



Primary Education

Election Reform and the 2004 Presidential Race

Executive Summary

Millions of voters will return to the polls in the coming weeks to cast ballots in the 2004 primaries. This is the first presidential contest since the 2000 election, which exposed major flaws in America's voting process, and the first federal election since passage of the Help America Vote Act. For a number of states, this is the first test of substantial changes to their system of election administration.

The Help America Vote Act, passed by Congress in 2002, authorized \$3.86 billion in federal money to be distributed to the states for election upgrades, including the purchase of new voting machines, the creation of statewide voter registration databases and other voting improvements. It also required that states *this year* offer provisional ballots, verify the identity of first-time voters who register by mail, post voting information at the polling place and have an administrative complaint procedure in place to address problems at the polls.

In this report, *electionline.org* and The Century Foundation examined national election reform issues around the country that will have an impact on the 2004 primary election season. It also specifically examines changes to voting procedures – and potential voting problems – in the 22 early primary states that will be the key battlegrounds as the Democratic contenders seek to secure their party's presidential nomination.

The information below pertains *ONLY* to key primary states and does not represent a nationwide survey of election administration changes.

Voting Machines

The most controversial and widely-covered aspect of elections – the voting machines – will continue to be controversial around the country. While HAVA's \$325 million optional buyout program to replace two frequently criticized systems – punch cards and lever machines – is underway nationwide, the report found that in the primaries:

- Punch cards will be used in seven states – Mississippi, Missouri, Ohio, South Carolina, Tennessee, Texas and Virginia.
- Lever machines will be used in nine states – Connecticut, Louisiana, Massachusetts, Mississippi, New York, Tennessee, Texas, Virginia and Wisconsin.

Just as significantly, many voters in key primary states will cast ballots on new voting systems they did not use in 2000. Ten states – Arizona, California, the District of Columbia, Florida, Georgia, Louisiana, Maryland, Massachusetts, Ohio and Wisconsin – have replaced machines in some or all of their voting precincts.

Voter Identification

Per HAVA, all key primary states will ask first-time voters who register by mail for some form of identification when registering or casting ballots. Additionally:

- In all, 19 of the 22 key primary states (including Massachusetts though it has a rarely-used local option for voter identification) did not have identification

requirements prior to 2000 and will require identification of some voters at the polls. Only South Carolina, Louisiana and Delaware had ID requirements in place in 2000.

- Seven key primary states have opted to enact more stringent voter identification procedures that will require more voters to show some form of verification before voting.¹ Those are Connecticut, Florida, Louisiana, Missouri, South Carolina, Tennessee and Virginia.

Provisional Ballots

Two-thirds of the key primary states will have either revised rules for provisional voting or will offer provisional ballots for the first time in a presidential election.

- Eight states are introducing provisional ballots for the first time (since the 2000 presidential election – Delaware, Florida, Louisiana, Missouri, Oklahoma, Rhode Island, Tennessee and Vermont).

Five other key primary states have made revisions to their provisional voting rules, some quite significant. Those changes mostly entail revising rules that allowed for “challenge” or “affidavit” ballots that are used somewhat differently than provisional ballots as defined by HAVA. This does not include the HAVA requirement for a notification toll-free number or Web site for voters to find out if their provisional ballots were counted, which most states must put in place.

Those key primary states that enacted or will be required to enact significant changes to their provisional ballot rules are Connecticut, Massachusetts, Mississippi, Texas and Virginia.

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Introduction



More than a year ago, Congress passed a package of the most sweeping changes to American elections since 1965, when President Lyndon Johnson signed the Voting Rights Act.

The Help America Vote Act (HAVA) was enacted in 2002 in the wake of an electoral fiasco in Florida that revealed not only widespread ills in that state's election administration, but endemic problems around the country. Antiquated voting machines lost ballots; outdated and isolated voter registration databases were bloated with people who no longer lived in voting jurisdictions where they were registered, people who no longer lived at all, and in some rare but well-publicized cases, pets. Worse yet, some voters who showed up to cast ballots were turned away, despite being eligible and registered, disenfranchised by an election administration system in cash-strapped states that had seen no federal investment in its infrastructure in more than 200 years.

HAVA's centerpiece – a \$3.86 billion authorization for states to improve elections – also came with a price. States must fix their voting systems by 2006 or face action from the U.S. Justice Department.

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As the next presidential election approaches, however, the impact of HAVA is already being felt as states prepare to build new registration databases, enact rules such as provisional voting and voter identification for some first-time voters and in some cases, replace the maligned punch-card and lever voting machines.

With the dramatic changes promised in HAVA come questions – how will elections change around the country? How soon will those changes be felt? How will new rules in election administration affect the outcome of the 2004 races? Will there be chaos again when America returns to the polls? How will the required election changes impact state budgets?

electionline.org and The Century Foundation teamed up to find the answers to those questions.

electionline.org is the nation's leading nonpartisan, non-advocacy organization devoted to providing election reform news, information and analysis. It was established by The Pew Charitable Trusts in the wake of the 2000 presidential election with a grant administered by the University of Richmond.



The Century Foundation is a nonprofit, nonpartisan organization that conducts public policy research and analyses of economic, social, and foreign policy issues, including inequality, retirement security, election reform, media studies, homeland security and international affairs.

In this publication, both organizations seek to provide journalists, policymakers and interested members of the public with an objective framework for looking at the administration of the 2004 primaries. It will not focus on candidates, campaigns nor offer predictions of winners. It will, however, provide details on how elections are set to change in all of the crucial primary battlegrounds and how those might affect the overall experience at the polls in the upcoming elections.

The first section covers the key components of the Help America Vote Act of 2002, including a point-by-point breakdown of the federal government's new mandates and the timeline for state and local compliance.

In the second section, readers will find examples of misconceptions about

election reform using news reports with erroneous information.

The third section examines major election reform issues around the country, including the impact of past and possible future litigation, the impact of new voting machines and the controversy over electronic voting and voter-verified audit trails, new mandates in states, including voter identification and provisional voting and the ramifications of California's gubernatorial recall election, during which a federal court considered delaying the vote because of continued punch-machine usage around the state.

The final section takes a state-by-state look at election administration changes in 22 early primary states, focusing specifically on where the potential for election-day problems might occur.

Research for the report in most cases came from primary source documents. Other information about how the information was obtained can be found in the methodology on page 42.

How will new rules in election administration affect the outcome of the 2004 races? Will there be chaos again when America returns to the polls? How will the required election changes impact state budgets?

Federal Election Reform at a Glance

The Help America Vote Act is designed to improve our election system in two ways: by requiring the states to make certain voting reforms and by providing the states with ample cash to do that and more.

Machines

Since the punch-card ballot crisis of 2000 – sometimes known as the Florida fiasco of 2000 – voting machines and particularly punch cards have been the center of public attention. The law addresses the problem of flawed technology through both mandates and money. Beginning January 1, 2006, all voting systems used in federal elections MUST

- permit voters to verify their selections on the ballot, notify them of over-votes (voting for more than one candidate in a single-candidate contest), and permit them to change their votes or correct any errors before casting the ballot (jurisdictions using paper ballot, punch-card, or central-count voting systems may instead use voter education for notification of over-votes);
- produce a permanent paper record for the voting system that can be manually audited and is available as an official record for recounts;

The law addresses the problem of flawed technology through both mandates and money.



- provide to individuals with disabilities, including the blind and visually impaired, equal access to using an independent and secret ballot, through use of at least one direct-recording electronic (DRE) or other accessible voting system at each polling place;
- provide alternative language accessibility as required by law; and
- comply with the error-rate standards (the percentage of votes lost by the voting system) in the federal voting system standards in effect on the date of enactment.²

Punch-card ballot machines and lever machines are specifically targeted for replacement.³

HAVA allocates \$325 million to those states that have those machines and want to replace them. However, if a state accepts money specifically for machine replacement, it must replace *all* the punch-card and/or lever machines in the state. Other money provided by the law may be used by states to replace and improve their machines, no matter what type of system they employ. States that do not replace machines are not eligible for a share of the \$325 million.

Voter Identification

Beginning January 1, 2003, the law requires first-time voters who register by mail to present identification either when registering or when voting in a federal election if the state does not have a statewide voter registration database.⁴ Accepted identification includes a copy of a current, valid photo identification (the original if voting in person), utility bill, bank statement, or government document that shows the name and address of the voter.⁵

Other Provisions

Other important provisions of HAVA include the following:

- Beginning January 1, 2004 (with an automatic waiver until 2006) states must have an interactive and centralized statewide computerized voter registration list accessible to all election officials in the state. The system must share information between voter registration and motor vehicle authority databases.
- Voter registration applicants must provide a driver's license number or the last four digits of their Social Security number on their registration applications. The states must assign a unique identifier (typically a randomly-generated number) to individuals who do not have a valid driver's license number or a Social Security number.
- Beginning January 1, 2004, people who claim to be registered to vote but are not on the official list of registered voters must be able

to cast a provisional ballot and the voter must be able to find out what happened to his or her vote after the election.

- A sample ballot and other voter information must be posted at polling places on Election Day.
- Mail-in voter registration forms must include questions requiring voters to verify that they are U.S. citizens and old enough to vote.
- It establishes the Election Assistance Commission, which is responsible for the distribution of the funding, conducting studies, and generally administering the program.
- It requires that states receiving funding to develop procedures for state-based administrative review and alternative dispute resolution of complaints about the law's implementation.

Funding

HAVA authorized a total of \$3.86 billion over three fiscal years, including \$2.16 billion in FY03 and \$1.045 billion in FY04. In early 2003, Congress appropriated \$1.5 billion for FY03. That represented a funding level of approximately 70 percent of the original authorization. The bulk of the money is to be spent by the states on implementing the law's requirements and on other activities to improve elections, such as poll worker training, voter education and improving polling place accessibility for the disabled.

Avoiding Mistakes: HAVA and the News

Despite – and perhaps because of – the sweeping nature of HAVA, there are pitfalls to avoid when covering it. As with any large and complicated issue, opportunities to misinterpret abound. And unlike issues that regularly make headlines, such as Social Security, health care or crime, major elections come around once a year or less, meaning the news appetite for the issue resembles the clichéd cycle of “feast or famine.” Officials misstate budget numbers and campaign workers overstate HAVA requirements, deadlines and procedures. Local election workers give information that is exaggerated, if not outright incorrect.

Mistakes can be avoided, however, with an understanding of what errors have been made frequently and with a working knowledge of HAVA’s requirements.

Important and boring; important and interesting

There’s little about the phrase “statewide voter registration database” to capture the imagination of the journalist or their audience. Databases are complicated, abstract, and most of all, boring. They involve computers, not people, and while the information a database disseminates can be extremely important, interest in the system itself is almost exclusively the purview of bureaucrats, software vendors and, obviously, database administrators.

