

# BALLOT ACCESS NEWS

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## NEW HR 1582 CO-SPONSOR

Congressman Charles Bennett, Democrat of Jacksonville, Florida, has become a co-sponsor of HR 1582. Bennett is the dean of the Florida congressional delegation and the first Florida congressman to co-sponsor the bill, which would outlaw restrictive ballot access requirements in federal elections for third party and independent candidates. Bennett's endorsement was obtained by Florida Libertarian Bruce Knight, who did it merely by correspondence.

## FIVE VICTORIES

Five lawsuits have recently been won for fairer ballot access:

1. Arkansas: on August 16, federal judge Stephen M. Reasoner, who has only been a federal judge for a few months, struck down Arkansas' filing deadline for non-presidential independent candidates, which was in January. Judge Reasoner said in his opinion that he personally does not believe that the January deadline is unconstitutional, but that he is bound by precedent and has no choice except to rule against the law. The case is *Lendall v McCuen*, no. LRC-88-311. Jim Lendall, the plaintiff, will now be on the ballot as an independent candidate for the state legislature. He hopes to win, and if he does win, he plans to work for fairer ballot access in Arkansas. Ballot access for new political parties is so difficult in Arkansas (except for president) that no party has ever qualified since a petition was first imposed, back in 1971.
2. Colorado: On May 5, a Colorado state judge declared unconstitutional a law which does not permit a political party to nominate anyone for office, unless that person has been a registered member of that political party for a full year. Although such laws have been upheld in the past, in this case the law conflicted with a new Democratic Party rule which only required a shorter duration of membership. The judge based his decision on the 1986 U. S. Supreme Court decision *Tashjian v Republican Party of Connecticut*, which said that political parties have First Amendment protection to decide these matters for themselves. The Colorado decision said that party rules take precedence over state law, and that the law therefore could not be enforced against Democrats. *Colorado Democratic Party v Meyer*, no. civ-88CV7646.
3. Texas: On August 16, the U. S. Court of Appeals affirmed a lower court ruling that it is unconstitutional for Texas to require petitions to contain the voter registration affidavit number of every signer. The case is *Pilcher v Rains*, no. 88-1245. The vote was 3-0. The judges were Reagan appointee E. Grady Jolly, and Carter appointees Sam D. Johnson and Carolyn King.

4. New Mexico: On August 23, federal judge John Parker, a Reagan appointee, struck down New Mexico law which says that no one can sign a petition to get a new party on the ballot, unless that person is a registered member of that party. The case is *Workers World Party v Vigil-Giron*, no. civ 88-0956 JP. Although the state only requires 500 signatures to qualify a new party, Judge Parker agreed with other federal court decisions from North Carolina, Kentucky, South Dakota, Nebraska, Nevada and Pennsylvania, that it is unconstitutional to force people to join a party (or to say that they are members) just because they desire that it be on the ballot.

5. North Carolina: On August 16, federal judge W. Earl Britt, a Carter appointee, struck down North Carolina election law which forbids a new political party from nominating any candidates for county office. *New Alliance Party v North Carolina Board of Elections*, no. 88-553, eastern district. This marks the fifth ballot access case in a row that the North Carolina Board of Elections has lost, during the 1980's.

## SENATE COMMITTEE OK's S. 1786

On August 3, the U. S. Senate Rules Committee passed S. 1786, which would set up a lottery system to determine when each state would hold its presidential primary or caucus. The bill does not exclude small or new political parties.

Although this bill has no direct relationship to ballot access, it will have a great indirect impact if it passes. By telling any and all qualified political parties that the party can only select delegates to a presidential convention during the period March to June of the presidential election year, it will force third parties to hold their presidential conventions no earlier than June of a presidential election year. This is impractical, since about one-third of the states require that a party must know who its presidential candidate will be, before the party can begin to petition. If S. 1786 becomes law in its current form, it will probably be possible for third parties to sue these states, and force them to permit petitioning before the candidate has been chosen.

It is very unlikely that S. 1786 will pass this year, but it is fairly likely that it will be reintroduced in 1989 and will pass that year. Another consequence of the bill is that the case for HR 1582 becomes stronger. The only argument ever made against the bill is that states should control their own elections procedures, but S. 1786 will be more evidence that Congress doesn't believe in "states rights" when presidential election procedures are being written.

