

# BALLOT ACCESS NEWS

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## HR 1582

The Coalition for Free & Open Elections has stepped up activity for HR 1582, the bill in Congress to require fairly easy ballot access for third party and independent candidates for federal office. Over 1,000 signatures have been obtained on the latest petition for the bill, and literature showing the need for the bill is being distributed widely to news media and sympathetic organizations.

The Populist Party, which has been in close communication with Congressman James Traficante of Youngstown, Ohio, plans to ask him to co-sponsor HR 1582.

Congressman Judd Gregg, Republican of New Hampshire, has written that he is opposed to HR 1582 because "the less the federal government gets involved in dealing with election law, the simpler the process will be." However, Congressman Gregg voted to extend the Voting Rights Act in 1982, and the Voting Rights Act involves the federal government far more into election law details than HR 1582 does.

Congresswoman Nancy Pelosi presided over a meeting in her district on March 19. I asked her from the floor whether she would co-sponsor HR 1582. She replied that she is still studying it.

There is still no substitute for face-to-face communication with your member of Congress. Since this is an election year, you may have opportunities to see your member of Congress. Always ask that the member co-sponsor the bill. The best short argument in favor of the bill is to mention Florida, where ballot access laws are so draconian that only one third party has appeared on the ballot in the last 58 years (except for president, for which the requirements are different). Also, no statewide independent (for office other than president) has been able to qualify in 58 years either. The legislature has refused to amend the laws five times now. Federal courts have refused to do anything about the Florida laws. There is no hope but congressional action.

## KANSAS VICTORY

On March 16, 1988, the Governor of Kansas signed Senate Bill 501, a bill which passed due to the lawsuit *Merritt v Graves*, filed last year in federal court by the Libertarian Party of Kansas. The lawsuit has now been dismissed, since all the conditions complained of have been improved. Voters are now free to register into political parties which have ever been qualified in Kansas, whether they are currently qualified or not. The deadline for all independent candidates has been changed from June to August. Most important, the requirement that independent candidate petitions cannot be circulated outside the circulator's home precinct has been repealed.

## TEXAS VICTORIES

On March 9, 1988, U. S. District Court Judge James R. Nowlin, a Reagan appointee, ruled that it is unconstitutional for Texas to require petitions to include the voter registration affidavit number of every signer. The case was *Pilcher v Rains*, civ A-86-CA-430. The case was brought by the Texas Libertarian Party in 1986, and will benefit all third party, independent candidate, and even initiative campaigns, in the future. Texas has not yet said whether it will appeal. The case was won by James Linger of Tulsa, Oklahoma, who has now won ballot access cases in 4 states.

The Citizens Party had won a similar ruling in state court in Texas in 1982, but the Secretary of State had been ignoring that ruling.

Also, two Texas state courts of appeals ruled recently that a signature on a petition is not invalid because the signer forgets to add "Texas" to his or her address on the petition. *Cohen v Strake*, 743 SW 2d 366, and *Bacon v Harris Co. Republican Exec. Committee*, 743 SW 2d 369.

## DEBATES

On March 5, Lenora Fulani filed a lawsuit in federal court against the League of Women Voters and also against the IRS. The suit asks that the League make provision for providing a forum for third party and independent candidates, since it is sponsoring eight debates during the primary season for the Democratic and Republican presidential candidates. The suit also asks that, if the League refuses, that the IRS be instructed to eliminate tax-exempt status for the League's Education Fund, which sponsors the debates. Tax-exempt status can never be granted to an organization which aids any particular party or parties. The suit argues that League policy of only providing forums for the Democratic and Republican Parties is partisan activity on behalf of those two parties, and against all others. Although there have been other lawsuits in the past concerning third party and independent candidate participation in presidential debates, this is the first one to raise the League's tax-exempt status. The case is *Fulani v League of Women Voters Education Fund*, no. 88-Civ-1441-RWS, southern district of New York.

