

## **electionlineWeekly — October 23, 2008**

*electionline.org*

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

#### **Election Day Will Likely Test Voting System, Voter Patience**

*electionline.org report finds packed polls, new machines and rules could make for challenging day*

**Washington, D.C.**— Millions of Americans will head to the polls two weeks from today to cast ballots in one of the highest interest elections in recent memory. However, they could face long lines, new technology and registration challenges in a number of states.

[“Election Preview 2008: What if We Held an Election and Everyone Came?”](#), released today by the Pew Center on the States’ electionline.org, provides a comprehensive look at the rules, technology, registration figures and issues to watch in all 50 states and the District of Columbia. It finds that while significant improvements have been undertaken since the 2000 vote – and the resulting passage of federal legislation in 2002 – election administration remains a challenge.

“Sky-high voter interest, coupled with changes in voting machines, record numbers of new registrants in many places and new procedures including voter identification rules in some states will mean voters and election administrators could have a long day on November 4,” said Doug Chapin, director of electionline.org. “Many polling places will hit capacity and poll workers will be tested. Results from some counties could take longer than usual.”

The report notes that voting machines purchased as recently as six years ago have been replaced in key states, including Florida and California, after election officials and lawmakers became concerned about security and reliability issues. In some south Florida counties, the optical scanners in place for the first time this year mark the third voting system in as many presidential contests.

The number of states offering voter-verified paper audit trails with DREs (direct recording electronic voting machines) has increased. Only six states – Delaware, Georgia, Louisiana, Maryland, New Jersey and South Carolina – use voting systems statewide without individual paper ballot audit trails.

According to electionline, other key changes that may present challenges on Election Day include:

- Recently adopted rules requiring voters to show photo ID before casting ballots will be enforced for the first time in a presidential election in Indiana and Georgia. The U.S. Supreme Court upheld Indiana’s law requiring polling place voters to present government-issued photo ID and voter ID proponents say the rules will safeguard the election from fraudulent voting. But concerns remain that some citizens could be disenfranchised.
- Record numbers of new registrants in dozens of states could lead to clerical errors, lost applications, mishandled forms or other problems.
- As final preparations continue – and will do so until polls open on November 4 – the report notes that voting has been underway in some states for weeks. As many as a third of all voters will cast ballots early, either in person or via mail-in ballots.

To request a printed copy, please contact [media@electionline.org](mailto:media@electionline.org).

#### **‘No match, no vote’ laws biggest threat to voters on Election Day, advocates say**

*Purges and partisan challenges also cause concern for the Brennan Center*

By [Kat Zambon](#)

electionline.org

A New York-based public policy group this week said that “no match, no vote” policies, voter purges and partisan challenges are “the three biggest challenges to voting” in the 2008 general election.

“These kinds of voting issues can have a significant impact especially if the election is close,” said Michael Waldman, executive director of the [Brennan Center for Justice at New York University School of Law](#).

Record numbers of new registrations have been processed in the final weeks before Election Day. When determining eligibility, some states have used a matching standard that requires information on registration applications to match information stored on other official databases, such as motor vehicle departments and the Social Security Administration.

By requiring the exact match, advocates say voters have been disenfranchised for typos, administrative gaffes and other reasons.

The legality of “no match, no vote” requirements is a [contentious question](#).

In 2006, a federal court [ruled](#) that it was illegal for Washington to require an exact match of a voter’s identification information with centralized databases before adding the voter to the registration rolls. However, Florida election officials began matching voter registration information with state and federal databases for voter registrations delivered on or after September 8 after receiving a notice from Secretary of State Kurt Browning (R). Voters whose registration information does not match will vote a provisional ballot at the polls and have 48 hours to provide more information.

A September 18 [press release](#) from Browning’s office said that the “no match, no vote” law does not target any specific group but more than half of registrations caught by Florida’s “no match, no vote” law so far come from black and Hispanic registrants according to [The St. Petersburg Times](#).

Waldman said the Brennan Center has found that Hispanic voters are disproportionately affected by “no match, no vote” laws. “For a lot of Anglo registrars, the names [of Hispanic voters] are harder to spell,” Waldman said. “People should not be disenfranchised by typo.”

“Joe the Plumber’s voter file has a data error,” Waldman said, referring to the now-famous Ohio voter. “If he was a new voter he’d be purged from the rolls.”

The voting rights community doesn’t know as much about voter purges as it does other issues because the purge process has been conducted largely in secret, though “every single purge list the Brennan Center has ever looked at” has had problems, Waldman said.