Yet, good databases can alleviate many of the problems that plague elections, including voters left off lists, election fraud and lost mail, including ballots and other important materials.

Conversely, there is no more visible or hands-on prop for democracy – and potential controversy – than the simple voting machine. Palm Beach County’s “butterfly ballot” confused thousands of voters. Broward and Miami-Dade’s punch-card ballots led to ambiguous votes and memorable images of election judges holding ballots up to florescent lights to decide whether votes should have been counted at all.

As a result, coverage of HAVA and resulting election changes around the country focuses heavily on machines. This dichotomy results in some imbalanced and faulty reporting. HAVA is much more concerned with the way voter information is introduced into a registration system, tracked in states and identified at the polls than it is with how voters cast their ballots.⁶

This section looks at mistakes made in the last year by topic and explains how to avoid them in reporting on the primary, the general election and HAVA.

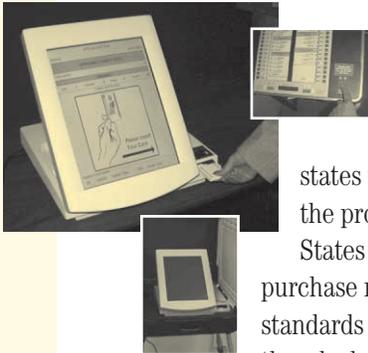
Voting Machines

✘ error: The most frequent errors of fact focus on HAVA’s requirements for voting systems. “Under the Act, each state must replace punch-card voting systems.”
(*The Associated Press*, June 17, 2003.)

➔ fact: HAVA specifically targets lever machines and punch-card machines for replacement. To that end, the Act established a \$325 million fund for



The federal government is NOT phasing out punch-card machines. They are targeted for an optional replacement program.



states to replace the systems. But, the program is not mandatory. States can take the money and purchase machines that meet HAVA standards for voting technology. If they do, however, the entire state must replace its punch cards and/or lever machines.

Hand-counted paper ballots, punch cards, lever machines and all other voting systems in place for the 2000 election and earlier can still be used, in perpetuity, by any state that chooses to continue using the system. Those continuing to use forms of voting systems that do not identify voter errors at polling places must devise an education program that teaches voters how to identify potentially ballot-spoiling errors and are not eligible for the \$325 million.

✘ error: “The Fayette County Board learned last week that the federal government is phasing out punch-card voting systems through the Help America Vote Act passed last year...that federal law is requiring that new machines be in operation for the next general election.” (*The Leader-Union*, June 18, 2003.)

➔ fact: There are two major factual errors in the article. First, as previously noted, the federal government is NOT phasing out punch-card machines. They are targeted for an optional replacement program. Twelve states have reported their intention to replace punch-card and lever machines. Officials in other states are undecided.⁷

The other related error concerns new machines. Voting systems must meet federal standards by 2006. Even if states choose to take the money, many will not have the new machines in polling places in 2004.

All states must have one voting machine accessible to voters with disabilities per polling place in place by 2006. “Accessible” means a machine with an audio output, allowing a visually-impaired voter to cast a secret and independent ballot.⁸

Money Issues

✘ error: A number of articles that have come out in the past year concerning HAVA have failed to note the differences between an “authorization” and an “appropriation.” The distinction is critical to an understanding of the implementation of the Act.

The stories below demonstrate how reporting errors can contribute to the public’s lack of understanding about the federal government’s intention for election changes.

“Federal lawmakers . . . have appropriated nearly \$3.9 billion for states and local governments.” (*The Columbus Dispatch*, April 5, 2003.)

“Punch-card ballots were at the center of the 2000 presidential fiasco in Florida, which prompted last year’s Congress to appropriate \$3.9 billion to help states replace voting machines and make other improvements.” (*The Washington Times*, June 17, 2003.)

➔ fact: The bill authorizes \$3.86 billion. By the end of October 2003, Congress had appropriated less than half of the money, or \$1.5 billion.

The President proposed \$500 million for the Help America Vote Act for FY '04. Sen. Christopher Dodd, D-Conn., secured passage of a Senate amendment increasing funding to \$1.5 billion. In November, House and Senate budget conferees

agreed to include only the \$500 million suggested by President Bush when they passed the \$88 billion Treasury-Transportation bill.

However, House Minority Whip Rep. Steny Hoyer, D-Md., an original sponsor of HAVA, said at that time that he had a promise from Sen. Ted Stevens, R-Alaska, chairman of the Senate Appropriations Committee, to address additional funding in the omnibus spending bill. Representative Hoyer said he would be seeking "at minimum" an additional \$1 billion. At the time of this writing, both the Treasury-Transportation bill and the omnibus spending bill were awaiting final passage.

✘ error: "Based on a federal formula, Virginia will get \$4,000 per machine to replace each of the 2,253 mechanical lever machines and the 2,638 punch-card machines that in 2000 served 62 percent of the voting precincts in the state." (*The Richmond Times-Dispatch*, May 9, 2003.)

➔ fact: According to estimates, states will receive \$4,000 *per precinct* – or, more likely, less, depending on how many localities nationally take federal money – to replace punch-card and lever voting machines. The writer in this case – as in many cases – was given the wrong information by an official source.

Voter Identification

Certainly the most politically-charged of all of HAVA's requirements, the rules for voter identification nearly scuttled the bill in the U.S. Senate until a compromise was reached. Republicans sought strong measures that they said would prevent fraud. Democrats argued an identification requirement would disenfranchise some groups of voters.⁹

✘ error: "The federal law mandates that states require proof of identity only from new voters. [Gov. Kathleen] Sebelius argues that the state should not go beyond that requirement." (*The Lawrence Journal-World*, June 17, 2003).

➔ fact: HAVA does establish identification requirements beginning in 2004, but those rules apply to far fewer voters than this excerpt would imply. While the story is almost correct, HAVA requires only first-time voters who *register by mail* to show one of a number of forms of verification that do not necessarily include a photograph.

The number of voters who will have to show identification is a smaller group than those that would have to under the erroneous reading of the bill presented in the story above. Some first-time voters register in person, at state agencies, election offices or other locations, where they will show identification. If they have presented ID, they won't have to again.

The fight over voter identification has raged in state legislatures around the country for years. Republican legislatures have pushed through bills over Democratic objections in a number of states. In Virginia, for example, a pilot program in 1999 to require ID in 10 counties was rejected. The legislature, with the backing of the Republican governor passed statewide polling place identification requirements during the 2000 session.

Certainly the most politically-charged of all of HAVA's requirements, the rules for voter identification nearly scuttled the bill in the U.S. Senate until a compromise was reached.

In New Hampshire and New Mexico, Republican-majority legislatures passed universal voter ID bills. Democratic governors vetoed the legislation in both cases.

With the passage of HAVA, however, a number of lawmakers intent on establishing voter ID rules found the momentum necessary to pass bills in 2003 that went beyond the federal Act's mandate. All voters will be asked to show identification at polling places in Alabama, Colorado, North Dakota and Montana. Voters in South Dakota will have to show identification before receiving an absentee ballot.¹⁰



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National Issues In Election Reform

As the primaries approach, a few critical issues of national importance merit examination. Polling place identification requirements, voter-verified audit trails for electronic machines, the continued use of punch cards and recent lawsuits could all have a marked impact on voter confidence, experiences at the polls and perhaps the outcome of some state primaries.

Voting Machines

Perhaps the most widely covered of all election reform issues – the question of whether electronic voting machines should have a voter-verified paper trail – has grown from a Web site supported by California academics and computer scientists to a national effort and a bill in Congress.

At issue: whether voters can trust the results on machines that cast votes without paper. Opponents of paperless voting argue that the machines are susceptible to hacking, malfunctions or other problems that could challenge the integrity of the vote. They also object to the secretive nature of the software that collects and tabulates the votes.¹¹

Supporters of electronic voting, a list which includes election officials, advocates for people with disabilities and some civil rights organizations, argue that pre-election testing as well as backup systems and careful inspection of all machines by certified testing laboratories insures the accuracy of the vote.¹²

Election glitches and investigations seem to increase skepticism about electronic voting. In

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Maryland, a Johns Hopkins University study critical of Diebold touch-screen voting machines prompted the state to conduct an investigation of its own into the system's security.¹³ A November 2003 election in Fairfax County, Virginia, conducted on new DREs raised concerns about the reliability and security of data transmitted over a wireless Internet network.

Rep. Rush Holt, D-N.J., introduced H.R. 2239, the Voter Confidence and Increased Accessibility Act of 2003. If enacted, Holt's bill would require all voting machines to produce a paper record of each vote "that election officials can use to verify votes in the event of a computer malfunction, hacking, or other irregularity."¹⁴

Just as the debate over paper trails began in California, the Golden State was the first since the passage of HAVA to mandate their use. A recent decision by Secretary of State Kevin Shelley mandates voter-verified audit trails for all of the state's DRE machines by 2006. Legal challenges are expected from groups including those representing voters with disabilities, who say it will take away their only recently-gained right to a secret, independent ballot.

Voter Identification

HAVA requires that voters casting a vote in a jurisdiction for the first time who register by mail provide one of an enumerated list of identification documents, either with the registration form or at the polling place. Civil rights and liberties organizations, self-proclaimed government watchdogs and some lawmakers opposed including this provision in the law.

When the issue came up in Congress, a partisan divide developed – Democrats almost universally opposed it, while most Republicans supported it – that almost sunk the legislation. Both of New York’s senators, Hillary Clinton and Charles Schumer, voted against the bill because of its identification requirements. It was included mostly at the insistence of Republican lawmakers, Sen. Christopher Bond in particular, R-Mo., who argued it was a fair and effective means to prevent vote fraud.¹⁵

Those who oppose any identification requirements say the compromise version is no less troublesome. Civil liberties advocates and others contend that there is a significant risk of election officials and poll workers selectively asking for identification or applying the requirement incorrectly by demanding identification from voters who are not mandated to present it. They are also concerned that poll workers might fail to tell voters the complete list of identification options when they arrive at the polls.

Civil liberties advocates and others contend that there is a significant risk of election officials and poll workers selectively asking for identification or applying the requirement incorrectly by demanding identification from voters who are not mandated to present it.

In states that already have photo ID requirements similar to the new federal provision, civil rights advocates argue there has been a discriminatory impact on racial and ethnic minority voters, persons with disabilities, the elderly, youth and the homeless.¹⁶

To mitigate the possible detrimental effects of the new ID requirement, advocates are asking state legislatures to expand the types of identifications accepted beyond what HAVA provides.¹⁷ Their calls have been unsuccessful; no state has yet expanded the available identification alternatives beyond what is specified in HAVA.

There is also a dispute over what registrations received “by mail” means. Civil liberties advocates argue that if an organization conducts a voter registration drive and hand delivers the resulting forms to a registrar, those are not registrations “by mail” and the ID requirement does not apply to those applicants, even if the mail-in form is used.¹⁸ This appears to still be an open question.

