

BALLOT ACCESS NEWS

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LEGISLATURES DEAL WITH BALLOT ACCESS IN 13 STATES

GOOD BILLS ADVANCE IN NEW YORK, VIRGINIA; LOSE IN INDIANA

1994 legislative sessions in 13 states have already begun working on ballot access bills:

1. Connecticut: The Joint Government Administration & Elections Committee will hold a hearing at the end of February on a proposal to lower the number of signatures needed for statewide third party and independent candidates from 1% of the last vote cast (which ranges from 10,000 to 15,000), to a flat 5,000 signatures. The proposal won't receive a bill number unless the committee approves it.

2. Georgia: HB 606 had a hearing in the Senate Governmental Operations Committee on January 27, and will have another hearing very soon. It has already passed the House. It would decrease the number of signatures for a statewide new party or independent candidate from 1% of the number of registered voters (almost 30,000 signatures) to a flat 10,000. It would lower the number of signatures for U.S. House of Representatives candidates from 5% of the registration (about 14,000) to a flat 5,000.

However, it would make it more difficult to collect signatures, by requiring separate forms for each voter's signature, and by requiring each voter to show a date of birth as well as name and address. Also, the petitioning group would be required to alphabetize the forms, by county, before submitting them.

3. Hawaii: Bills to legalize write-in voting have been introduced at the request of the state's elections administrator. They are SB 2831 by Senator Norman Mizuguchi and HB 3207 by Representative Joseph Souki.

4. Illinois: the bill to reduce the number of signatures for the congressional candidates of a statewide third party from 5% of the last vote cast (averaging 12,000) to .5%, has been sent to the legislative counsel and should receive a bill number by mid-February. Congressman Philip Crane has promised to help get this bill passed.

5. Indiana: SB 138, which would have repealed language on the petition saying that none of the named candidates has a "criminal conviction" that would prevent the candidate from holding office, failed to pass the Senate by February 3 (a legislative deadline), so the bill is dead. This language was added last year in an omnibus election law bill. Third parties didn't discover it until it had already passed.

6. Kansas: the Secretary of State has asked the legislative counsel to draft a bill which improves the petition deadline for new parties, from April, to June.

7. Kentucky: Senator John D. Rogers will introduce a bill to let a group circulate a petition to get on the ballot, before it has chosen its presidential candidate.

Kentucky (continued): The petition would list the candidates for presidential electors, who would later notify the Secretary of State of the name of the presidential and vice-presidential candidates they are pledged to support. The bill was requested by the Libertarian Party, since the party won't be nominating its next presidential candidate until July 4-7, 1996, and wishes to circulate the petition before the convention.

8. Maine: Representative John Michael has agreed to introduce a bill, similar to the Kentucky bill above. The need for such a bill is particularly pressing in Maine, since the presidential petition deadline is in June.

9. Maryland: Bills to improve ballot access have been introduced in both houses of the legislature. They are SB 181 by Senator Howard Dennis, and HB 901 by Delegates Paul Pinsky and Dana Dembrow. Existing law requires over 82,000 signatures to qualify a third party candidate for statewide office (other than president). The bills would lower this to 10,000. SB 181 has a hearing on February 17 in the Senate Economic & Environmental Affairs Committee.

10. New York: The Assembly passed 1A-a on January 10. It would instruct state judges to construe the law on petition technicalities liberally.

11. Oklahoma: The bill to let third party and independent presidential candidates qualify by paying a \$2,000 filing fee, instead of having to signatures of 3% of the last vote cast (over 41,000) has been prepared by legislative counsel and will receive a bill number when the legislature convenes in mid-February.

12. South Carolina: Bill to legalize write-ins for president at the general election are SB 1128 by Senator James Bryan, and HB 4639 by Representative Donny Wilder. Under current law, write-ins at the general election are permitted for all office except president.

13. Virginia: HB 65 passed the House on January 31. It would make it easier to petition for third party or independent presidential candidates. Under existing law, no one can circulate a petition for president outside of his or her home congressional district. The bill lets petitioners work in congressional districts which adjoin the home district, as well. A similar bill liberalizing non-presidential petitions became law last year.

Unfortunately, another good provision of HB 65 was deleted by the House Privileges and Elections Committee on January 27. It would have permitted a group to circulate its presidential petition before it knew the identity of its presidential candidate. No member of the public who supported the bill, knew about the hearing, so no one showed up to explain why the bill is needed.