Improper purges include the deletion of more than 2,400 voter records in Colorado that election officials say were duplicates and the trimming of 10,000 names from the voter rolls by a Madison County, Miss. election official from her home computer, Waldman said. “You don’t want the dead voting ... but to paraphrase Monty Python, they’re not dead yet,” he said. The Brennan Center released a [report](#) on purges on September 30.

Partisan voter challenges may also present problems on Election Day, Waldman said. For example, the Montana Republican Party filed challenges in early October against 6,000 voters including Kevin Furey, formerly a Democratic member of the state legislature, who is preparing to return to Iraq with the Army Reserves. The Montana Republicans recently dropped their challenges.

Provisional ballots are only “a partial and really inadequate solution,” Waldman said. “It is not a substitute for actually casting a vote ... We don’t want provisional ballots to be placebo voting.”

Instead, voters who face problems at the polls should call [866-OUR-VOTE](#), the election protection hotline, Waldman said. Jonah Goldman from [Lawyers Committee for Civil Rights Under Law](#) said that the hotline has received 25,000 calls since it launched on September 17. On Election Day, attorneys will answer phones from 750 call stations, he said.

Despite the Brennan Center's concerns, the primaries were mostly without incident and the spike in voter participation is a positive development. "There's this wave of voters and that's part of the good news," Waldman said.

Looking ahead, Waldman supports universal registration as a possible long-term solution, adding that the Help America Vote Act database requirement makes universal registration possible. "If voter registration [was] automatic and permanent ... it would deal with all sorts of issues," he said.

## II. Election Reform News This Week

- Early voting – either in person or by absentee ballot – is now underway in the majority of states and the District of Columbia. [Long lines of voters](#) have been reported throughout the country as voters queue up to avoid what they expect will be an Election Day crush. Some voters in southern states reported waiting for [hours in the sun](#) to cast their ballots and disabled voters in Florida had to ask for special accommodations to avoid standing in line. There have also been a handful of scattered problems including reports of [machine malfunctions](#) in West Virginia. Secretary of State [Betty Ireland](#) defended the ES&S machines and assured voters any problems were being fixed. In [Utah](#), residents in St. George County had to either vote on paper ballots or return at a later time when a glitch preventing electronic voting machines from working. After fixing earlier problems, Beaufort County, [S.C.](#) ran into another snag this week when it was discovered that no instructions were included with absentee ballots mailed to voters. Elections supervisors in Leon and Duval counties in [Florida](#) reported problems with new ballot scanning devices. In [Webb County, Texas](#), it wasn't a problem with a voting machine, it was a lack of voting machines that caused confusion after the county was ordered not to use electronic voting machines. And in North Carolina, where Sunday voting has been a bit controversial, a [connectivity problem](#) caused more than an hour delay on the first day of Sunday voting.
- In addition to stories of long lines, malfunctioning machines and potential voter fraud/disenfranchisement, Election Day, and the early voting time preceding it, always bring forth a wealth of what we'll call the News of the Weird. Here is this week's wrap-up of odds, ends and oddball stories: In [Georgia](#), 19-year old Nakia Thurman went into labor while preparing to vote. Her mother, who was already in the voting booth was able to complete her ballot, but Thurman will have to wait until November 4. In [New Mexico](#), a woman with a bottle of vodka in her waistband passed out in a polling place. Police were summoned and she is facing two misdemeanors for disturbing a polling place and possession of alcohol within 200 feet of a polling place. Voters in [Michigan](#) were so excited to begin casting their ballots that they began showing up at county clerk's offices this week despite the fact that Michigan does not participate in early voting. In [Illinois](#), Princess, a dead goldfish in Lake County recently received a voter registration packet addressed to her. In [Alabama](#), officials are so desperate for poll workers that Montgomery County will be giving every college student who works at the polls a free nano iPod. In [California](#), where voter registration closed this week, a hair salon in Bakersfield served as an unofficial elections office registering more than 200 people to vote. And with Halloween just around the corner, a young boy in [Georgia](#) will go trick-or-treating as a voting booth with the goal of stuffing the ballot box...full of candy that is.
- This week (and late last week) in Ohio, the [U.S. Supreme Court](#) ruled against the state GOP that had wanted Secretary of State Jennifer Brunner to provide counties with lists of newly registered voters whose information did not exactly match driver's records. Despite the Supreme Court ruling, Brunner was back in court again this week, albeit in [State Supreme Court](#). In [Hamilton County](#), a county prosecutor, who also works for John McCain, subpoenaed the records of nearly

