

I. In Focus This Week

To move or not to move to comply with MOVE

Nearly a dozen states and District must move primary or seek waiver

By [M. Mindy Moretti](#)

In 2008, dozens of states jockeyed to move their presidential primaries up by months in order for their contest to hold sway in the decision-making process.

Now, with the 2010 mid-term elections fast approaching, primaries in almost a dozen states may be on the move again, this time however in order to comply with the [Military and Overseas Voter Empowerment \(MOVE\) Act](#).

The Act sets a 45-day deadline for states to send general election ballots to military and overseas voters thus ensuring they have enough time to receive, complete, and return their ballots. This 45-day deadline means that 11 states and the District of Columbia will need to either move their late August and September primaries or request a waiver from complying with the Act.

According to Bob Carey, director of the [Federal Voting Assistance Program](#) at the Department of Defense (DoD), the Defense Department and the Department of Justice are currently working to develop a system to allow waivers to be submitted.

Carey cautioned that the law is clear and that any state requesting a waiver would need to do so for each election.

“The hope would be that there wouldn’t be a need for a waiver, but we ultimately realize that states may feel they have a need for a waiver in this election cycle, Carey said. “The implication is that there’s not going to be waivers granted in perpetuity.”

Legislation is already pending in [Vermont](#) that would move the statewide primary to the last Tuesday in August. The Senate approved bill S.117, which was then sent to the House in April where it remains awaiting action.

According to Kathy DeWolfe, director of elections and campaign finance, the secretary of state is working with legislative leaders to seek passage of the bill and have an effective date of passage and signature by the governor so that the change could be implemented. House Speaker Shap Smith [told](#) a local radio station that moving the legislation would be a top priority in 2010.

Despite Smith’s promise, Vermont Governor Jim Douglas reportedly opposes moving the primary saying that Democrats are using it as a ploy to give them more time to recover from a 5-way race for the gubernatorial nomination.

Next door in [New Hampshire](#), although legislation has been introduced to move the primary, Anthony Stevens, assistant secretary of state said election officials and the legislature are still discussing their options including seeking a waiver.

Stevens and legislators opposed to moving the primary say the state has reasonable grounds to seek a waiver because of their long track record of counting high percentages of [UOCAVA](#) ballots.

"If we seek a waiver, we might make the point that, in the 2008 general election, only 83 UOCAVA ballots were received and recorded as too late to count," Stevens said. "This excellent state performance should give people reason to a) question the hypotheses underlying certain MOVE requirements; b) wonder about the use of outdated 2006 data in the MOVE discussion; and c) acknowledge the paucity of evidence offered in support of supposed cause and effect relationships that were behind MOVE's adoption."

[U.S. Senator Judd Gregg](#) tried to amend the MOVE Act that would allow "high performing" states such as New Hampshire to be exempt from the Act, but his amendment was defeated. In November, Gregg introduced [S.2797](#) that would amend UOCAVA to provide an exemption from certain requirements for states that provide sufficient time to vote.

In Wisconsin, [Wisconsin Government Accountability Board](#) (G.A.B.) staff have been meeting with members of the legislature, the governor's office and county election officials to discuss the possibility of moving the primary and Nathaniel E. Robinson, elections division administrator, said that so far there has not been a lot of political support expressed for moving the primary.

"Even if there were perfect agreement among all entities for changing [the primary], considering the 2010 Legislative Floor Period, it is highly unlikely that there is sufficient time to do so and prepare the voters and local election officials for a new date," Robinson said.

Like his counterparts in several other states, Robinson expressed concerns about the impact moving the primary would have from voter education to increased staffing to a potential increase in costs, at least for 2010.

"I think moving the dates for 2010 would compound the state's dire staff and budget issues that exist at this time," said Kevin Cronin [Hawaii](#) chief election officer. "A move into August of the Primary Election reduces further the time available to prepare for the elections as scheduled and adds further pressure on our inadequate number of staff to plan and organize the election in a shorter period of time, thus increasing the risk of errors."

With its September 18 primary falling on the 45-day deadline for distribution of UOCAVA ballots, Cronin said the Office of Elections plans to request a waiver as soon as possible after the procedure for doing so is established, although the office still plans to submit proposed legislation to change the election dates to respond to the MOVE Act.

Carey noted that DOD and DOJ are working as quickly as possible to promulgate the process for submitting a waiver so that states will have adequate time to submit their request

For some of the states it's not as simple as just moving the date. There are other factors at work such as the purchase of new equipment or in the case of the District of Columbia, a complete overhaul of the voting process, which must be in place for the 2010 election.

"We are already in a countdown to the September primary for implementing the requirements of the [Omnibus Election Reform Act of 2009](#) including purchasing new voting equipment, electronic pollbooks and online poll-worker training software and cannot accelerate our procurement process any further," said Alysoun McLaughlin, spokesperson for the [D.C. Board of Elections and Ethics](#) (DCBOEE). "We would need to use our current voting equipment and modify our plans for implementing other provisions of the recent legislation if they were to set an election date before September."

McLaughlin said that the DCBOEE will be recommending that the city council change the date of the primary beginning in 2012 and that they will be requesting a one-time waiver from the 45-day requirement. Even with the waiver request, McLaughlin said D.C. is working aggressively to make it easier for UOCAVA voters to cast their ballots electronically.

"We are currently working on an update of our regulations to provide for transmitting blank ballots to all UOCAVA voters and use of the [FWAB](#) (Federal Write-in Absentee Ballot) for local elections-- the other two solutions that the [Pew report](#) indicated would each change our status from 'No Time to Vote' to 'Time to Vote,'" McLaughlin said.