FLORIDA PRIMARY LAW THROWN OUT

On February 3, the 11th circuit ruled that Florida's presidential primary ballot access laws are unconstitutional. *Duke v Smith*, no. 92-4093. The vote was 3-0.

This was the first time that any U.S. Court of Appeals had ruled that the presidential primary ballot access laws of any state are unconstitutional (although U.S. District Courts had earlier held the Kentucky and Rhode Island procedures unconstitutional).

Florida's policy has been to let the Secretary of State and legislative leaders of the Republican and Democratic Parties decide whom to put on the presidential primary ballot. Access was impossible for anyone not approved by these five individuals. The 11th circuit ruled that this is hopelessly arbitrary. The decision was written by Judge Peter Fay (a Ford appointee) and signed by Judges Frank M. Johnson (a Carter appointee) and Edward Carnes (a Bush appointee).

COURT DUCKS PARTY RIGHTS ISSUE

On January 18, 1994, the D.C. circuit issued an opinion in *Freedom Republicans v FEC*, no. 92-5214. The Court ruled that the plaintiffs lack standing, and therefore the main issue wasn't reached.

That main issue is whether Title VI of the U.S. Civil Rights Act of 1964 applies to political parties and the Federal Election Commission. The Act provides that no "program or activity" receiving federal financial assistance shall discriminate on the basis of race, color or national origin, and that government agencies which issue subsidies must issue regulations to insure that recipient organizations do not discriminate.

The Republican and Democratic Parties each receive about \$10,000,000 to pay for their national conventions, so the plaintiffs sued the FEC for failing to issue regulations which would insure that the Republican Party's delegate selection procedures are not discriminatory. The lower court ruled that the FEC must issue such regulations.

The D.C. circuit ruled 3-0 that there is no evidence that the Republicans would change their delegate selection procedures, even if their convention subsidy were cut off. Therefore, the plaintiffs lacked standing. The decision was written by Judge Patricia Wald, and co-signed by Judges James Buckley and Douglas Ginsburg. Plaintiffs are asking for a rehearing before the entire D.C. circuit.

ALERT ON CAMPAIGN FINANCE BILL!

Each house of Congress is about to appoint members to a conference committee, to work out the final version of the federal campaign reform bill. Once the conference committee has been appointed, people who are concerned about aspects of the Senate bill which discriminate in favor of Republican and Democratic candidates, and against all others, ought to communicate to those members as quickly as possible. Call the Senate Rules Committee at (202) 224-0279 to learn if any Senators have been chosen.

OTHER LAWSUIT NEWS

1. There will be a hearing in the Arkansas Supreme Court on February 14 in *U.S. Term Limits v Hill*, no. 93-1240. This is the case over the constitutionality of congressional and legislative term limits. The lower court voided the limits on a technicality.

2. Louisiana's appeal in *Hayes v State of Louisiana* is due in the U.S. Supreme Court next month. This is the case over "racial gerrymandering" of congressional districts. The lower court invalidated the Louisiana districts.

3. A hearing was held in *Fulani v Bentsen* on January 13, in the U.S. Court of Appeals, 2nd circuit, before Judges Roger Miner, J. Daniel Mahoney and Jane Restani. The issue is whether the League of Women Voters Education Fund should keep or lose its tax-exempt status if it continues to use arbitrary standards to decide whom to invite into its debates.

The judges seemed to show that they don't agree with U.S. District Court Judge Robert Sweet (who had the case earlier) on procedure. Sweet had ruled that the League is not entitled to tax-exempt status if it maintains its policy, but that he was powerless to order the IRS to remove the Fund's tax-exempt status. The appeals judges seemed to feel that if the tax-exemption should not be granted, the federal courts can force to IRS to remove it.

4. The proposed lawsuit against Congressional Franking during election years still has not been filed. Proponents of the case, including the Coalition Against the Permanent Congress, are working to line up financial and endorsement support for the case.

NEW CO-SPONSOR FOR DEBATES BILL

Congresswoman Leslie Byrne, a Virginia Democrat, recently became a co-sponsor of HR 1753, the Penny "Democracy in Debates" bill. The bill would mandate general election debates between presidential candidates who receive general election campaign funding from the Treasury, and also require that other candidates be invited into the debate if they had raised \$500,000 in small contributions and if they were on the ballot in at least 40 states. The bill now has 15 co-sponsors plus Tim Penny.

NEW STUDY SHOWS PETITION BURDEN

The chart on page 3 shows the petitioning burden on any new party which wished to qualify a full slate of candidates for the November 8, 1994 election, for all partisan legislative and executive positions (federal, state and county government) which are up for election on that day. Partisan school board elections and judicial elections are not included.