## NEW ALLIANCE PARTY

The New Alliance Party will hold its national nominating convention in New York city on August 20-21, 1988. Lenora Fulani, who is seeking the party's nomination, received another \$44,548.98 in matching funds from the Federal Election Commission on March 16.

## COLORADO, OREGON LOSSES

The Supreme Courts of both Oregon and Colorado recently upheld election laws which make it difficult for third parties to get on the ballot. Both decisions were not only unfavorable, but thoughtless; neither one even discussed *why* the state needs the restrictions which were upheld.

The Oregon decision upheld the requirement that a new party must submit a petition signed by a number of signers equal to 5% of the last vote cast in the state for Congress. Oregon is the only state which has a 5% petition requirement before a third party presidential candidate can appear on the ballot with the party label. The Oregon Supreme Court refused even to acknowledge or mention six other cases from other states which invalidated petition requirements of 5% or fewer signatures. The Court also refused to acknowledge that even if 5% is constitutional for other office, it may be unconstitutional for presidential candidates. The Court did acknowledge that only one statewide petition to qualify a new party has succeeded in Oregon in the last 38 years, but dismissed that by surmising that the voters of Oregon simply don't like third parties. The case was *Libertarian Party of Oregon v Roberts*, no. S34180, decided March 1, 1988. The Court hinted that it might possibly strike down the law which requires independent candidates to be confined to the ballot label "Independent", but of course that issue was not before them. Oregon ballot access laws for independent candidates are also difficult, but not as difficult as those for new parties. A statewide independent needs either a petition signed by 3% of the last presidential vote, or must attract 1,000 voters to a meeting. All 1,000 voters must sign in and be present simultaneously.

The Colorado Supreme Court upheld a law requiring a separate petition for each statewide candidate. Since there are 7 statewide races in some election years, a new party which is running a full slate of statewide candidates must get each signer to sign 7 separate petitions. The Colorado Court merely said that since other states require far more signatures than Colorado does, it must therefore be constitutional for Colorado to require separate petitions. There was no hint of what the state interest in separate petitions must be. The U. S. Supreme Court has repeatedly said that ballot access rights cannot be denied without a very good reason. *National Prohibition Party v State of Colorado*, no. 87SA12, decided March 14, 1988.

## ARIZONA

Six candidates qualified to run for Governor in the recall election scheduled for May, by submitting 3,336 signatures. Governor Mechem will be on the ballot automatically. The election is conducted as though it were non-partisan, with no run-off and no party labels. If Governor Mechem is removed by the legislature, it is unclear whether the election will be held.

## STATE LEGISLATURES

**Massachusetts:** House bill 4988 has already passed out of committee. It would lower the number of signatures from 2% of the last gubernatorial vote, to 1%. Several other good bills have also been introduced. They include House bill 4991, which provides that signatures should be turned into the Secretary of State instead of into the hundreds of various town clerks; House bill 4989, which would repeal the ban on a voter signing the petition of more than one party; and House bill 4987, which would change the definition of "political party" from one which polled 3% for Governor, to 2% for any statewide office. If you wish to help any of these bills, contact the Committee for Fair Ballot access, Box 2557, Boston Ma 02208, tel. (617) 661-1143.

**Michigan:** H 4090 passed the State Senate on March 22, but was amended, so must return to the House. H 4090 adds procedures for independent candidates, raises the number of signatures needed for new parties from about 16,000 signatures to about 24,000; changes the deadline for submitting new party petitions from May to July 20; and lets new parties choose their candidates as late as August (current law requires them to nominate by May).

**New Jersey:** Senator Winona Lipman and Assemblyman Robert Martin are in the process of introducing a bill to change the deadline for independent and third party presidential petitions from April to August. The bill will take effect this year as soon as it passes. The old deadline was held unconstitutional in 1984.