Finally, lawmakers in some states have used the passage of HAVA to require all voters to present identification – in many cases, as a way to address concerns about properly identifying which voters have to show verification and which ones do not.¹⁹ States that have attempted to pass such legislation since HAVA include Alabama, Arizona, California, Indiana, Iowa, Kansas, Maryland, Massachusetts, Mississippi, Nebraska, North Carolina and Rhode Island. States that have actually enacted such a provision since HAVA include Colorado, Montana, North Dakota, and South Dakota.

Litigation

After *Bush v. Gore*, the first presidential election to be decided by a court, it seemed to follow logically that the aftermath would involve the legal system as well. Organizations brought a flurry of lawsuits alleging voting rights violations in that election and others.

In early 2001, the ACLU and other groups filed lawsuits in Georgia, Florida and Illinois, alleging African American voters were prevented from having their votes counted because of irregularities in the voting process.²⁰ The ACLU of Florida sued the state in 2001 to halt some provisions of the state's new election reform law.²¹ They also settled with the state in a case that ultimately led to thousands of ex-felons having their voting rights restored.²² In 2002, the ACLU sued Ohio over its alleged unequal use of punch-card ballot machines in some parts of the state.²³

Groups representing people with disabilities have also been active. The American Association of People with Disabilities and the Disability Rights Council sued the District of Columbia alleging its voting equipment and polling sites were inaccessible to the disabled.²⁴ The National Organization on Disability and nine disabled citizens filed suit in federal court in Philadelphia.²⁵

In the recent California recall election, the ACLU sued the state before the election arguing there was a high likelihood that voters still voting on punch card ballot machines would be far less likely to have their vote counted than voters in other parts of the state using more advanced voting technology.²⁶ Indeed, as a result of an earlier lawsuit brought by the ACLU and others, the state was compelled to replace all of its punch-card machines by 2004.²⁷

The organization ultimately lost the case, and since it decided not to appeal to the Supreme Court, there is still no definitive answer as to whether using what some contend are inferior machines in some parts of a state but not others

The California recall case is a warning sign for what might happen nationwide a few months from now when the presidential primaries begin.

violates the Constitution. As became evident in the aftermath of the recall (see sidebar), the ACLU's concerns were not unfounded. If the recall election had been at all close, there is no doubt several lawsuits on the same violation of equal protection grounds would have been mounted.

As a result, the California recall case is a warning sign for what might happen nationwide a few months from now when the presidential primaries begin. Is the door now open to litigation in every state that has more than one type of voting machine and where the election is at all close?

Missouri, which votes on February 3, is an early and important Midwestern test for the candidates. It was the site of controversy and litigation in 2000, rivaled perhaps only by Florida. Thirty-seven of its counties use punch-card ballot machines, and 70 counties use optical-scan machines. In the 2000 general election, less than 79,000 out of almost two and a half million votes cast separated George Bush and Al Gore. In the aftermath of *Bush v. Gore* and California, if the margin is similarly close in the 2004 general election, the prospects for litigation would appear to be high.

Ohio votes on the crucial "Super Tuesday," March 2. In that state, 66 counties use punch-card machines, while the other 22 use a variety of other types of systems. In 2000, George Bush beat Al Gore by a small margin. A state study of voting systems after the 2000 election found that the 29 counties with the highest number of spoiled ballots all used punch cards. Likewise, the seven counties with the lowest percentage of spoiled ballots did not use punch-card ballot machines. The state is

trying to replace its machines, but will not complete the job in time for the 2004 primary.

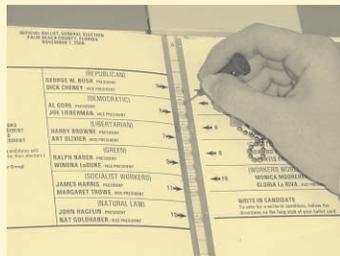
Moreover, disparate use of voting machines is only one of many possible grounds for legal action in an election. In a political environment where political issues increasingly find their way into the judicial system, 2004 will give us a strong indication as to whether this will continue to include elections.

Provisional Voting

Under HAVA, all states must provide provisional ballots for voters whose names do not appear on the registration list or for those who need to bring identification and have not done so. Whether that vote is actually counted is another matter. The decision to count or not count an individual ballot must be made, vaguely stated, “in accordance with State law.”

Civil liberties advocates and the National Commission on Federal Election Reform have argued that provisional ballots cast in the wrong jurisdiction within a state should nonetheless be counted for those races the voter is eligible to vote in – such as a U.S. Senate race – even if he or she is not eligible to vote for a local office because he or she is not a resident of a particular ward or district.²⁸

Moreover, there is also concern about the implementation of the provisional ballot requirement, especially in those states that have never used them before. Even jurisdictions that have for years employed a form of provisional balloting report poll workers who have not actually provided them to voters who should receive them.²⁹ The issue is now of greater concern given the new identification requirements HAVA imposes.



Punch Cards and the California Recall

by Dan Seligson

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In late spring 2003, Los Angeles Registrar Conny McCormack invited reporters to a “retirement party” for the county’s punch-card voting system.

While tongue-in-cheek, the occasion nonetheless marked a turning point for the nation’s largest voting jurisdiction – the nearly 4 million registered voters would never again use the voting system after the June 2 municipal election.

Alas, there was no such fanfare when the system was un-ceremoniously un-retired four months later, as the California gubernatorial recall election sent McCormack and election officials in four other

populous counties scrambling to fetch their punch cards out of warehouses.

They would be used in one final election – and a big one at that.

Three years after the November 2000 election made the system synonymous with electoral dysfunction in South Florida and beyond, punch cards again made headlines, this time for lawsuits before an election. One such lawsuit brought by the ACLU – which alleged that the punch-card system was responsible for disenfranchising those who live in jurisdictions that use them – nearly succeeded.

The ramifications of the decisions by the U.S. Ninth Circuit Court of Appeals to delay and then reinstate the Oct. 7 vote, were felt by election officials all over the country who currently conduct elections on punch cards.

“At the time, I asked election officials [in punch-card jurisdictions] if they could put in a new system in a hurry if the court made them. A lot said no, they couldn’t,” said Doug Lewis, director of the Houston-based Election Center, an umbrella organization of state and local election officials.

It is possible that they might have to.

While the wide margins of victory for both candidates and ballot questions eliminated post-election suits contesting the outcome of the October vote, questions were again raised about the voting systems. U.C. Berkeley political scientist Henry Brady said after the election that 176,000 votes were lost on the first ballot question – whether to recall Gov. Gray Davis – because of the punch card system.

Local officials, including McCormack, contested those numbers. McCormack said the voters were undecided on the race and expressed their trepidation about the recall by abstaining from voting on the question.

For McCormack and election officials in the other California counties that used them, the punch-card controversy is over. New machines will be used next year as the result of a state law banning the oft-maligned punch cards.

Outside the state, however, one out of five Americans will cast a ballot for president on a punch card.

According to Election Data Services, 30 percent of voters in the country cast ballots on punch-card machines in 2000. That number dropped to 21 percent in 2002, largely due to new touch-screen machine purchases in Georgia and parts of Florida.

With millions of federal dollars promised under the 2002 Help America Vote Act still in flux, it is uncertain now how many states that plan to scrap punch cards will do so in time for the 2004 elections.

And courts have still not given any clear signal whether punch cards could potentially cause California-like controversies outside of the Golden State. Those opposed to the continued use of the voting system say

election officials using the system next year should regard the legal troubles before the recall election as an omen.

“The California case is a warning sign for what might happen a few months from now when the presidential primaries begin,” said Tova Wang, a senior program officer at the Century Foundation, which studies election issues. “Since there was no to appeal to the Supreme Court in the California case, there is still no definitive answer as to whether using inferior machines in some parts of a state but not others violates the Constitution.”

There was no clear signal from Congress either when it passed HAVA. While the act specifically targets punch cards and lever machines for replacement with a \$325 million buyout program, it does not seek to get rid of the system.

In fact, officials in only 12 out of 27 states currently using the system told electionline.org they were definitely taking federal money to get rid of punch cards.

Ohio State law professor Dan Tokaji represented the plaintiffs in *Common Cause v. Jones*, the case that led to California’s decertification of punch cards by 2004. Tokaji said counties still using the controversial machines were “committing electoral malpractice.”

“In a close election, there are certain to be challenges by candidates in elections using punch-card machines risking a repeat of the sorry Florida 2000 spectacle,” Tokaji said. “Worse still, the continued use of hanging chad punch-card machines is an affront to the citizens who take time out of their day to go to the polls, denying them the right to vote with assurance that their vote will be counted.”

Lewis, however, said lawsuits to replace punch cards could be detrimental to voters. Disenfranchisement could be caused by an uneducated voter unaware of how to use a new voting system or a poll worker unsure how to operate it.

“There are all kinds of possibilities about what might happen [in the courts],” he said. “Just because you can push the envelope, does it mean you should? Do you serve the voters by making examples of systems? What more likely will happen is that in some of those places where you force changes in a hurry you will disenfranchise voters...because the jurisdictions and the voters don’t know how to handle the new system in place.”

District Of Columbia



PRIMARY DATE:	January 13, 2004
REGISTERED VOTERS:	332,211
VOTING SYSTEM(S):	Optical scan, DRE
KEY ELECTION REFORM LEGISLATION:	B15-0125: Allows voters to apply for permanent absentee-voter status.

Overview

The District will lead the nation, holding its presidential primary a full two weeks before New Hampshire in an effort to bring attention to its absence of voting rights in Congress. The catch: the Democratic Party will not accept the results, most candidates will not campaign and no delegates will be assigned. (They will be assigned after a caucus in March.)

Still, when District residents do go to the polls – and being almost a single-party city of Democrats they usually do in great numbers – they will all vote on HAVA-compliant machines, years ahead of most the rest of the country. As part of a legal settlement with groups representing voters with disabilities, the District replaced punch cards with optical scanners in 2002 and purchased at least one accessible machine per polling place for use in the primary.

Things To Look For

VOTING MACHINES: While new voting machines were in place last year, many more voters will make the switch from punch cards to precinct-based optical-scanner ballots in the high-turnout presidential primary. Many more voters with disabilities will be able to cast secret and independent ballots on new audio-prompt electronic machines. Have voter education efforts regarding the new machines been successful?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-

time voters who register by mail to show identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

POLL WORKERS: This will mark the first year that each precinct will have one poll worker specifically assigned to help voters with disabilities use accessible DRE machines. Does it help facilitate voting? For the first time, 16 and 17-year-olds will be permitted to work the polls. Does it help alleviate difficulties staffing polling places?