Some states have two different procedures for new parties to place their candidates on the ballot. The chart shows the easier method; however, all procedures permit the party label to be printed on the ballot. The equivalent figures for Republican and Democratic candidates for 1994 will be in the next issue of *B.A.N.*

NEW PARTY, 1994, PETITIONS NEEDED TO RUN FOR ALL PARTISAN OFFICE

<u>STATE</u>	<u>PARTY</u>	<u>ST-WIDE</u>	<u>HOUSE</u>	<u>DIST EXE</u>	<u>ST SEN</u>	<u>LOWER</u>	<u>COUNTY</u>	<u>TOTAL</u>
Alabama	12,157	0	0	0	0	0	0	12,157
Alaska	0	2,586	2,586	0	1,293	2,586	0	9,051
Arizona	19,827	0	0	0	0	0	0	19,827
Arkansas	28,520	0	0	0	0	0	0	28,520
California	reg. 78,992	520	2,080	160	800	3,200	0	85,752
Colorado	0	6,000	3,000	4,000	17,000	65,000	184,832	279,832
Connecticut	0	15,008	14,355	0	13,536	13,590	0	56,489
Delaware	reg. 159	0	0	0	0	0	0	159
Florida	196,255	0	196,255	0	98,128	196,255	196,255	883,148
Georgia	31,771	0	158,855	0	158,872	158,940	80,830	589,268
Hawaii	4,645	50	50	0	180	765	360	6,050
Idaho	9,643	0	0	0	0	0	0	9,643
Illinois	0	25,000	241,548	0	71,953	230,336	258,218	827,055
Indiana	0	29,909	29,909	0	14,950	29,909	29,909	134,586
Iowa	attend. 990	0	0	0	0	0	0	990
Kansas	15,661	0	0	0	0	0	0	15,661
Kentucky	0	0	2,400	0	1,900	10,000	0	14,300
Louisiana	reg 112,443	0	0	0	0	0	0	112,443
Maine	0	8,000	4,000	0	7,000	7,550	27,600	54,150
Maryland	10,000	es 74,000	es 74,000	0	es 74,000	0	148,000	380,000
Massachu.	0	10,000	20,000	8,000	12,000	24,000	10,050	84,050
Michigan	25,646	0	0	0	0	0	0	25,646
Minnesota	117,790	0	0	0	0	0	0	117,790
Mississippi	0	0	0	0	0	0	0	0
Missouri	10,000	0	0	0	0	0	0	10,000
Montana	10,471	0	0	0	0	0	0	10,471
Nebraska	5,834	0	0	0	0	0	0	5,834
Nevada	4,920	0	0	0	0	0	0	4,920
New Hamp.	0	3,000	«««	3,750	18,000	29,250	1,500	55,500
New Jersey	0	800	1,300	0	0	0	4,200	6,300
New Mex.	2,850	2,850	2,850	0	0	2,850	2,850	14,250
New York	0	15,000	108,500	0	183,000	225,000	77,481	608,981
N Carolina	51,904	0	0	0	0	0	0	51,904
No Dakota	7,000	0	0	0	0	0	0	7,000
Ohio	49,399	3,000	475	0	425	2,475	4,400	60,174
Oklahoma	69,518	0	0	0	0	0	0	69,518
Oregon	16,681	0	0	0	0	0	0	16,681
Pennsylvan	0	»»»	62,562	0	19,175	62,930	0	144,667
Rhode Isl.	0	6,000	1,000	0	5,000	5,000	0	17,000
S Carolina	10,000	0	0	0	0	0	0	10,000
So Dakota	6,419	250	250	0	175	350	1,320	8,764
Tennessee	19,759	50	225	75	425	2,475	0	23,009
Texas	38,900	0	0	0	0	0	0	38,900
Utah	500	0	0	0	0	0	0	500
Vermont	20	0	0	0	0	0	0	20
Virginia	0	14,871	14,871	0	0	0	0	29,742
Washington	atten. 1,625	0	0	0	0	0	0	1,625
West Va.	0	4,044	5,624	0	6,205	6,272	6,200	28,345
Wisconsin	0	12,000	9,000	0	6,800	19,800	115,200	162,800
Wyoming	8,000	0	0	0	0	0	0	8,000
TOTAL	978,299	232,938	955,695	15,985	710,817	1,098,533	1,149,205	5,141,472

"Party" is a petition which doesn't name candidates, or meetings with a specified attendance. "St-Wide" is a petition which qualifies statewide candidates. "House" is U.S. House. "Dist Exe" is state executive office elected by district. "St Sen" & "Lower" are state legislative bodies. "County" means county office. If there are two means for a new party to qualify all its candidates with the party label, the easier one is shown. For example, in Wisconsin, there is a party petition of 10,000 signatures to qualify a new party, but it isn't included, since doing it, doesn't change the candidate petition burden.