## POPULIST PARTY

On March 13, the Populist Party national executive committee chose David Duke for president, and Lt. Col. James "Bo" Gritz for vice-president. The meeting was held in Cincinnati and attracted 110 attendees. Duke has been running for president in some of the Democratic primaries. His showings on "Super Tuesday" were: Arkansas 4,805 votes, .97%; Louisiana 23,427, 3.76%; Missouri 1,734, .33%; Oklahoma 2,388, .61%; Texas 8,937, .51%. His campaign attributes his relatively high showing in Louisiana to the fact that he bought a half-hour of television time in prime time, 6:30 pm, about a week before the primary. According to the campaign, in the part of Louisiana reached by that television station, Duke polled 17%, third behind Jackson and Dukakis. Duke lives in Metairie, Louisiana.

The campaign can be reached c/o Populist Party, Bx 135, Worthington Pa 16262, (412) 443-8054. The campaign's immediate goal is to qualify for the general election ballot in at least 10 states, to win the right to buy television advertising. Petition drives are about to begin in Colorado, Florida, New Jersey, Pennsylvania, and Texas. They are already underway in North Carolina and Michigan.

PETITIONING

STATE	REQUIRED	SIGNATURES COLLECTED					DEADLINE
		NAP	LIBT	SOC	IWP	WkL	
Alabama	5,000	finished	already on	0	0	finished	Aug 31
Alaska	2,068	already on	already on	0	0	0	Aug 10
Arizona	17,340	already on	already on	0	0	0	Sep 23
Arkansas	0	no need	no need	no need	no need	no need	Sep 1
California	128,340	nom	already on	nom	nom	can't start	Aug 12
Colorado	5,000	0	300	0	0	0	Aug 2
Connecticut	14,910	9,000	0	0	0	0	Aug 12
Delaware	(reg.) 142	already on	115	0	0	0	Aug 20
Dist of Col.	(est.) 3,000	can't start	can't start	can't start	can't start	can't start	Aug 16
Florida	56,318	2,700	9,600	0	0	0	Jly 15
Georgia	25,759	35,500	18,000	0	0	0	Aug 2
Hawaii	3,493	finished	already on	0	0	0	Sep 9
Idaho	8,224	0	1,600	0	0	0	Aug 30
Illinois	25,000	no need	can't start	can't start	can't start	can't start	Aug 8
Indiana	30,950	0	300	0	0	0	Aug 1
Iowa	1,000	0	275	200	0	0	Sep 2
Kansas	2,500	already on	0	0	0	0	Aug 2
Kentucky	5,000	already on	300	0	0	0	Aug 30
Louisiana	0	no need	no need	no need	no need	no need	Sep 6
Maine	4,000	100	20	0	0	0	May 14
Maryland	10,000	finished	already on	500	0	0	Aug 1
Massachusetts	33,682	7,200	1,500	100	0	0	Aug 2
Michigan	16,313	135	already on	200	0	finished	Jly 20
Minnesota	2,000	can't start	can't start	can't start	can't start	can't start	Sep 13
Mississippi	1,000	finished	already on	0	0	0	Sep 9
Missouri	21,083	0	3,500	0	0	0	Aug 1
Montana	13,329	already on	already on	0	0	0	Aug 3
Nebraska	5,635	already on	valid 5,582	400	0	0	Aug 30
Nevada	7,717	4,600	already on	0	0	0	Sep 1
New Hampshire	3,000	finished	1,800	0	0	0	Aug 10
New Jersey	800	finished	500	100	finished	finished	Aug 1
New Mexico	(reg.) 500	already on	already on	0	nom	0	Sep 13
New York	20,000	can't start	can't start	can't start	can't start	can't start	Aug 23
North Carolina	44,535	38,100	700	0	0	0	Jun 22
North Dakota	4,000	0	5,200	0	0	0	Sep 14
Ohio	5,000	3,125	400	0	0	4,000	Aug 25
Oklahoma	37,671	9,000	1,000	0	0	0	Jul 15
Oregon	51,578	0	19,500	0	0	0	Aug 30
Pennsylvania	25,568	1,700	3,000	0	0	0	Aug 1
Rhode Island	1,000	can't start	can't start	can't start	can't start	can't start	Sep 3
South Carolina	10,000	already on	already on	0	0	0	Aug 1
South Dakota	2,945	0	0	0	0	0	Aug 2
Tennessee	275	finished	0	0	0	0	Sep 1
Texas	34,424	0	already on	0	0	0	May 23
Utah	300	already on	already on	valid 291	0	0	Sep 1
Vermont	1,000	already on	already on	already on	500	0	Sep 22
Virginia	12,963	0	2,000	0	0	0	Aug 26
Washington	188	can't start	can't start	can't start	can't start	can't start	Jly 23
West Virginia	7,358	0	0	0	0	0	Aug 1
Wisconsin	2,000	can't start	can't start	can't start	can't start	can't start	Sep 6
Wyoming	8,000	already on	already on	0	0	0	Aug 30

