voting](#)

Washington: [Felon voting rights](#); [Vote-by-mail](#)

***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