40 percent of the residents who participated in same-day registration. The [Summit County](#) sheriff is investigating possible ballot fixing in relation to the scuffle between two poll workers last week. In [Portage County](#), the elections office had to ask the county commission for an additional \$44,000 to cover election costs. The [Cuyahoga County](#) board of elections referred 14 more potential cases of voter fraud to the county prosecutor on Tuesday. Voting machines in [Clark County](#) were tested this week and are ready to go on November 4. Officials in [Licking County](#) announced this week that there would be additional voting machines for November 4 and additional security. [Fayette County](#) announced this week that they are one of the few Ohio counties not desperately seeking poll workers. And finally, to add to all of this, the State Highway Patrol is investigating [threatening phone calls](#) made to Brunner's office as well as a mid-week [hack](#) on the secretary of state's Web site that took it offline and now has limited what's available.

### III. Research and Report Summaries

*In a new feature, electionline will provide brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to [sgreene@electionline.org](mailto:sgreene@electionline.org).*

[Empirically Assessing the Impact of Photo Identification at the Polls Through an Examination of Provisional Ballots](#) – By Michael J. Pitts, Indiana University School of Law – Indianapolis, Journal of Law and Politics, Forthcoming, Oct. 21, 2008

Provisional ballots issued due to lack of photo identification in Indiana's May 2008 primary are examined and the number of potential voters who showed up at the polls but lacked photo ID is quantified. An estimated 2,770 provisional ballots were cast, with 399 (14 percent) cast due to a lack of photo ID. 78 of these 399 (20 percent) were counted. Photo ID supporters could argue this data shows the very limited impact of the law as a very small number of voters were prevented from voting due to voter ID issues - .00019 of all ballots cast. Additionally they might argue that some of those voters who did not return to their county clerk's office to show ID after casting their provisional ballot were not legitimate voters and were correctly prevented from voting. Opponents of the requirement can point to the more than 300 potential voters who did not have their ballots counted due to the photo ID law. Pitts calls for additional data-driven research before arriving at more definitive conclusions about the costs and benefits of photo ID requirements.

[Insecurities and Inaccuracies of the Sequoia AVC Advantage 9.00H DRE Voting Machine](#) – By Andrew W. Appel, Princeton University; Maia Ginsburg, Princeton University; Harri Hursti; Brian W. Kernighan Princeton University; Christopher D. Richards, Princeton University; Gang Tan, Lehigh University, Oct. 17, 2008

Per legal action that began in 2004 in New Jersey over the use of Sequoia-manufactured AVC Advantage direct-recording electronic (DRE) voting machines, the researchers were enlisted as expert witnesses for the plaintiffs to examine the systems. The report's findings include that the system can be hacked in several different ways to steal votes and this can be perpetrated by someone who does not have advanced training in computer science. Additionally the report concludes that beyond being vulnerable to hacking, the voting system is flawed, votes can be lost and the design can lead to voter and poll worker error.

[Response from Sequoia Voting Systems to the Expert Report of Andrew W. Appel Evaluating the Security and Accuracy of the Sequoia AVC Advantage DRE Voting Computer](#) – Prepared by Sequoia Voting Systems, October 2, 2008

Sequoia Voting Systems responds on a point-by point basis to the above report and states that in a real election, the potential manipulation of the company's voting equipment would be very unlikely and if it did occur, would be detected. Sequoia asserts the academics use inflammatory language in their findings, are biased in favor of paper ballots and hold electronic voting systems to impossible standards that no system could meet. The company states that there have never been any documented cases of fraud on any voting system produced by the company. In addition, Michael Shamos, professor of computer science at Carnegie Mellon University, provides his own [rebuttal](#) (as an expert witness for the [Attorney General of New Jersey](#)) to Appel's report with similar criticisms.

[Nation Sees Drop in Use of Electronic Voting Equipment for 2008 Election – A First](#) – Prepared by Election Data Services, October 17, 2008

The biannual voting system report from Election Data Services finds that almost 10 million fewer registered voters will be casting ballots on electronic voting systems than in 2006. 56.2 percent of the nations registered voters will use paper ballots that are counted by optical scanners, an increase from 49.6 percent of the registered voters in 2006. 32.6 percent of registered voters will use direct electronic voting equipment in 1,068 counties, down from 2006. The report also finds that several jurisdictions in one state – Idaho – still use punch-card ballots and New York State still uses lever voting systems for the majority of its voting population.