Unique Features Of District Of Columbia Voting

- As a single voting jurisdiction, not all of HAVA's requirements apply. Issues concerning the consolidation of election administration do not apply as it is already centered in the Board of Elections. The District has a centralized voter registration system, uniform voting machines, provisional voting and uniform training.
- Nearly 80 percent of eligible voters are registered in D.C., far higher than the national average. Of these, roughly 75 percent identify themselves as Democrats.
- The District expects to receive \$17 million in HAVA funds. About 60 percent will be used for purchasing or reimbursing for the purchase of voting machines.



New Hampshire

PRIMARY DATE:	January 27, 2004
REGISTERED VOTERS:	633,230 (as of 2001)
VOTING SYSTEM(S):	Optical scanners, hand-counted paper ballots
KEY ELECTION REFORM LEGISLATION IN 2003:	HB 319: HAVA implementation including establishing statewide voter registration database.

Overview

New Hampshire's late January primary might be the second in the nation, but it will remain the first in importance for both the Democratic presidential candidates and the media, both of whom are all but ignoring the contest two weeks earlier in Washington, D.C.

With hundreds of elected offices and a host of close races and recounts, election officials in the Granite State dealt with Florida-like problems – including vote-counting standards, recount rules and machine issues – years before most of the country. Existing state rules clearly define how to operate a recount in the event of a close race. A negative experience with touch-screen machines in the mid-1990s led to a ban of paperless electronic voting, well ahead of the computer scientists and academics who are now calling for voter-verified receipts for all DRE machines.

Things To Look For

VOTING MACHINES: The state will continue to use paper ballots – machine-counted optical scan ballots and, in a number of jurisdictions, plain old hand-counted paper – for the primary. Will a close race cause some in the state to challenge the use of older voting technology? Are voters educated about identifying potential ballot-spoiling mistakes?

A NATION WATCHES: All of the problems of the November 2000 race will be brought back to the fore by the national media as it scrambles to cover the first Democratic primary. Will New Hampshire's voting process successfully stand up to extra scrutiny successfully?

ADMINISTRATIVE COMPLAINT PROCEDURE: The state intends to provide HAVA money to the state attorney general to ensure compliance with the act. Is the office aggressive in dealing with election day complaints?

SAME-DAY VOTER REGISTRATION: The state is exempt from HAVA requirements for provisional voting because of its election-day registration rules. How will last-minute voters affect the outcome of the primary?

Unique Features Of New Hampshire Voting

- A majority of municipalities use hand-counted paper ballots. The state currently has no machine replacement plans and will instead rely on a voter education plan to comply with HAVA's standards. Still, the state will have to change its rules prohibiting the use of electronic voting machines in order to comply with HAVA requirements for one machine per polling place accessible to voters with disabilities.
- New Hampshire residents can register on election day by providing proper identification with proof of residency and signing an affidavit.
- The state plans to spend \$20.7 million on HAVA-related election upgrades, more than half of which will be used to construct a statewide voter registration database. Paper ballots will continue to be prevalent in New Hampshire voting.

y-S state

Arizona



PRIMARY DATE:	February 3, 2004
REGISTERED VOTERS:	2,212,565
VOTING SYSTEM(S):	Optical scan
KEY ELECTION REFORM LEGISLATION IN 2003:	SB 1075: HAVA implementation and replacement of punch-card machines; HB 2197: creates HAVA fund; SB 1023: allows military and overseas voters to transmit ballots and registration materials electronically.

Overview

Arizona's early primary almost didn't happen. Republicans in the legislature tried to eliminate the Democratic primary, but the governor vetoed the effort. In 2000, the primary gained national attention, for being the first state to hold an election via the Internet.

The state has been a punch-card battleground since 2001, with numerous disputes in the legislature and between top state officials, including the secretary of state and the state's attorney general, about the system's replacement. Those opposed to the continued use of punch cards – in place in nine rural counties – won out, and Arizona will move to a statewide optical-scan system in time for the primary.

Things To Look For

VOTING MACHINES: Nine counties will use optical-scan machines for the first time. Has the state adequately trained poll workers and educated voters as to their use?

TURNOUT: Democrats turned out in record numbers for an online primary in 2000. Will the switch back to polling places depress turnout just as the online primary dramatically increased it?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to show identification when they register or cast ballots. Are voters and poll workers

educated/trained on who should show identification? Is the law evenly applied?

Unique Features Of Arizona Voting

- In 2004, Arizona will have a single, statewide optical-scan voting system. The state election reform budget is about \$51 million, slightly more than half of which will be used to purchase new voting machines, including touch screens for voters with disabilities. A quarter of the election reform budget will be used to construct a statewide voter registration database.
- Arizona's top election official attempted and failed to rid the state of punch cards in early 2002, after telling the legislature that more than 10,000 votes were lost in the 2000 election because of the punch-card system. As attorney general in 2002, Gov. Janet Napolitano rejected an effort by then-Secretary of State Betsey Bayless to decertify the punch cards. Napolitano wrote that Bayless did not have the authority to decertify the system.
- Arizona Democrats voted online in the 2000 presidential primary. The online election set the record for the largest turnout in a Democratic primary, as nearly 40,000 voters cast ballots on the Internet. The previous record was 38,000 total voters, press reports indicate.



Delaware

PRIMARY DATE:	February 3, 2004
REGISTERED VOTERS:	518,052
VOTING SYSTEM(S):	DRE
KEY ELECTION REFORM LEGISLATION:	SB 153: implements HAVA requirements.

Overview

Delaware's 2004 primary is tied for third in the country after the District of Columbia and New Hampshire. As one of the earliest contests, it will also be the state's first meaningful primary in recent memory. That could mean more attention to details of the state's election administration as well as higher turnout. Its modern touch-screen voting system is considered by some to be bulky and inaccessible to people with certain disabilities because of its size and "full-face" configuration.

Things To Look For

PROVISIONAL BALLOTS: 2004 marks the first year the state will offer voters provisional ballots. Identification will be required to cast a provisional ballot. How will poll workers handle the new requirements? How long will results be delayed if large numbers of voters need to cast provisional ballots and have their eligibility determined after the polls close?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to show identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

VOTER REGISTRATION: New voter registration applications will include questions about age and citizenship, and ask for the last four digits of a Social Security number or a drivers' license number. Are voters who provided inaccurate or incomplete information on the registration application allowed to vote? If not, are they provided a provisional ballot as required by HAVA?

Unique Features Of Delaware Voting

- The state is one of the most centralized in the country in terms of election administration, with state ownership and maintenance of all voting equipment, a state-run registration system and centralized poll worker training.
- New rules will allow teens ages 16 and 17 to work in polling places.
- The state will have to decide how to manage the HAVA requirement of one accessible voting machine per polling place. The state's DREs are not accessible for voters with visual disabilities. A committee will decide whether existing machines can be upgraded or whether new machines need to be purchased.

y-S state

Missouri



PRIMARY DATE:	February 3, 2004
REGISTERED VOTERS:	3,681,844
VOTING SYSTEM(S):	Punch cards (37 localities), hand counted paper ballots (9), optical scan (70)
KEY ELECTION REFORM LEGISLATION:	HB 511: the state's HAVA compliance legislation, amends voter ID rules, adds voter education provisions, establishes election reform fund, makes training for election officials mandatory, establishes statewide voter registration system, sets up access system for provisional voters to see if their ballots were counted.

Overview

Though overshadowed by the Florida fiasco, Missouri's election troubles in 2000 inspired not only Missouri Sen. Kit Bond (R) to push for anti-fraud provisions in HAVA in the U.S. Congress, they also led to comprehensive reforms at home. As a result of a significant overhaul of elections in 2002, the state requires all voters to present identification at the polls, offers provisional ballots and has uniform vote counting and recounting standards.

The question of whether punch cards will be eliminated has yet to be answered. Thirty-seven localities will use the system during the primary. The state plan indicates Missouri will accept HAVA money for punch card replacement, though local flexibility allowing some counties to keep punch cards could endanger a statewide elimination of the maligned voting technology. HAVA requires statewide compliance with machine standards for any state receiving any punch card replacement funds.

Things To Look For

VOTING MACHINES: Many Missourians will vote on punch-card machines. A close race or widespread problems could lead to questions about why the state has not scrapped the system after Florida's 2000 election problems.

VOTER IDENTIFICATION: According to state rules passed in 2002, everyone in the state must show ID – except if two election

judges recognize the voter. Is this system vulnerable to abuse and selective enforcement?

VOTER EDUCATION: Has the state created a voter education program to help voters using punch cards identify potential ballot-spoiling errors?

Unique Features Of Missouri Voting

- Comprehensive reforms undertaken in 2002 mean many of HAVA's mandates have been met. Two objectives remain – machine replacement and a statewide voter registration database. The state will receive \$76.5 million in HAVA funds, a little under half of which will be used for machine replacement. The non-compliant database will require about 13 percent of the state's HAVA budget.
- Allegations of vote fraud in St. Louis voting in 2000 filled a two-inch thick tome produced by the office of Sen. Kit Bond. According to Bond, dogs and dead people were politically active in the city. While dogs and corpses cast ballots, some live registered human voters were excluded from the process, said the U.S. Justice Department, which settled a lawsuit with the city after it agreed to spend \$600,000 to upgrade technology.
- The state election reform plan notes Missouri is deficient in voter education. The state will spend more than \$3 million on a voter education and poll worker training program.



Oklahoma

PRIMARY DATE:	February 3, 2003
REGISTERED VOTERS:	2,067,911
VOTING SYSTEM(S):	Statewide uniform optical scan system
KEY ELECTION REFORM LEGISLATION:	SB 358: implements HAVA's military and overseas voter provisions; SB 192: creates two revolving funds for receiving/spending HAVA funds

Overview

Oklahoma could be viewed as ahead of other states in taking the necessary steps to implement HAVA – a uniform voting system and a statewide voter registration database have been in place for years. At the same time, Oklahoma has never offered provisional voting and has not previously required identification of any voters.

The early February primary will be the first test of how a state that has introduced two new HAVA requirements handles changes at the polls.

Things To Look For

PROVISIONAL VOTING: The primary marks the first time the state will offer voters provisional ballots. How will poll workers and election officials handle a provisional ballot program? Will provisional ballot counting delay results?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

ADMINISTRATIVE COMPLAINT PROCEDURE: The state HAVA plan makes no mention of how a voter complaint procedure will be

implemented. Is one in place for the primary? If so, have voters been informed of their rights?

Unique Features Of Oklahoma Voting

- Oklahoma uses optical scanners statewide. They are not compliant for disabled voters, and, according to the Oklahoma HAVA compliance plan, the state will have to decide whether to purchase one DRE per polling place to meet HAVA mandates or whether to replace the entire statewide system with DREs.
- The state's centralized administration authority over voting already includes voter registration – a thornier issue in other states where control over voter lists will have to shift from local officials to state auspices. The state also administers poll worker training and voter education.
- Oklahoma's plan expresses confidence that virtually all of the requirements of HAVA have been met or can be met easily. The state plans to spend nearly 75 percent of its \$45.1 million HAVA funds for new voting machines. The state notes that its registration system is in substantial compliance with HAVA requirements.