Nearby in [Maryland](#), the State Board of Elections will also be seeking a waiver from compliance for the 2010 elections because the state is implementing a new voting system and early voting for the 2010 elections and according to Nicole Trella with the board it, "is not feasible to move the primary election date for the 2010 elections."

Trella said the state is currently in the process of identifying alternate ways to ensure that UOCAVA voters have an opportunity to have their vote counted.

Although [Louisiana's](#) August 28 primary would seem to afford the state enough time to comply with MOVE, because Louisiana's election system requires a runoff if the top vote-getting candidate does not receive at least 50 percent of the vote, the state is working with the legislature to move the election date.

As with all the states, the clock is ticking to make a decision, but as Jacques Berry, press secretary of Secretary of State Jay Dardenne pointed out, the clock is ticking a bit faster for Louisiana because the state would need to have any changes to its election cycle pre-cleared by the U.S. Department of Justice.

Other states need to move their primary or request a waiver include: Delaware, Massachusetts, Minnesota, New York, and Rhode Island.

II. Election Reform News This Week

- **MoneyWatch:** In order to save costs on the unfunded special election, one [Massachusetts](#) town asked its poll workers to pack a sack lunch instead of providing them with the three meals per-election day that Hopedale usually does. "They've been great about it," Orff Jacaruso, town clerk told the local paper. "They know the economic situation." This week, [Washington County, Texas](#) commissioners voted to abolish the elections administrator position in order to cut costs. The elections administrator office will be eliminated Jan. 1, 2010 and County Clerk Beth Roethermel will take over handling elections and voter registration. In [Missoula County, Mont.](#) elections administrator Vickie Zeier is proposing closing 13 of the counties 37 polling places in a cost-cutting effort. [In Cochise County, Ariz.](#) where the county runs elections for towns and the school board, county elections director Tom Schelling has recommended that the county increase its fees for elections services. [Flagler County, Fla.](#) supervisor of elections Kimberle Weeks continues to do battle with the county commission over the allocation of matching HAVA funds. [Ingham County, Mich.](#) is reconsidering the process it uses to fill vacated seats after realizing it was going to cost the county nearly \$30,000 in unbudgeted funds to fill a seat for three months.
- This week, California's secretary of state certified Alameda County's upgraded voting machines. The certification [paves the way for instant runoff voting in some cities' elections](#), likely including next year's Oakland's mayoral race according to the *Oakland Tribune*. The certification from Secretary of State Debra Bowen could allow the cities of Oakland, Berkeley and San Leandro to bypass a possible June primary for city elections and instead just hold one vote for those races in November. Oakland voters approved instant runoff voting under Measure O in 2006; it calls for such ranked choice voting to start in 2010. Voters in Berkeley also have approved ranked choice voting, and the San Leandro City Council is expected to vote on using the system in that city's elections.
- [Burglars took two computers and other equipment during a break-in at an early voting station](#) in northeast Houston, but appeared to have left electronic voting machines untouched, Harris County Clerk Beverly Kaufman told the Houston Chronicle. Kaufman characterized the burglary as "an incident of random vandalism" in which other areas of the community center also were

damaged. Two computers, a modem, a printer and a scanner are missing and a second printer destroyed. Kaufman acknowledged that someone in possession of the computers and a password to the registered voter database theoretically could alter someone's voting status from voted to not voted. But she called the scenario "far-fetched," and said, "I'm dubious that they could do that."

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.

[Report-Back on Proposals To Conduct All-Vote-By-Mail Elections](#) – Office of the Los Angeles City Clerk, Nov. 18, 2009: In a report to the city council, the Los Angeles city clerk discusses the advantages, disadvantages and costs of implementing an all-vote by mail election program.

IV. Opinion

California: [Instant-runoff voting](#)

Florida: [Early voting](#)

Hawaii: [State elections office](#)

Iowa: [Cost of elections](#)

Massachusetts: [Special election](#)

Minnesota: [Election reform, II](#); [Instant-runoff voting](#)

New York: [Election laws](#); [Instant-runoff voting](#); [Voting system](#)

Pennsylvania: [Voter education](#)

Tennessee: [Voter confidence](#)

West Virginia: [Early voting](#)

***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

Officer, Campaigns — Pew Center on the States, Washington, D.C.: Working closely with the directors of GPP, MVW and PSPP and other PCS colleagues (including the Research & Development unit and Communications staff), the officer will be responsible for ensuring that state campaigns within PCS's government performance unit are well-planned, strategic and effectively implemented.

Responsibilities: Under the supervision of the senior officer, the officer will: take responsibility for identifying, evaluating and implementing strategic state issue campaigns and initiatives; identify, develop and maintain strong collegial relationships with partners, grantees, contractors and other lead organizations and constituencies in the issue area; identify and manage national and state partners to advance the goals of the campaigns. Where appropriate, develop plans and materials to integrate state and national partners in the performance unit and PCS' work; propose and assess plans for public opinion research, communication strategies and lobbying and public education efforts. As needed, identify and vet consultants and firms, negotiate contracts and letters of agreement that clearly achieve program objective and are cost effective and manage ongoing relationships; contribute to the drafting of selected press releases, op-eds, memos and speeches; work with PCS and PCT Communications staff on messaging and media strategy to help ensure that communication and outreach are well-designed components of the campaigns and serve broader institutional goals; help structure and manage relations with partners such as the National Conference of State Legislatures, National Governors Association.

Requirements: A minimum of 8 years of experience in the public policy arena with a working knowledge of effective issue advocacy strategies at the federal and state level. Experience implementing campaign tactics including communications, coalition building and grassroots, legislative advocacy, and opinion

and/or policy research is required. Experience working with policy makers, researchers, advocates and other stakeholders is preferred. Bachelor's degree required with an advanced degree in public policy or other relevant field preferred. For the complete job listing and to apply, please visit the [Pew Web site](#).