[E-Deceptive Campaign Reports: Internet Technology & Democracy 2.0](#) – Prepared by the Electronic Privacy Information Center (EPIC), October 20, 2008

Noting that deceptive practices that aim to misdirect and suppress voters have moved online, EPIC identifies specific modes of this deception and makes recommendations to voters and election officials on how to best combat this. The report examines deceptive practices in search engine requests and results, social networking sites, voice over Internet protocol robocalls, blogs, e-mail and instant messaging and suggests strategies to address these challenges. A [legal and policy companion](#) to this report was also released by Common Cause and the Lawyers Committee for Civil Rights Under Law.

[Resolving the Unexpected in Elections: Election Officials' Options](#) – By Matt Bishop, Mark Graff, Candice Hoke, David Jefferson and Sean Peisert, October 2008

Major changes as have been seen over the past several years in many states in both election equipment and election procedures can lead to problems during an election, especially a high turnout presidential election. The authors hope to assist election officials in dealing with problems with voting systems – problems that can occur due to computer malfunction, not due to any malfeasance. An objective examination of a voting system problem using computer forensics can help resolve the problem and avoid a recurrence of the problem.

[Uniformity in Election Administration: A 2008 Survey of Swing State County Clerks, Virginia Edition](#) - By Daniel Weaver, Allison McNeely & Adam Fogel, FairVote, October 20, 2008

FairVote [forecasts](#) potential problems at the polls for Virginia voters on Election Day. Researchers found 19 out of 96 counties have or plan to have a written poll booth allocation plan. Only two of the 32 jurisdictions surveyed that have a community college or university will have on-campus polling locations, the lowest of any state they surveyed. Recommendations include tougher state standards for the number of machines and booths per precinct, the development of a state standard for preparing written machine allocation plans and having more on-campus polling sites.

## IV. Opinion This Week

National: [Dead voters](#); [Early voting](#); [Voting problems](#); [ACORN](#); [Lawsuits](#); [Voter registration](#)

Arkansas: [Election Day](#)

Colorado: [Early voters](#); [Secretary of State](#); [Voter ID](#)

Connecticut: [Youth voting](#)

Florida: [Early voting, II, III](#); [Broward County](#); [Paper ballots](#); [Deborah Clark](#); [Kathy Dent](#); [Sarasota County](#); [Wait times](#)

Hawaii: [Voting system](#); [Vote-by-mail](#)

Illinois: [Early voting](#)

Kentucky: [Voting machines](#)

Maryland: [Early voting](#)

Michigan: [Voter access](#)

Mississippi: [New voters](#)

Montana: [Brad Johnson](#)

New York: [Early voting](#)

North Carolina: [One-stop](#)

Ohio: [Election angst](#)

Oregon: [Kate Brown](#)

Tennessee: [Instant runoff voting](#)

Virginia: [Clothing ban](#), [II](#), [III](#)

West Virginia: [Voting machines](#); [Voting errors](#)

*\*\*some sites require registration*

## **V. Job Postings This Week**

*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 Deputy** — L.A. County Clerk and Recorder's Office, Los Angeles, Calif. The Chief Deputy Registrar-Recorder/County Clerk reports to the Registrar-Recorder/County Clerk, and acts as assistant head of the Department of the Registrar-Recorder/County Clerk. This one position is distinguished by its executive and administrative responsibility for assisting the Registrar-Recorder/ County Clerk in the planning, organization, and direction of all operations of the Department including those of the County Clerk operations, Registrar operations, and Recorder operations. Minimum Requirements: Five years of progressively responsible experience in an administrative or management capacity directing or assisting in directing through subordinate managers, a major organizational unit with responsibility for multiple high profile functions or services, including elections administration and legal document processing or functions of a similar level of complexity. This experience may have been in either a public or private agency or businesses providing public services. **Salary:** \$129,045-\$195,320. **Application:** Submit statement of interest and resume to: Marco Morejon, Department of Human Resources, Executive Recruitment; Kenneth Hahn Hall of Administration; 500 West Temple Street, Room 555; Los Angeles, CA 90012; Phone: (213) 974-2675; Fax: (213) 613-4773. E-mail: [mmorejon@hr.lacounty.gov](mailto:mmorejon@hr.lacounty.gov). [Web site](#). **Deadline:** Open.