South Carolina



PRIMARY DATE:	February 3, 2004
REGISTERED VOTERS:	2,047,368
VOTING SYSTEM(S):	Punch card (10 counties), optical scan (12 counties), DRE (24 counties)
KEY ELECTION REFORM LEGISLATION:	None

Overview

The state, as usual, promises to be a key Democratic battleground as the first southern state to hold a primary election. Punch cards will be used in 10 counties for the election. State officials have indicated they will seek to replace the voting system and the legislature will consider a statewide uniform voting system. The governor, however, vetoed legislation that would have provided the requisite 5 percent state match in order to receive HAVA money.

The state did not pass any HAVA legislation; however, South Carolina has a statewide voter registration database, provisional balloting and mandates polling place voter identification, making it nearly compliant without any major changes to its existing election rules.

Things To Look For

VOTING MACHINES: How will the punch-card system perform, especially given the additional scrutiny in the wake of Florida 2000, the California recall and the usual amount of national media attention paid to South Carolina's early primary?

VOTER IDENTIFICATION: While South Carolina requires all voters to show identification before voting, some tweaks to the state

law are required to comply with HAVA. Have those changes been made in time for the primary and have poll workers been educated as to the new requirements?

Unique Features Of South Carolina Voting

- The state has been using a HAVA-compliant, interactive statewide voter registration database for nearly 10 years. As a result, most of the money and effort in improving elections will focus on machines, and specifically, the adoption of a uniform voting system. The state estimates the new system will cost 75 percent of the total HAVA budget of \$48.5 million.
- The state staggered early on in the process, as the governor vetoed a measure that would have the state provide the necessary 5 percent match to receive HAVA funds. With the legislature adjourned for the year, the issue will have to be resolved in 2004.
- South Carolina has a highly centralized system of election administration that includes a statewide database, strict training standards and, if the legislature and governor agree, a statewide voting system as well.



Tennessee

PRIMARY DATE:	February 10, 2004
REGISTERED VOTERS:	3,118,316 (June 2003)
VOTING SYSTEM(S):	DRE (49 counties), centrally-counted optical scan (11 counties), lever machines (15 counties) and punch cards (20 counties).
KEY ELECTION REFORM LEGISLATION:	SB 153: HAVA compliance; HB1806: institutes provisional balloting

Overview

Overshadowed by events to its south, Tennessee nonetheless had its share of election problems in 2000, including 2,300 voters turned away from the polls despite being registered through Motor Voter. The state eventually settled with the U.S. Justice Department, resulting in enhanced DOJ electoral scrutiny for the state through 2005. Controversy continued in one part of the state in 2002, when a primary for a state House race resulted in a lawsuit over lost ballots and documents. In 2003, an email from Republicans to party members obtained by DOJ warned GOP poll watchers to “be alert” and “challenge voters that concern you.” Democrats have sued.

HAVA plans include a \$6.9 million replacement of punch card and lever machines in 775 precincts; \$10.8 million to purchase one accessible voting machine per polling place; and replacement of all centrally-counted optical scanner machines with precinct ballot counters.

If enough Democratic presidential candidates remain in the race, Tennessee’s primary could come at a pivotal time – wedged between the early “Super Tuesday” on February 3 when eight states hold primaries or caucuses and the “real” Super Tuesday in early March.

Things To Look For

PROVISIONAL BALLOTS: Tennessee’s legislature passed provisional voting legislation in July. The primary will be the first major test of the provisional ballot law and the ability of local election officials and poll judges to administer, tabulate and inform voters of the dispensation of their provisional ballots in a timely fashion.

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied? Will a state law requiring those who live in counties with computerized registration rosters to bring additional identification face legal challenges?

VOTER REGISTRATION: New voter registration applications will include questions about age and citizenship, and ask for the last four digits of a Social Security number or a driver’s license number. Are voters who provided incomplete or inaccurate information on the registration allowed to vote? If not, are they offered a provisional ballot?

RECOUNT RULES: Lacking a threshold for automatic recounts and uniform recount procedures across the state, will a close primary trigger problems?

Unique Features Of Tennessee Voting

- While the state already uses a computerized voter registration database, it is still administered at the local or county level. The state will comply with HAVA by maintaining and managing the database centrally.
- Tennessee requires any first-time voter who registers by mail to vote in person.
- Addressing “post-Florida” election issues, Tennessee lawmakers passed S.B. 21 in 2002. The bill defines what constitutes a vote on each voting system used in the state. The state, however, does not have a law requiring automatic recounts in close elections nor does it have uniform standards for recounts.



Virginia



PRIMARY DATE:	February 10, 2004
REGISTERED VOTERS:	4,207,000
VOTING SYSTEM(S):	Optical scan (22 counties), paper ballots (1 county), DRE (5 counties), punch card (6 counties), lever machines (37 counties).
KEY ELECTION REFORM LEGISLATION:	HB 2198: requires provisional voters to present the same identification as non-provisional voters; SJR 350: expresses the sense of the Senate that the secretary of state should meet or exceed the requirements of HAVA

Overview

In 2000, Virginia was the pivotal primary state where Sen. John McCain's "straight-talk express" ran off the tracks, as President Bush pulled off a decisive victory. With an early February primary, the state will again be a crucial battleground, this time for Democrats.

Older technology – punch cards and lever machines – will remain in use. Machine problems plagued Fairfax County's state-of-the-art DREs in 2003 when a wireless Internet connection was overloaded and a lawsuit was filed challenging the county's decision to take offline then re-instate nine voting machines which had earlier problems.

With a plan for machine replacement and with provisional and identification rules in place prior to the passage of HAVA, most election procedures in the state remain virtually unchanged. The state's HAVA plan, crafted by a diverse task force of 50 citizens and officials, stated that "only minor adjustments are necessary" to comply with HAVA mandates. Those adjustments will most notably include the purchase of an accessible machine for each polling place and an upgrade of the state's voter registration database.

Things To Look For

PROVISIONAL BALLOTS: The state will have new provisional voting rules, including identification requirements for those seeking provisional ballots. Are the new rules enforced evenly and effectively?

VOTING MACHINES: While the state will dedicate a little more than half of its \$64.1 million in HAVA money to replacing punch card and lever voting machines, the older technology will remain in place for the primary. If there is a close race, do the machines stand up to the scrutiny?

Unique Features Of Virginia Voting

- Virginia boasts a nearly compliant statewide voter registration database, but officials say it is antiquated and will require an overhaul. The state will spend about 20 percent of its HAVA budget to complete an upgrade.
- Fairfax County, the state's most populous, will be using voting machines with wi-fi, or wireless Internet technology.



Wisconsin

PRIMARY DATE:	February 17, 2004
REGISTERED VOTERS:	Registration figures vary because of available election-day registration. About 4 million eligible voters.
VOTING SYSTEM(S):	Paper ballot (945 localities), optical scan (898 localities), Lever (15 localities), DRE (1 locality)
KEY ELECTION REFORM LEGISLATION IN 2003:	AB 123: provides 5 percent HAVA matching funds.

Overview

Voters will return to punch-card free polling places in February. Paper ballots will remain the system of choice in nearly a thousand localities – which includes cities, towns and villages. The most marked post-HAVA change will not be noticed by voters: a statewide database is under construction. Because of election-day registration rules, provisional voting is not required.

A narrow margin of victory for Al Gore in the state (4,690 votes) in 2000 was accompanied by allegations of fraud and the use of false identification. Bills to introduce statewide polling place identification for all voters passed the majority GOP legislature but were vetoed by the Democratic governor.

Things To Look For

VOTING MACHINES: In places where punch cards were phased out after the 2000 election, is there confusion by poll workers and/or voters on operating the new voting systems? Are voters using paper ballots educated about preventing over-votes?

ABSENTEE BALLOTS: New liberalized absentee ballot rules allow almost any voter in the state to cast an absentee ballot for any reason. How will the rules affect the administration of the election and turnout?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

Unique Features Of Wisconsin Voting

- The state's \$44.3 million HAVA budget includes about \$26 million, or 59 percent of the money, for the creation of a statewide voter registration database.
- The state decertified punch cards, but no accessible machines are currently available in the state's polling places. About 37 percent of the state's HAVA money will be used for purchasing new machines.
- Wisconsin lawmakers declared that punch cards "undermine the confidence of voters and candidates in the integrity of the tabulation of votes" in the aftermath of the November 2000 election. The system, used by more than 400 municipalities 10 years ago, was decertified for use effective at the end of 2001.
- Election-day registration is a popular choice for many state voters. Just over 66 percent of the voting age population in the state cast ballots in 2000, putting Wisconsin in the top five states in the country for turnout.

California



PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	21,833,141
VOTING SYSTEM(S):	DRE (10), Mark sense/optical scan (33), Datavote (14).
KEY ELECTION REFORM LEGISLATION IN 2003:	SB 613: HAVA compliance; AB 714 (pending): improves accessibility for voters with disabilities; AB 177: concerning voter information/education; AB 461: amends standards for reviewing provisional ballots.

Overview

A gubernatorial recall election in October appeared to be putting the Golden State on the verge of becoming another Sunshine State in the eyes of many observers, who saw California's punch cards, bloated 135-candidate ballot and specter of lawsuits threatening to turn the special election into a Florida-esque electoral circus. Instead, a lop-sided victory for Arnold Schwarzenegger minimized post-election controversy.

Nonetheless, punch cards made national headlines again. Although an ACLU lawsuit forced a 2004 deadline to decertify the system in the state, the recall's quick timing allowed their use in seven counties, including Los Angeles, Sacramento and San Diego. A lawsuit to stop the election failed, but post-election studies of "residual" or non-votes put registrars in punch-card counties on the defensive. It will all be a memory by March – the maligned system will be history for the primary.

Things To Look For

VOTING MACHINES: Voters will use new machines in a number of counties, including Los Angeles, where optical scan ballots that look like punch cards will be used as an interim system. Are counties able to train and educate voters and poll workers on the new machines?