## INDIANA WRITE-INS

The Libertarian Party filed a lawsuit in federal court on August 23 against Indiana's ban on write-in voting. *Paul v State Election Board*, no. IP-88-98-2C. The case has been assigned to Judge Sarah Evans Barker, a Reagan appointee who upheld the new Indiana petition requirement in 1984 (the 1980 legislature had quadrupled the number of signatures, effective 1984). Unless this lawsuit wins, Indiana will probably be the only state in which it will be impossible for voters to vote for Ron Paul, since he expects to be on the ballot of all states except Indiana, North Carolina, and West Virginia, and the latter two permit presidential write-ins.

## OHIO

On August 8, the ACLU filed a lawsuit in federal court in Cleveland against Ohio law which denies an independent candidate any partisan label (such as "independent") on the ballot. Ohio is the only state which lets the nominees of qualified parties show their party labels on the ballot, yet refuses to let independent candidates have any label whatsoever (except that Louisiana won't permit any label either, for non-presidential independents). *Rosen v Brown*, no. C88-2973.

## CALIFORNIA SETTLEMENT

The California Secretary of State has agreed to accept the petition of any independent presidential candidate who submits 65,000 valid signatures by August 26. The only independent presidential candidate petitioning in California this year, Lenora Fulani, submitted over 110,000 on that date. The settlement was a consequence of the lawsuit *Fulani v Eu*, in which part of the California independent nominations law was held unconstitutional. As a result of this settlement, the total number of signatures needed to get a third party or independent presidential candidate on the ballot of all states for 1988 has fallen to the lowest total since 1976.

## PEACE & FREEDOM CONVENTION

The Peace & Freedom Party convention in Oakland, California, on August 13-14, ended inconclusively. The convention was beset with credentials questions which could not be resolved. The Fulani delegates walked out and set up a meeting in an adjoining room. The delegates who remained in the original room chose Herb Lewin (Internationalist Workers Party presidential candidate) as the PFP presidential candidate. The outgoing state officers claiming that neither the Fulani nor Lewin nominations were valid, and the California Secretary of State ruled on August 24 that she would not accept any presidential nomination unless the party held a new state convention on or before September 5. The Fulani faction is about to file a lawsuit to force the Secretary of State to recognize its nominees.

## RHODE ISLAND

In July 1988, the State Board of Elections voted to extend the petition deadline for third party and independent presidential candidates to August 31, even though the statutory deadline is July 18. This action was taken when it was pointed out to the Board that in 1976, a U. S. District Court had ruled that the old 1976 deadline of August 10 was too early. The legislature changed the deadline to late August in 1977, but in 1985 forgot why it had made this change, and moved it to mid-July.

## MARYLAND LOSS

On August 19, federal judge Norman P. Ramsey, a Carter appointee, upheld Maryland law which forces a qualified political party which has registration less than 10%, to submit approximately 60,000 valid signatures in order to get its non-presidential statewide candidates on the ballot. The case is being appealed on an expedited basis. *Ahmad v Raynor*, no. civ-R88-869.

## RIGHT TO LIFE CONVENTION

On August 20, the Right-to-Life Party of New York, a ballot-qualified party, chose William A. Marra of West Milford, New Jersey, as its presidential candidate. Marra is a professor at Fordham University and has been campaigning for the party's nomination. He also ran for president in the 1988 Democratic New Hampshire primary, but he received only 142 votes there. The party's vice-presidential candidate is Joan Andrews of Newark, Delaware. In 1984 the Right-to-Life Party didn't nominate anyone for president. Marra does not expect to be on the ballot of any state except New York.

## NEW ALLIANCE CONVENTION

The New Alliance Party's national convention was held in New York city August 20-21. As expected, Lenora Fulani was nominated for president. For vice-president, the convention voted to let each state party choose its own candidate. Winonia Bucks, an American Indian activist, will be the vice-presidential candidate in Alaska, Arizona, and North Carolina. Rafael Mendez will run in New Mexico and Texas. Kwaku Duren will run in California, Harold Moore in Oregon, Mamie Moore in Mississippi, and long-time party activist Joyce Dattner will run in the remainder of states.