NAP is New Alliance Party; LIBT is Libertarian; SOC is Socialist; IWP is Internationalist Workers; WkL is Workers League. "Nom" means that the presidential candidate is seeking the nomination of a one-state party which is already qualified for the ballot in that state. "Already on" means the state acknowledges that the party or the candidate is on the November 1988 ballot. "Finished" means that the signatures have been collected, but that they haven't been certified yet. DEADLINE refers to the latest procedure available for qualifying a third party or independent presidential candidate.

## NORTH CAROLINA

The North Carolina State Board of Elections will consider waiving the May 17 deadline for new parties to submit their petitions at its March 30 meeting. If the Board refuses, the New Alliance Party will bring a lawsuit. North Carolina requires the third highest number of signatures of any state, for third party or independent presidential candidate ballot access, and also has the earliest deadline of any state (if the easier of the two methods, independent or third party, for each state is compared. In North Carolina, the third party method requires fewer signatures than the independent method). The North Carolina ACLU will sponsor the lawsuit, which will probably also challenge North Carolina law requiring petitioners to pay approximately \$3500 in fees to have the petitions checked. North Carolina and Florida are the only states which require petitioners to pay for having their signatures checked.

## CONGRESS

The House Subcommittee on Elections, chaired by Al Swift, will hold hearings on the Conyers voter registration bill on April 19 or 20. The Senate Committee on Rules & Administration, chaired by Wendell Ford, will hold hearings on the identical Cranston voter registration bill on March 30. There are no hearings planned in the Senate on the poll-closing bill until late April at the earliest.

## DEMOCRATS

In New York, the only Democratic presidential candidates who were able to get 10,000 valid signatures to be on that state's presidential primary were Dukakis, Gephart, Gore, Jackson, LaRouche and Simon. Gary Hart tried and failed.

LaRouche showings on "Super Tuesday" were: Alabama 845 votes, .21%; Arkansas 2,347, .47%; Kentucky 681, .24%; Louisiana 1,707, .27%; Maryland unavailable until April 6; Massachusetts 1,001, .14%; Mississippi 1,200, .34%; Missouri 691, .13%; Oklahoma 1,078, .27%; Texas 9,084, .52%; Virginia unavailable until March 28.

In Montgomery County, Indiana, the Indiana Ku Klux Klan Grand Dragon, Ken Taylor, is running in the Democratic primary for County Coroner.

## INITIATIVES

The Initiative Resource Center, an organization which helps groups trying to qualify initiatives, is moving from Washington, D.C., to San Francisco. Temporarily the address is c/o David Schmidt, Bx 8284, Berkeley Ca 94707, phone (415) 526-0874. The Center is publishing a book about initiatives which will be out soon.