1994 PETITIONING FOR STATEWIDE OFFICE

STATE	REQUIREMENTS		SIGNATURES COLLECTED				DEADLINES	
	FULL PARTY	CAND.	LIBT	CENTER	GREEN	NEW AL	PARTY	CAND.
Alabama	12,157	12,157	700	0	0	0	Sep 9	Sep 9
Alaska	no procedure	2,586	0	0	already on	0	-	Aug 22
Ariz. (est)	(reg) 13,500	(es) 7,000	*5,800	0	*1,956	*272	May 21	Jun 30
Arkansas	28,520	10,000	0	already on	0	0	Jan 4	May 1
California	(reg) 78,992	151,015	already on	*too late	already on	*too late	Jan 4	Aug 12
Colorado	no procedure	1,000	can't start	can't start	can't start	can't start	-	Aug 2
Connecticut	no procedure	15,008	*0	already on	*0	*0	-	Aug 12
Delaware	(reg.) *159	*3,170	already on	already on	*5	138	Aug 20	Jul 15
D.C.	no procedure	(es) 2,600	can't start	can't start	can't start	can't start	-	Aug 31
Florida	196,255	196,255	*0	*5,000	*0	*0	Jul 19	Jul 19
Georgia	31,771	31,771	already on	0	0	0	Jul 12	Jul 12
Hawaii	4,645	unpredictable	already on	0	already on	0	Apr 20	Jul 19
Idaho	9,643	1,000	already on	0	350	0	Aug 31	Jun 24
Illinois	no procedure	25,000	can't start	can't start	can't start	can't start	-	Aug 8
Indiana	no procedure	29,909	30,000	0	0	*38,500	-	Jul 15
Iowa	no procedure	1,500	0	0	0	0	-	Aug 19
Kansas	15,661	5,000	already on	500	0	0	Apr 11	Aug 2
Kentucky	no procedure	5,000	---	---	---	---	-	Sep 1
Louisiana	(reg) 112,443	0	325	already on	38	0	Jun 30	Jul 29
Maine	26,139	4,000	*0	*0	*2,000	*0	Dec 15	Jun 7
Maryland	(es) 84,000	(es) 74,000	*1,650	6,000	0	0	Aug 1	Aug 1
Massachsts.	(reg) 33,000	10,000	can't start	already on	can't start	can't start	Jul 1	Aug 2
Michigan	25,646	25,646	*already on	0	0	0	Jul 21	Jul 21
Minnesota	117,790	2,000	can't start	can't start	can't start	can't start	May 1	Jul 19
Mississippi	just be org.	1,000	already on	0	0	0	Apr 1	Apr 8
Missouri	10,000	10,000	already on	0	0	0	Aug 1	Aug 1
Montana	9,473	9,473	already on	0	0	0	Mar 17	Jun 6
Nebraska	5,834	2,000	0	0	0	0	Aug 1	Aug 30
Nevada	4,920	5,134	already on	0	1,200	0	Jul 7	Jul 7
New Hamp.	no procedure	3,000	already on	0	0	0	-	Aug 10
New Jersey	no procedure	800	0	0	0	0	-	Apr 14
New Mexico	2,850	17,100	*1,350	0	already on	0	Jul 12	Jul 12
New York	no procedure	15,000	can't start	can't start	can't start	can't start	-	Aug 23
North Carolina	51,904	(es) 70,000	lawsuit	0	0	6,000	Jul 14	Jun 24
North Dakota	7,000	1,000	0	0	0	0	Apr 15	Sep 9
Ohio	49,399	5,000	0	0	0	0	Jan 6	May 3
Oklahoma	69,518	0	0	0	0	0	May 31	Jul 13
Oregon	16,681	(att.) 1,000	already on	already on	*need 2,500	already on	Aug 30	Aug 30
Penn.	no procedure	*20,552	can't start	can't start	can't start	can't start	-	Aug 1
Rhode Isl.	no procedure	1,000	can't start	can't start	can't start	can't start	-	Jul 21
South Carolina	10,000	10,000	already on	0	0	already on	in doubt	Aug 1
South Dakota	6,419	2,568	already on	0	0	0	Apr 5	Aug 2
Tennessee	19,759	25	0	0	1,000	0	May 1	May 19
Texas	38,900	38,900	already on	can't start	can't start	can't start	May 22	May 12
Utah	500	300	already on	already on	0	0	Mar 15	Mar 17
Vermont	just be org.	1,000	already on	0	0	already on	Sep 22	Sep 22
Virginia	no procedure	*14,871	*0	*0	*0	*0	-	Jun 14
Washington	no procedure	unpredictable	can't start	can't start	can't start	can't start	-	*Jul 2
West Va.	no procedure	4,044	0	0	0	0	-	May 9
Wisconsin	10,000	2,000	already on	*0	*0	*0	Jun 1	Jul 12
Wyoming	8,000	9,849	*8,500	0	0	0	May 1	Aug 29