## MICHIGAN PARTIES

One new Michigan political party, other than those mentioned elsewhere in this issue, qualified for the 1988 ballot as a party. It is the Workers Against Concessions Party, headed by a U. S. Senate candidate, Sally Bier, president of United Auto Workers local 2500. The party is not competing in the presidential election.

## PETITIONING

STATE	REQUIRED	SIGNATURES COLLECTED						DEADLINE
		NAP	LIBT	WKRS LGE	POPULIST	CONSUMER	SOCIALIST	
Alabama	5,000	finished	already on	already on	too late	too late	too late	Aug 31
Alaska	2,068	already on	already on	too late	finished	too late	too late	Aug 10
Arizona	8,670	already on	already on	0	0	0	0	Sep 23
Arkansas	0	already on	already on	no need	already on	no need	no need	Sep 10
California	65,000	finished	already on	too late	too late	too late	too late	Aug 26
Colorado	5,000	finished	finished	too late	too late	too late	too late	Aug 2
Connecticut	14,910	finished	finished	too late	too late	too late	too late	Aug 12
Delaware	(reg.) 142	finished	finished	too late	too late	too late	too late	Aug 20
D.C.	2,700	finished	finished	finished	too late	too late	finished	Aug 16
Florida	56,318	finished	finished	too late	too late	too late	too late	Jly 15
Georgia	25,759	finished	finished	too late	too late	too late	too late	Aug 2
Hawaii	3,493	finished	already on	0	0	500	0	Sep 9
Idaho	4,112 / 8,224	finished	finished	too late	too late	too late	too late	Aug 30
Illinois	25,000	already on	already on	already on	too late	too late	too late	Aug 8
Indiana	30,950	finished	too late	too late	too late	too late	too late	Jly 15
Iowa	1,000	finished	finished	finished	finished	finished	finished	Sep 2
Kansas	2,500	already on	already on	too late	too late	too late	too late	Aug 2
Kentucky	5,000	already on	finished	finished	finished	too late	too late	Aug 30
Louisiana	0	no need	no need	no need	no need	no need	no need	Sep 6
Maine	4,000	already on	already on	too late	too late	too late	too late	Jun 7
Maryland	10,000	already on	already on	too late	too late	too late	too late	Aug 1
Massachusetts	33,682	finished	finished	too late	too late	too late	too late	Aug 2
Michigan	16,313	already on	already on	already on	in court	in court	applied	Jly 20
Minnesota	2,000	793	100	1,500	200	500	300	Sep 13
Mississippi	1,000	finished	already on	0	800	0	0	Sep 9
Missouri	21,083	finished	finished	too late	too late	too late	too late	Aug 1
Montana	13,329	already on	already on	too late	too late	too late	too late	Aug 3
Nebraska	2,500	already on	finished	too late	too late	too late	too late	Aug 30
Nevada	7,717	already on	already on	too late	too late	too late	too late	Sep 1
New Hampshire	3,000	already on	already on	too late	too late	too late	too late	Aug 10
New Jersey	800	already on	already on	already on	already on	already on	already on	Aug 1
New Mexico	500	already on	already on	0	200	0	0	Sep 13
New York	20,000	finished	finished	too late	too late	too late	too late	Aug 23
North Carolina	44,535	already on	too late	too late	too late	too late	too late	Jly 12
North Dakota	4,000	156	already on	0	0	0	0	Sep 14
Ohio	5,000	finished	finished	finished	too late	finished	too late	Aug 25
Oklahoma	37,671	already on	already on	too late	too late	too late	too late	July 15
Oregon	36,695 / 51,578	finished	finished	too late	too late	too late	too late	Aug 30
Pennsylvania	25,568	already on	already on	already on	already on	already on	already on	Aug 1
Rhode Island	1,000	already on	already on	0	already on	too late	finished	Aug 31
South Carolina	10,000	already on	already on	too late	too late	too late	too late	Aug 1
South Dakota	2,945	already on	already on	too late	too late	too late	too late	Aug 2
Tennessee	275	finished	finished	0	already on	finished	0	Sep 1
Texas	34,424	already on	already on	too late	too late	too late	too late	May 23
Utah	300	already on	already on	0	finished	0	already on	Sep 1
Vermont	1,000	already on	already on	0	400	600	already on	Sep 22
Virginia	12,963	finished	finished	too late	too late	too late	too late	Aug 26
Washington	188	already on	already on	too late	too late	too late	too late	Jly 23
West Virginia	7,358	finished	too late	too late	too late	too late	too late	Aug 1
Wisconsin	2,000	1,500	300	1,500	finished	1,000	1,100	Sep 6
Wyoming	8,000	already on	already on	too late	too late	too late	too late	Aug 30