## LIBERTARIAN PETITIONING

The petitioning chart shows the most commonly-used procedure for each state, so for North Dakota it shows the independent method. However, the Libertarian Party is attempting party status in North Dakota, which requires 7,000 signatures, due April 20. In Nebraska, a new party which submits its petition by February 10 is permitted to have its own primary, and no further petitioning is needed for any of its candidates. A new party which doesn't submit its petition by February 10 can still be recognized if it submits its petition by August 1, but then it must nominate by convention and must submit a separate candidate petition of 2,500 signatures for its presidential candidate and 25 signatures each for its other candidates. The candidate petitions are due August 30. The Libertarian Party tried to qualify by the February 10 deadline, but was 53 signatures short, so instead will qualify to be a convention party.

The Libertarian Party is actively seeking people who will seek work as full-time petitioners. Anyone interested should call Ron Paul headquarters at (713) 333-1988.

Ted Brown, chair of the California Libertarian Party, is about to mail a fund-raising letter to the state party list, to help with national ballot access. Texas Libertarians, who are already on the ballot, are helping with the Oklahoma Libertarian petition. Melinda Pillsbury-Foster, member of the national committee, is working to get other Libertarian Parties which are already on the ballot, to assist with neighboring states which are hard-pressed to finish their petitions.

## PETITIONING

On February 24, 1988, the Oregon State Court of Appeals ruled that the free speech provisions of the Oregon Constitution require shopping centers to permit petitioning on the parts of their property which are generally open to the public. *Lloyd Corporation v Lucille Whitten*, #A38839.

Also on February 24, U. S. District Judge Howell W. Melton of Jacksonville, Florida, issued an injunction against Florida law which bans anyone from talking to voters within 150 feet of a polling place. The case, *Florida Committee for Liability Reform v McMillan*, #88-113-CIV-J12, was brought by proponents of an initiative who wanted to petition outside polling places on "Super Tuesday". The new rule is that petitioners must stay 50 feet away from the polling place.

## COFOE

The Coalition for Free and Open Elections is an organization devoted to working for fair election laws. Individuals are encouraged to join. Your ideas for building the Coalition are welcome. The Coalition address is Box 1885, Annapolis Md 21404. Dues are \$10 per year.

## ONE-STATE PARTIES

There are several "third" parties which are already qualified for the ballot in a single state. Competition is usually keen for various third party presidential candidates to win the nomination of these one-state parties, so that the candidate need not petition in such states.

AMERICAN INDEPENDENT PARTY, California: will hold a presidential primary on June 7, 1988, between Col. James "Bo" Gritz of Nevada, and Jim Griffith of California. *Ballot Access News* of February 1988 erroneously stated that Gritz would be unopposed. The primary is only advisory; the party will choose its candidate at its state convention in Sacramento on August 27-28. Gritz' chances of getting the AIP presidential nomination are diminished, since he has accepted the Populist Party's vice-presidential nomination.

The American Independent Party was formerly affiliated with the Populist Party.

PEACE & FREEDOM PARTY, California: will hold a presidential primary on June 7, which is only advisory. The party's nominee will be chosen at its state convention somewhere in Alameda County (probably Oakland or Berkeley) August 13-14. Delegates to the convention will be chosen at the same June 7 primary. Supporters of Herb Lewin (Internationalist Workers Party) and Lenora Fulani (New Alliance Party) filed the most candidates for delegate spots, with a considerable number also being contested by supporters of Willa Kenoyer (Socialist Party) and a small number by supporters of Larry Holmes (Workers World Party).

ILLINOIS SOLIDARITY PARTY: Lenora Fulani was the only candidate on the presidential primary of the Illinois Solidarity Party, on March 15. The party elected about 20 party officers, including 17 who support Fulani, so it seems clear that the party will nominate Fulani as its candidate. Only a few hundred voters in the state chose to vote in the party's primary.

LIBERTY UNION PARTY, Vermont: Held a binding presidential primary on March 1. Willa Kenoyer of the Socialist Party won the nomination with 199 votes, defeating Herb Lewin of the Internationalist Workers Party, who polled 65 votes. The two candidates both campaigned vigorously in Vermont, facing each other in joint forums at least three times.