LIBT = Libertarian; NEW AL = New Alliance; CENTER = Patriot, Independence or similar party. Other qual. national parties: Natural Law in Nev & Vt; U.S. Taxpayers in Cal., Miss., Nev., & S.C; Wkrs. World in Mich.; and Amer. in Utah. "FULL PARTY REQ." means a procedure by which a new party can qualify before it nominates its candidates; not every state has such a procedure. U.S. Taxpayers Party has 5,000 in Ohio and 3,000 in Wisconsin. Populist Party has 7,000 signatures in Georgia. * means entry has changed since Nov. 14, 1993 B.A.N.

NAP COURTS INDEPENDENCE PARTY

The New Alliance Party is doing everything in its power to assist the Independence Party. The Independence Party is the party being created by Governor Lowell Weicker of Connecticut, former Illinois Congressman John B. Anderson, and former Hawaii Congressman Cecil Heftel. The party hopes to become a major party of the center, based on the voters who voted for Ross Perot. In some states it is called the Patriot Party.

NAP has always tried to become a qualified party in New York. This can only be done by placing a gubernatorial candidate on the ballot who polls at least 50,000 votes. This year, for the first time since before 1982, NAP will not run its own candidate for Governor, but will work for the Independence Party candidate.

NAP is also helping the "Texas Independent Party" get on the ballot, rather than running any Texas candidates under its own name. And in California, NAP activists have left the Peace & Freedom Party and have been working in the Patriot Party registration drive (however, on the California legal deadline for creating a new party last month, the Patriot Party only had 61 registrants; 78,992 were needed).

The Independence Party will hold a national convention in Washington, D.C., on April 14-16. It hopes to settle the issue of whether it should retain the name "Independence".

NAP received a boost on February 3, when the McNeil-Lehrer News Hour, public TV's evening news show, invited Lenora Fulani (NAP's presidential candidate in 1988 and 1992) onto the show, opposite Congressman Charles Rangel, to talk about the Nation of Islam. Fulani also appeared the next morning on CNN.

PRESIDENTIAL PRIMARY CHANGES

The Governors of New York and Wisconsin have both suggested changing their state's presidential primary from April to early March, but there are no bills to do so yet.

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OKLAHOMA INDEPENDENT GOVERNOR?

Former Congressman Wes Watkins has hinted that he may run for Governor of Oklahoma this year as an independent. He represented southeastern Oklahoma as a Democrat between 1976 and 1990.

LOBBYING TIPS

Recently, two California legislators gave ideas on how people can lobby their state legislators. Dede Alpert and Charles Quackenbush said that individuals should first get acquainted with their legislators. They suggested "Just come in and introduce yourself; spend 15 minutes; make it a kind of general meeting". In subsequent meetings, they said, bring up specific requests.

GREEN PARTY OPENS PRIMARY

The California Green Party held a state convention on January 22-23 and voted to let any member run for Governor in its own primary. In 1992 the party had "closed" most partisan offices, meaning that no one could run for those offices. A majority at the 1994 convention wanted to close the Governor's race, but the required 80% for that purpose couldn't be attained.

LIPSET BOOSTS MORE BALLOT CHOICE

Seymour Martin Lipset, one of the world's leading political sociologists, said in an article in the February 7, 1994 "Insight" Magazine, "Another change that could have a positive outcome (to fix poor voter turnout in the U.S.) is the addition of more political parties and candidates." The title of the article is "Why Americans Refuse to Vote".

MINNESOTA SPECIAL ELECTION

On January 11, Minnesota held a special legislative election in district 40B. The results: Republican 2,720 (52.3%), Democrat-Farmer-Labor 2,204 (42.4%), Independence Party 272 (5.2%).

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