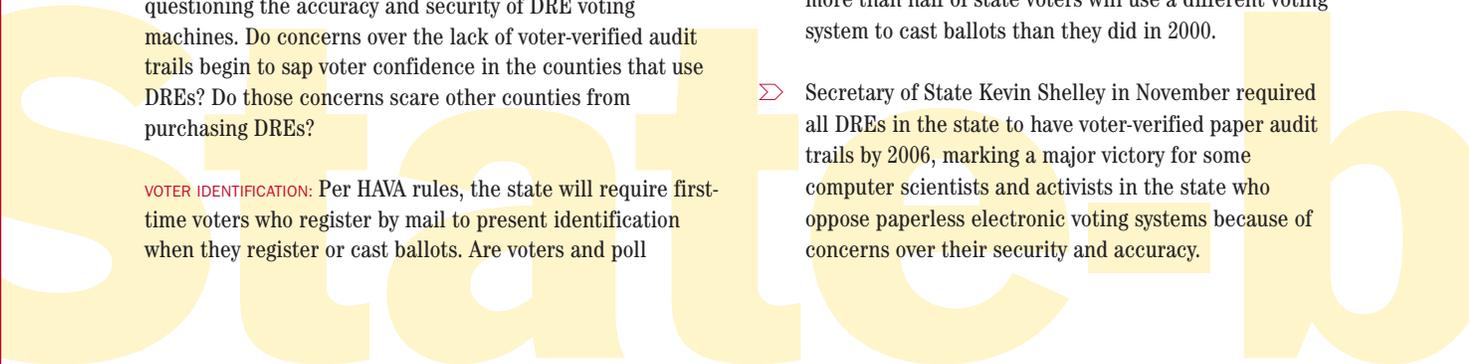
DRE SECURITY CONCERNS: California is home to the movement questioning the accuracy and security of DRE voting machines. Do concerns over the lack of voter-verified audit trails begin to sap voter confidence in the counties that use DREs? Do those concerns scare other counties from purchasing DREs?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll

workers educated/trained on who should show identification? Is the law evenly applied?

Unique Features Of California Voting

- While lacking as dramatic an election overhaul as Florida and Georgia, California still led the nation in decertifying punch cards and securing a \$200 million bond funding the purchase of new voting systems. According to the state election reform plan, California will receive \$57 million in federal funding for new voting systems. Up to 40 percent of the state's election reform budget will be used to make the registration database compliant.
- In Los Angeles, the nation's most populous voting jurisdiction, punch cards, the subject of numerous pre-recall election lawsuits, will be decertified and replaced with a system that looks and acts like punch cards but uses an ink reader instead of chad. Ballot errors can be determined in-precinct, and over-voted ballots will be returned to voters to be corrected under the new system. The county will eventually move to a DRE system.
- The state's highly decentralized election administration included 23 different types of voting systems in 2002. The state publishes voter pamphlets and sample ballots. Election reform will be felt on the ground in 2004, as more than half of state voters will use a different voting system to cast ballots than they did in 2000.
- Secretary of State Kevin Shelley in November required all DREs in the state to have voter-verified paper audit trails by 2006, marking a major victory for some computer scientists and activists in the state who oppose paperless electronic voting systems because of concerns over their security and accuracy.





Connecticut

PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	1,995,684
VOTING SYSTEM(S):	Lever (166 municipalities), optical scan (3 municipalities)
KEY ELECTION REFORM LEGISLATION:	HB 6515: mandates use of statewide voter registration system in localities; HB 6592: provisional voting; HB 5258: requires posting of voter information at polling places; SB 88: permits pilot tests of electronic voting machines.

Overview

More than 3,300 lever machines will most likely be replaced in Connecticut, but not in time for the March primary. Most voters in the state are already on a statewide voter registration system and most will cast ballots in the same fashion as they did in previous elections, meaning the impact of HAVA in Connecticut will be felt only by provisional voters and perhaps first-time voters who register by mail, who will have slightly different ID requirements than other voters.

The state will need to amend its current system of “challenge” ballots to meet federally-mandated provisional voting standards.

Things To Look For

VOTING MACHINES: While a few localities have sampled more modern voting machines, more than 3,300 lever machines are in use statewide. Does the voting system hold up to additional scrutiny in the primary?

VOTER IDENTIFICATION: Connecticut requires ID of all voters, but has a permissive statute allowing many different kinds of documents to confirm identify – more permissive than HAVA’s requirements for first-time voters who register by mail. Will

poll workers adhere to HAVA standards for first-time voters who register by mail?

PROVISIONAL VOTING: HAVA-compliant provisional voting would be introduced in Connecticut as part of HB 6592. If and when it becomes law, are the rules properly applied by poll workers? Are voters made aware of their right to a provisional ballot?

Unique Features Of Connecticut Voting

- The state election reform plan includes spending nearly 75 percent of a \$27.8 million reform budget on new or upgraded voting machines. The state did not receive lever-machine replacement money because state officials are undecided whether they want to scrap the system. Some local clerks and legislators want to find out if lever machines can be retrofitted to include a paper audit trail while others have raised objections to any change in the current polling place status quo.
- All Connecticut voters present some kind of ID before voting. Acceptable forms include many pre-printed documents with a name, address, signature or photograph.

Maryland



PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	2,763,955
VOTING SYSTEM(S):	Optical scan (17 counties), DRE (7 counties)
KEY ELECTION REFORM LEGISLATION IN 2003:	HB 1061: establishes state election modernization fund; SB 432: establishes methods for measuring compliance with HAVA.

Overview

Maryland's soon-to-be statewide voting machines made national news this summer when a researcher from Baltimore's Johns Hopkins University released a report critical of the Diebold touch-screen units slated for statewide use by 2006. The report pointed out potential security pitfalls and, at the end of the summer, compelled the state to launch an investigation of its own.

While much of the report remains confidential, some fixes will be made to the machines to make them more secure. Maryland's \$55 million contract for 11,000 new voting machines makes it Diebold's largest U.S. account.

Things To Look For

VOTING MACHINES: New Diebold machines will be in place statewide by 2006. The controversial machines have been the focus of computer scientists inside and outside of the state. The machines will undoubtedly face voter and media scrutiny in March, when they will be used in seven Maryland counties, including its largest, Montgomery.

VOTER CONFIDENCE: Exit polls from 2002 indicated a high degree of voter satisfaction with DRE voting in the counties that used them. With widely publicized allegations of potential security flaws, do

Maryland voters still trust touch-screen, paperless voting?

VOTER IDENTIFICATION: First-time voters who registered by mail and did not include ID will be asked to show identification at polling places per HAVA requirements. It marks the first time the state has asked for identification. Without a modern voter registration database, does the state correctly identify those that should show ID?

Unique Features Of Maryland Voting

- A pioneering state in post-2000 election reform, Maryland started adopting a statewide voter registration database and a statewide system of touch-screen voting machines before HAVA was approved. The state expects to spend around \$70 million on election reforms.
- Voter education as well as poll worker and election official training are currently conducted locally. Increasingly, those efforts are being assisted by the state, particularly to educate voters about the new voting machines slated for statewide use. In the seven counties with DRE voting systems in the 2002 election, the State Board of Elections produced television and radio spots in conjunction with Diebold, the voting system contractor.



Massachusetts

PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	3,972,651
VOTING SYSTEM(S):	Optical scan (1,665 precincts), lever (392 precincts), Datavote (42 precincts), paper ballots (90 precincts).
KEY ELECTION REFORM LEGISLATION IN 2003:	HB 1855/SB 343: (pending) HAVA compliance and access for voters with disabilities.

Overview

Reluctant to act on reforming the state's elections after 2000, Massachusetts will have some catching up to do to meet HAVA requirements in time for the 2004 primary. To that end, the state will need to enact HAVA-compliant provisional voting and voter identification rules in time for the March vote.

Punch cards have been decertified, but lever machines remain in use in many precincts. The state's unique write-in rules have delayed the certification and field testing of DRE voting systems. Those tests will begin during the primary in a few Massachusetts' towns.

Things To Look For

VOTING MACHINES: Punch cards were decertified in the state in 1998. They will be replaced with optical-scan machines in time for the primary. Lever machines, used until this year, will be history in time for the primary, as the units in use in more than 400 precincts will be replaced by optical scanners. Will the poll workers and voters know how to operate the new system?

PROVISIONAL VOTING: The state's "escrow ballots" are not in compliance with HAVA standards. Will poll workers correctly apply the new provisional voting rules and will voters understand their rights?

VOTER IDENTIFICATION: One of the few states where each locality can require ID, the issue has been a thorny one in a number

of communities, at one point drawing the attention of the U.S. Justice Department. Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

POLL WORKERS: Boston's 2003 municipal elections were controversial because of understaffing issues. Does the state have enough poll workers for the primary election?

Unique Features Of Massachusetts Voting

➤ The state has not given specific figures yet on its HAVA budget. The Massachusetts plan, however, calls for only 15 percent of the money on voting machines and 10 percent to upgrade its nearly-compliant statewide voter registration database. Instead, the state has identified poll worker training and voter education as the key areas for improvement and will devote more than half of its HAVA funds to improvements in both areas.

➤ Once the state scraps its lever machines, paper-based voting, either hand-counted or optically-scanned ballots, will be the only system in use. Eventually, however, the state will introduce touch-screen machines to localities to meet HAVA requirements for machines accessible to voters with disabilities.

New York



PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	10,839,077
VOTING SYSTEM(S):	Level machines, DREs
KEY ELECTION REFORM LEGISLATION IN 2003:	A8840: requires that voter information be posted at polling places; other relevant bills, including a HAVA compliance act, are pending.

Overview

Few states had as controversial a planning process for federal election reform as New York. Critics blasted the governor for stacking the state's task force with Republicans while ignoring key constituencies. The preliminary plan itself was criticized as being vague and lacking direction on a number of issues. As a final blow for those opposed to the composition of the task force, a final version of the plan went to the Federal Election Commission without a review by anyone outside of the state's Board of Elections.

The legislature failed to act on a number of reforms, meaning it is unclear whether the minimum requirements of HAVA – such as identification of first-time voters who register by mail – will be in place for 2004. Affidavit balloting, a form of provisional voting, was in place in New York prior to the passage of HAVA.

Things To Look For

VOTING MACHINES: New York uses lever machines statewide. The clunky and antiquated machines are no longer manufactured and have been specifically cited by Congress for replacement under HAVA. Moreover, state law requires all races to appear on one page, giving rise to frequent complaints that the ballot is confusing. Have machine problems that plagued recent elections in New York City been resolved? Will the machines

hold up to the post-2000 scrutiny that is certain to accompany the 2004 presidential race?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

POLL WORKERS: Given past problems, does New York City have sufficient numbers of poll workers and language translators for the election to run smoothly?

Unique Features Of New York Voting

- Full-face ballot requirements for machines make the replacement of the state's lever machines complicated. The state plan does not make any mention of what potential replacement systems might be.
- The state plans to spend 60 percent of its \$235.6 million HAVA budget on machine replacements. New York will also need to update its statewide voter registration database to make it HAVA compliant.
- State officials will also assume control over training of poll workers, per the state's HAVA plan.



Ohio

PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	7,537,822
VOTING SYSTEM(S):	Punch card (69 counties), optical scan (11 counties), touch screen (2 counties), other "automatic" electronic (6 counties)
KEY ELECTION REFORM LEGISLATION:	HB 5: established standards for voter intent, including what constitutes a punch card vote.