LABOR-FARM PARTY, Wisconsin: Probably will choose to run no one for president, since the State Board of Elections has ruled that the party's status will not be jeopardized if it abstains from statewide races this year. There will probably be a mail ballot of the party's members to decide.

## WRITE-INS

On February 24, Virginia Circuit Court Judge Randall G. Johnson refused to order the Virginia Board of Elections to make provision for write-in votes for president in general elections. The Virginia Constitution guarantees the right to cast a write-in vote in general elections. Judge Johnson seemed to agree that this applies to presidential elections, but he made the odd decision that since only the legislature can make provision for such write-ins, there is nothing that he, as a judge, can do. The ruling is strange, because it is very well established that the defendant in cases involving the constitutionality of election laws and election policies can seldom correct the problem, of his or her own authority. Suing a Secretary of State, or a State Board of Elections, is just a technique to get the issue into court; no one really blames any Secretary of State for enforcing a law which is allegedly unconstitutional. The case, *Paul v State Board of Elections*, will be appealed to the State Supreme Court, which must hear it, but which may take a year or more.

In Kentucky, there is currently in case in the U. S. Court of Appeals, 6th circuit, involving Kentucky's ban on write-ins for president in general elections. However, the judges may not reach that issue, since the voter-plaintiffs are under age 18 and will probably be held to lack standing to challenge the law. *Bumppo v Kentucky Board of Elections*, #87-5416. The case received bad publicity because at least one voter-plaintiff reportedly wanted to write-in "Big Bird" for president.

## SOCIALIST WORKERS PARTY

On March 9, the SWP announced its national ticket: James Mac Warren, 36, for president, and Kathleen Mickells, 37, for vice-president. Each has run once for Congress. Warren received over 2% of the vote in a Massachusetts race in 1976, in which there was both a Democrat and a Republican in the race as well. Mickells was nominated to run in West Virginia in 1986, but her petitions were held to be insufficient and she did not appear on the ballot.

The campaign announced that it would try to qualify the ticket in 20 states, beginning with petition campaigns in New Jersey and Utah.

The campaign can be reached at 79 Leonard St., New York, N. Y. 10013, (212) 226-8474.

### FLORIDA

Florida charges new political parties approximately \$7,000 to check their presidential petitions, and triple that to check their petitions for other office. These charges were held unconstitutional in 1972 in *Jenness v Miller*, 346 F Supp 1060, yet the Florida Secretary of State is claiming that the decision only applied to that particular plaintiff. Actually, it applies to any political party which cannot afford the charges. The New Alliance Party is preparing to file a new lawsuit against the checking charges. The charges were also held unconstitutional for initiative proponents in another federal case in 1984.

### ELECTIONS AMERICAN STYLE

*Ballot Access News* of November 19, 1987 carried a story about *Elections American Style*, the Brookings Institution book which contains a chapter condemning harsh ballot access laws. The book is currently the beneficiary of a vigorous advertising campaign. The book's publisher obtained favorable comments about the book from Senators Paul Simon and Robert Dole, and is advertising in such magazines as *The New Republic* and *The National Voter*, the publication of the League of Women Voters. It can be purchased from Brookings Books, 1775 Massachusetts Ave., NW, Washington DC 20036-2188, for \$14.95 in paperback.

### REMEMBER!

WRITE YOUR MEMBER OF CONGRESS, HOUSE OFFICE BLDGS., WASHINGTON DC 20515, and ask him or her to CO-SPONSOR HR 1582. Also write to Congressman Al Swift at the same address and ask him to hold hearings on the bill.

### RENEWALS

If your mailing label indicates that your subscription to *Ballot Access News* expires on April 1, 1988, there is an envelope enclosed to make it easier for you to renew your subscription. Remember, you can get a free 3-month extension if you send me a copy of a 1988 letter from a member of Congress, commenting on HR 1582.

### THANK YOU!

Dale Birum, John McGovern, Bryce Bigwood, Rick Kissell, for contributions beyond the subscription price. Also, thank you, everyone who sends me clippings.

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