NAP is New Alliance ; LIBT is Libertarian; WKRS LGE 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. DEADLINE refers to the *latest* procedure available for qualifying a third party or independent presidential candidate. Oregon and Idaho "required" column shows both the indp. method (used by NAP) and party method (used by LIBT).

**PARTIES NOT ON THE CHART**

The Socialist Workers Party is certified in New Jersey, Washington, South Dakota and Utah, is finished in the District of Columbia, Alabama, Iowa, Nebraska, New Mexico, New York, Rhode Island, Vermont, Tennessee, and is working in Mississippi, Minnesota, and Wisconsin. It is in court in Michigan and West Virginia. In Ohio, it is challenging a state decision that it had insufficient signatures. The Internationalist Workers Party is certified in New Jersey, Vermont, Washington and Rhode Island, and is finished in Utah. The Workers World Party is certified in New Jersey, New Mexico and Washington, is finished in New York and the District of Columbia, is in court in Michigan, and is working in Minnesota and Wisconsin. The Prohibition Party is certified in Arkansas, Colorado, New Mexico and Tennessee and is finished in Mississippi. The American Party is certified in Utah and Tennessee. The American Party is also qualified in South Carolina but did not hold any conventions and will lose its ballot status there as a result of running no candidates. Independent Lyndon LaRouche is certified in Washington and has finished in Iowa and the District of Columbia.

**MICHIGAN INDEPENDENT CANDIDATES**

On August 15, the U. S. Court of Appeals, 6th circuit, denied Michigan's request for a stay of the order in *Fulani v Austin*, no. 88-1627. This means that Fulani will be on the ballot in Michigan as an independent, without having had to submit any signatures. The case will continue after the election, on the issue of whether it is constitutional for a state to create new procedures for independent candidates as late as May of an election year, and to try to impose them that year.

This also means that other independent candidates will probably also be on the Michigan ballot this year, without having to petition. Lawsuits have been filed on behalf of presidential candidates Eugene McCarthy (Consumer Party candidate), James Warren (Socialist Workers Party), Larry Holmes (Workers World Party), and David Duke (Populist Party). The Michigan Attorney General is trying to persuade the Secretary of State to let all declared independents on the ballot, without the need for a petition, which was the policy in 1986 when there were no statutory procedures for independents. Meanwhile, one independent candidate for the state legislature this year actually became the first candidate to submit an independent candidate's petition, and he has been certified for the ballot.

**TV GUIDE**

The August 20-26 and August 27-September 3 issues of *TV Guide* magazine contain a two-part fictional short story by William F. Buckley, Jr., about the 1992 presidential election and the controversy over whether to include a popular third party presidential candidate in the presidential debates. In the story, the 1989 session of Congress had passed a bill requiring that any presidential debate must include any third party or independent candidate who had at least 20% standing "in the polls". The story turns on the ambiguity of the law, and attempts by insiders to manipulate poll data.

**COFOE**

The Coalition for Free and Open Elections is an organization devoted to working for fair election laws. The Coalition address is now PO Box 355, Old Chelsea Sta., New York NY 10011. Dues are \$10 per year.

**THANK YOU!**

Bill Mahler and Mary Meehan, for contributions beyond the subscription price(those received through August 17).

**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. A free 3-month extension to *Ballot Access News* is yours if you send me a copy of a 1988 letter from a member of Congress, commenting on HR 1582.

**RENEWALS**

If your mailing label indicates that your subscription to *Ballot Access News* expires on Sept.1, 1988, there is an envelope enclosed to make it easier for you to renew your subscription.

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