Overview

One of the last bastions of the punch card, nearly 75 percent of Ohioans voted by stylus in the 2000 election. The state hopes to have many voters on touch-screen voting machines in time for the March primary. Ohio is the home of Diebold, one of the largest manufacturers of electronic voting machines. While the company has been the focus of a controversial study and Maryland investigation into machine security and integrity, the state has been a flashpoint for controversy in the procurement process. Lobbyists fanned out across the state in search of lucrative county contracts, with one handing out tickets to a Dave Matthews concert to officials charged with making decisions about voting machines.

The counties will choose from one of four vendors (including Diebold and Sequoia, a company that sued the state for inadequate consideration for certification) by the end of the year. The time span between procurement in early 2004 and the primary in early March has some officials, including representatives from the umbrella organization of local election officials, concerned that the primary should be moved to give election workers and voters more time to learn the new voting system.

Things To Look For

VOTING MACHINES: New machines will replace thousands of old punch-card units in 69 counties, some in time for the March primary. How well does the launch of the new machines go? How do the punch card machines fare in the counties that continue to use them, especially in the event of a recount?

VOTER EDUCATION/POLL WORKER TRAINING: Ohio counties have a short time period during which they can select, purchase and install new voting systems should they choose to have them in place for the primary. Will counties have enough time to offer training to workers and conduct voter education? Will voters – particularly the elderly and non-computer savvy – accustomed to punch cards understand how to cast ballots on high-tech machines?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

Unique Features Of Ohio Voting

- Ohio will spend approximately \$160 million on election upgrades, more than 80 percent of which will be used to rid the state of punch cards now used by the vast majority of its voters. Only 3 to 6 percent of HAVA funds will be spent to make the state's registration database HAVA compliant.
- Provisional voting was in place in Ohio prior to the passage of HAVA.
- As part of the state's HAVA compliance plan, the state plans to survey a group of voters on their experiences at the polls. The state also plans to complete the statewide voter registration database by the end of 2003 – three years ahead of 2006 deadline established in HAVA.

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Rhode Island



PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	648,208
VOTING SYSTEM(S):	Optical scan (statewide)
KEY ELECTION REFORM LEGISLATION:	SB 481: establishes HAVA-compliant provisional voting procedures

Overview

Rhode Island's small size has been conducive to centralized control over elections. The state is the custodian of a uniform voting system. However, Rhode Island does not have a statewide voter registration database, and until HAVA, did not have provisional voting. In its HAVA planning documents, state officials report Rhode Island should have a statewide voter registration database completed in time for the 2004 primary.

Things To Look For

PROVISIONAL BALLOTS: The state will be using provisional voting for the first time. Are poll workers and voters sufficiently educated on its use, verification procedures and notification requirements? Do provisional ballots affect the outcome of the primary?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll

workers educated/trained on who should show identification? Is the law evenly applied?

VOTER REGISTRATION: The state's compliant database is scheduled to be completed on January 1, 2004. How does the system fare in its first large-scale trial?

Unique Features Of Rhode Island Voting

- Rhode Island established a uniform system of precinct-based optical scanners in 1998. The system does not meet HAVA standards for accessibility. State officials are considering whether to replace the entire voting system with DREs or purchase one machine per polling place accessible for people with disabilities as required by HAVA.
- The state's total election reform budget is \$23.3 million, about 70 percent of which will be used to purchase new machines. About 15 percent will be used to complete the creation of a statewide voter registration database.



Texas

PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	11.6 million
VOTING SYSTEM(S):	DRE (6 counties), optical scan (146), paper (90 counties), punch card (11 counties), lever (2 counties)
KEY ELECTION REFORM LEGISLATION:	HB 1549: HAVA compliance

Overview

Texas made significant overhauls to its system of election administration in 2002, including the beginning of a punch-card phase out, legislation for counting ballots, rules regarding registration list maintenance and creating a voter's rights hotline. The most visible changes for voters in the 2004 primary will be new voting machines, most notably in Harris County, home to Houston and 3.4 million residents. For the first time, Harris County voters will cast presidential primary ballots on DREs rather than punch-card machines.

While the home state of President Bush might have made national news for its tumultuous redistricting fight and fleeing Democratic lawmakers, new rules for determining what counts as a vote on various systems should help the state avoid Florida-like controversy in the event of a close race and recount.

Things To Look For

VOTING MACHINES: As some counties have made the switch away from punch cards as part of a state plan to phase out the voting system, others will continue to use the machines in the primary. Will the state, using both old and new machines, avoid controversy when voters cast and machines count ballots?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

PROVISIONAL VOTING: The state will adopt a HAVA-compliant system of provisional voting in time for the primary to replace the existing system of "challenge affidavit" ballots that does not segregate ballots of voters whose names do not appear on registration rolls. Does the new provisional voting system slow ballot counting? Are poll workers and voters trained/educated on the new rules?

Unique Features Of Texas Voting

- Texas' \$80 million election reform budget will include money to replace all paper ballots, central-count optical scan systems, punch cards and lever machines. An estimated \$30 million to \$37 million in federal and state matching funds will be used to fund the effort. About a quarter of the money will be used to establish a HAVA-compliant voter registration database.
- Controversies have plagued elections in a number of Texas counties and cities, including Bexar County (San Antonio), where missing ballots and no-show poll workers caused election chaos in 2002, and Dallas, where allegations of mail-in ballot tampering have been raised.
- Texas poll workers are among the lowest paid in the country, with a statewide \$6-an-hour cap on pay. Recruiting, county officials say, is difficult. With new polling place language requirements after the 2000 U.S. Census, it could become even more difficult.

y-States

Vermont



PRIMARY DATE:	March 2, 2004
REGISTERED VOTERS:	427,354
VOTING SYSTEM(S):	Optical scan, hand-counted paper ballots
KEY ELECTION REFORM LEGISLATION:	HB 460: HAVA compliance.

Overview

Few states have shown more resistance to changing election laws and procedures than Vermont. Lawmakers have struck down nearly every election reform bill that came before them in recent years, largely due to Vermont's history of relatively trouble-free elections.

With the passage of HAVA, Vermont will have to make changes to its election system. In the early March primary, the state will introduce provisional voting and require verification of first-time voters who register by mail, a drastic change in a state where voters and poll workers know each other and simply stating one's name suffices for identification.

Things To Look For

PROVISIONAL VOTING: Vermont's system of affidavit voting for those not appearing on poll lists will be scrapped in favor of a HAVA-compliant system. Are poll workers and voters adequately trained and educated on the new rules?

VOTER IDENTIFICATION: Per HAVA rules, the state will require first-

time voters who register by mail to present identification when they register or cast ballots. Are voters and poll workers educated/trained on who should show identification? Is the law evenly applied?

Unique Features Of Vermont Voting

- The state's \$9.4 million HAVA budget will be used chiefly for the purchase of new voting machines. According to the state's HAVA plan, the state will continue to use hand-counted paper ballots in some localities and will choose a uniform voting system for those cities and towns that choose to use machines instead. Approximately 16 percent of the state's HAVA budget will be used to finance the construction of a statewide voter registration database.
- Voters in 52 of the state's 55 municipalities have passed resolutions calling for the adoption of instant run-off voting, a system in which voters rank their preferences for candidates rather than select one.



Florida

PRIMARY DATE:	March 9, 2004
REGISTERED VOTERS:	9,302,360
VOTING SYSTEM(S):	Optical scan (8 counties) and DRE (59 counties)
KEY ELECTION REFORM LEGISLATION IN 2003:	HB 29B: HAVA compliance legislation.

Overview

Florida's March 9 primary date – a week after Super Tuesday – might be too late for any real drama in the Democratic race for the presidential nomination. But never count out Florida. It's always the state to watch when voters go to the polls.

The Sunshine State's well-deserved reputation for election dysfunction earned in November 2000 with ballot design foibles, recount chaos and erroneous voter registration purges was cemented in Broward and Miami-Dade counties in September 2002, when the introduction of new touch-screen machines to replace the maligned punch cards proved disastrous. A huge influx of spending for training, help from local law enforcement and emergency preparedness (with assistance from state officials) made the 2002 general election a success in both jurisdictions.

While the state seems to have mended most of the flaws of 2000 with new machines, provisional voting, standard recount rules, the construction of a statewide voter registration database and list maintenance rules, Broward County is still somewhat chaotic. County board members there are considering getting rid of touch-screen voting because of concerns about machine security and integrity, while Gov. Jeb Bush in November reserved the county's top election official after months of controversy and investigation.

Things To Look For

VOTING MACHINES: Questions over the security and integrity of DRE voting without a voter-verified audit trail is a growing concern in Florida, where voters in 59 of the state's 67 counties cast votes on all-electronic touch-screen machines. Questions about the quality of the machines, including the chip set that serves as the brain of the system, came up last year in a Miami-Dade investigation. Will a close election lead

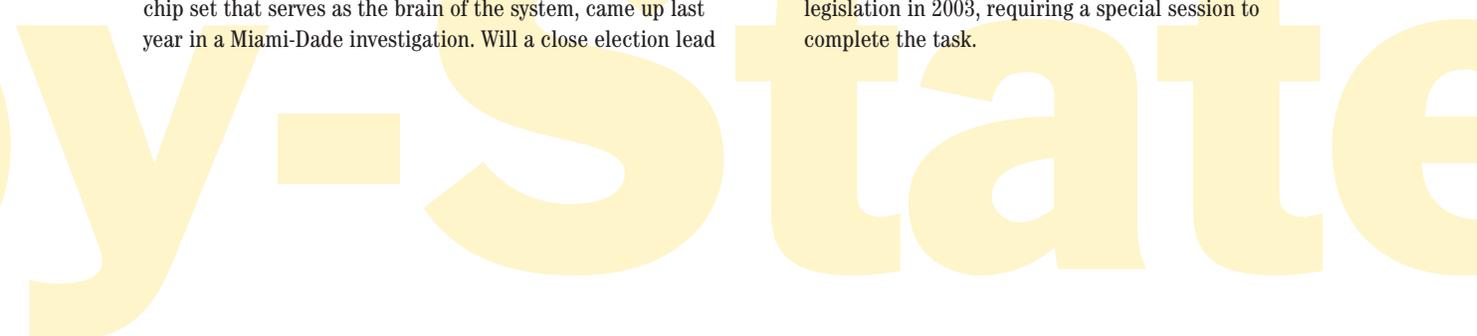
some local governments to purchase new machines?

REGISTRATION LISTS: Thousands of Florida voters were accidentally purged as felons after a private company hired to clean the state's voter rolls botched the job. Will new safeguards in place, including provisional voting and strict maintenance rules, ensure a cleaner list?

VOTER SCRUTINY: No where else in the country have voters become more aware of their rights – and their county and state's responsibilities – in the electoral process. Election monitors from civil rights groups will again patrol precincts while individual voters will almost assuredly alert the media and political campaigns of difficulties at polling places. Will Florida emerge from the depths of electoral dysfunction in 2000 to pull off a smooth primary vote in 2004?

Unique Features Of Florida Voting

- The state that inspired federal election reform is also years ahead of the rest of the country in implementing its various components, including provisional voting, voting system standards and voter identification. The state still needs to complete its registration database and make at least one machine per polling place accessible to voters with disabilities.
- The state plans to use \$73 million in HAVA funds to complete reforms. About 55 percent of the money will be used to reimburse counties for purchasing voting machines in the past two years. Nearly 30 percent of the money will be used for the statewide voter registration database.
- A divided legislature barely passed HAVA compliance legislation in 2003, requiring a special session to complete the task.



Louisiana



PRIMARY DATE:	March 9, 2004
REGISTERED VOTERS:	2,745,834
VOTING SYSTEM(S):	Lever (50 parishes), DRE (14 parishes)
KEY ELECTION REFORM LEGISLATION:	HB 1358: implements HAVA provisions; HB 1211: mandates posting voter information, amends voter registration rules to comply with HAVA; HB 1358: institutes provisional voting.

Overview

The replacement of thousands of lever voting machines started in Louisiana in 2002, before the passage of HAVA. The state spent more than \$3 million to purchase 700 touch-screen machines in order to replace lever machines. The move to all-electronic voting is incomplete, however.

Louisiana plans to spend a greater percentage of HAVA money on voting machines than any other state – more than 90 percent of an estimated \$50.2 million – to replace its antique lever system.

Things To Look For

VOTING MACHINES: Lever machines will continue to be in use in most of the state for the primary, though some voters will cast ballots on DREs. Will the antiquated machines coupled with greater public scrutiny sap voter confidence? Will there be high error rates? Will the touch screens, which have faced controversy in Florida, perform well in Louisiana?

PROVISIONAL VOTING: Louisiana will adopt provisional voting for the first time in the 2004 primaries. Previously, the state has used affidavit ballots, which allow voters who believe they are

registered to sign for ballots and have their votes counted normally. Provisional ballots need to be segregated and the eligibility of the voter must be determined before they can be counted. How does Louisiana manage the introduction of provisional voting?

Unique Features Of Louisiana Voting

- Louisiana comes into the 2004 election HAVA-compliant in two key areas – voter identification goes beyond HAVA by requiring all voters to show ID or present other verifying information at polling places and it has a statewide voter registration database. Much work is still to be done, however, including the replacement of lever machines that continue to be used in 50 parishes. The state is in the process of finalizing a \$40 million replacement of lever machines with DREs.
- Military and overseas voters who are residents of the state use instant-runoff voting. Ten parishes accept ballots via the Internet from soldiers serving in the Persian Gulf.
- Provisional voting will be allowed only in federal elections.



Mississippi

PRIMARY DATE:	March 9, 2004
REGISTERED VOTERS:	Voting System(s): Optical scan (60 counties), Punch card (11 counties), Lever (8 counties), DRE (3 counties).
KEY ELECTION REFORM LEGISLATION IN 2003:	None.

Overview

The state's election system is one of local control, with no state certification of voting machines and no statewide database. The state legislature has been hesitant to back measures that shift any administrative control from the counties to Jackson. As a result, little will be changed in time for the March primary. With the failure of HB 1146 – a HAVA compliance bill that became the subject of partisan bickering over universal requirements for voter identification – the state has no vehicle to comply with HAVA.

Things To Look For

VOTER IDENTIFICATION: The state has not enacted HAVA-compliant voter identification rules as of late October. Will the state face U.S. Justice Department action if the system is not in place by the primary?

PROVISIONAL VOTING: Similarly, the state has a non-compliant system of affidavit voting for those who believe they are registered but whose names are not on registration rosters. Will the state face U.S. Justice Department action if a compliant system is not in place in time for the primary?

Unique Features Of Mississippi Voting

- The state's proposed \$34.2 million HAVA budget includes about \$15 million for new voting machines. Another \$10 million will be used to construct the state's registration database. All registration data is now housed exclusively at the county level.
- Despite the failure of many election reform bills since 2001, the legislature enacted vote-counting standards and required county reports on uncounted ballots in 2002. The data gleaned from the latter will be used by the secretary of state to make recommendations for machine purchases.
- The construction of a statewide voter registration database will mark a profound shift in the relationship between state and local election officials. To date, the state has had little to do with the administration of elections other than as a certifying authority.

y-State

Endnotes/ Methodology

Endnotes

- 1 This does not include the HAVA requirement for a toll-free number or Web site for voters to find out if their provisional ballots were counted, which most states must put in place.
- 2 Many civil liberties advocates and policymakers have raised concerns and objections to this provision.
- 3 H.R. 3295, “The Help America Vote Act,” U.S. House of Representatives, October 2000.
- 4 An applicant is also exempt from the ID requirement if he or she provides a driver’s license number or the last four digits of their Social Security Number—and if the state is able to match this information to an existing state record.
- 5 Op.-Cit., H.R. 3295.
- 6 HAVA offers states the option of receiving federal funds to have punch-card and lever machines replaced. It also has standards for machines, including notification of potential ballot-spoiling over-votes. It allows states to introduce voter education programs to achieve the same purpose, however. On the issue of a database, however, every state must adopt a statewide system or face U.S. Justice Department action.
- 7 Election Reform Briefing, “Roads to Reform: Planning for the Help America Vote Act,” *electionline.org*, September 2003.
- 8 The American Association of People with Disabilities offers details on the requirements states must follow to meet HAVA mandates for accessible voting. Information is available here: <http://www.aapd.com/dvpmain/newdvpindex.html>.
- 9 While the anti-fraud vs. voter intimidation argument is frequently raised in partisan debates in statehouses, there is little evidence to indicate that asking voters at polling places for identification reduces fraud. Most voter fraud cases that make it to court relate to absentee voters. Similarly, there have been no definitive studies indicating that identification requirements have an impact on turnout. New York-based Demos conducted a study that found voter fraud in the United States is rare. See <http://www.demos.org/demos/pubs/securing-the-vote.pdf>.
- 10 Ten other states – Connecticut, Missouri, Texas, Louisiana, Georgia, South Carolina, Florida, Virginia, Kentucky and Delaware – had polling place identification requirements in place prior to the approval of HAVA. For more information on voter identification requirements before 2002, see [electionline.org](http://www.electionline.org/site/docs/pdf/voter_id_report.pdf) and the Constitution Project’s report: http://www.electionline.org/site/docs/pdf/voter_id_report.pdf.
- 11 For more information on these positions, see www.verifiedvoting.org.
- 12 Doug Lewis, director of the Houston-based Election Center, summarizes many of the arguments in favor of electronic voting and offers a point-by-point rebuttal of charges made by voter-verified audit trail supporters in a letter available on the web site: www.electioncenter.org.
- 13 Johns Hopkins University researcher Avi Rubin’s report can be found at: <http://avirubin.com/vote.pdf>. Maryland’s report can be found at: www.dbm.maryland.gov/dbm_search/technology/toc_voting_system_report/votingsystemreportfinal.pdf.

- 14 Holt, Rep. Rush. "Rep. Rush Holt Introduces Legislation to Require All Voting Machines To Produce A Voter-Verified Paper Trail," Press Release issued May 22, 2003.
- 15 Bash, Dana. "Prospects Dim for Election Overhaul Bill," CNN, March 1, 2002; See also Senator Kit Bond's press releases and statements on vote fraud at bond.senate.gov/atwork/search_topics.cfm?code=vote%20fraud.
- 16 Leadership Conference on Civil Rights, "Recommendations on Implementation of the Help America Vote Act," December 19, 2002.
- 17 Demos, "Expanding the list of acceptable IDs," www.demos-usa.org/demos/HAVA/idlist.pdf. Those including Electronic Benefit (EBT) cards, public housing lease and rent statements and agreements, Social Security Administration check statements, student identification cards or tuition statements or bills from state and local colleges and universities, insurance cards issued pursuant to government administered or subsidized health insurance programs, bills from federal, state, or local governments, tuition bills and statements from state and local colleges and universities, a sample ballot pamphlet sent by state or local election officials, and identification cards issued by government homeless shelters and other temporary or transitional housing facilities.
- 18 Op-Cit., Leadership Conference on Civil Rights.
- 19 A spokesman for Montana Secretary of State Bob Brown said the state will require ID of all voters at polling places because "it would be difficult to determine whom to ask ID from." Johnson, Peter. "Officials brainstorm ways to make new election law work," *Great Falls Tribune*, September 4, 2003.
- 20 ACLU, "The System Must Be Fixed: Election Day Mess Triggers Voting Rights Lawsuits Around the Country," January 12, 2001.
- 21 American Civil Liberties Union, "ACLU of Florida Challenges Discriminatory Act," Press release, August 15, 2001.
- 22 Modic, Rob. "ACLU: Elections Unfair; Ohio, counties sued over punch card voting system," *Dayton Daily News*, October 12, 2002.
- 23 Miller, Bill. "Disabled Voters Sue D.C. for Changes; Suit Seeks Machines The Blind Can Use," *The Washington Post*, September 6, 2001.
- 24 Slobodzian, Joseph A. "City settles suit over voter access," *Philadelphia Inquirer*, August 7, 2003.
- 25 ACLU, "ACLU Files Federal Lawsuit Challenging Use of Obsolete 'Punch Card' Voting Machines in California Recall Election," Press release, August 7, 2003.
- 26 ACLU of Southern California, "Federal Court Grants Victory in Punch Card Voting Case," Press release, February 13, 2002.
- 27 The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, 2001; Leadership Conference on Civil Rights, "Recommendations on Implementation of the Help America Vote Act," December 19, 2002.
- 28 The Century Foundation, *Reports on the 2001 Elections in New York City, Los Angeles, New Jersey and Virginia*, October 15, 2002.

Methodology

States highlighted were selected using two criteria – first, the state had to have a scheduled primary election. States holding caucuses were not considered because they are conducted by party rules and not state election law.

Second, the states highlighted were chosen because they plan to hold primaries before mid-March. The front-loaded primary process traditionally yields a winner before the spring primary contests.

For information on changes to state election administration, primary source documents, including state compliance reports for the Help America Vote Act, state law, legislative Web sites and court cases were used. Other sources of information – newspapers and journal articles, publications and other resources – are cited.

electionline.org, administered by the Election Reform Information Project, is the nation's only nonpartisan, non-advocacy website providing up-to-the-minute news and analysis on election reform. After the November 2000 election brought the shortcomings of the American electoral system to the public's attention, The Pew Charitable Trusts made a three-year grant to the University of Richmond to establish a clearinghouse for election reform information. Serving everyone with an interest in the issue – policymakers, officials, journalists, scholars and concerned citizens – electionline.org provides a centralized source of data and information in the face of decentralized reform efforts. electionline.org hosts a forum for learning about, discussing and analyzing election reform issues. The Election Reform Information Project also commissions and conducts research on questions of interest to the election reform community and sponsors conferences where policymakers, journalists and other interested parties can gather to share ideas, successes and failures.

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