

# BALLOT ACCESS NEWS

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## PRESIDENTIAL BALLOT STATUS

Vermont and Arizona deadlines lie in the future.

**Lenora Fulani:** on in 50 states and D.C. Will carry a party label ("New Alliance", "United Citizens" or "Illinois Solidarity") in all states except Alabama, Idaho, Kansas, Michigan, Mississippi, Ohio, Oregon, Tennessee, where she is an independent. Could possibly carry the party label "Peace & Freedom" in California, depending on outcome of court hearing on September 22.

**Ron Paul:** on in all states and D.C., except Indiana, North Carolina, and West Virginia; ballot status still not certain in Georgia, where the petitions are still being checked; nor in Missouri, where the Secretary of State ruled that he should not be on, because his electors were handed in late. The issue is in court. Assuming that he will be on in Georgia and Missouri, his name will be before 94.5% of the voters. Will have party label "Libertarian" in all states that he is on, except for Kansas, Ohio, and Tennessee. On September 16, federal judge D. Brook Bartlett ruled that Paul's name should not be on the Missouri ballot, and this ruling is pending in the U.S. Court of Appeals. . *Manifold v Blunt*.

**James Warren:** on in Alabama, D.C., Iowa, Michigan, Minnesota, New Jersey, New Mexico, New York, Rhode Island, South Dakota, Tennessee, Utah, Washington, Wisconsin. Will probably qualify in Vermont. Party label "Socialist Workers" except in Alabama, Michigan, Tennessee, where he is an independent. Nebraska and Ohio petitions were ruled insufficient. If on in Vermont, his name will be before 28.9% of the voters.

**Ed Winn:** on in Alabama, D.C., Illinois, Iowa, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania. Party label "Workers League" except Illinois and Ohio, where he is an independent. His name is before 28.4% of the voters.

**David Duke:** on in Arkansas, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, New Jersey, Pennsylvania, Rhode Island, Tennessee, Wisconsin. May qualify in Vermont. Party label "Populist" except in Arkansas where it is "Christian Populist", Iowa where it is "Patriotic", and Mississippi and Tennessee where he is an independent. If he qualifies in Vermont, his name will be before 22.6% of the voters.

**Lyndon LaRouche:** on in Alaska, D.C., Hawaii, Iowa, Louisiana, Minnesota, North Dakota, Ohio, Tennessee, Utah, Washington, Wisconsin. and probably Vermont. Using label "National Economic Recovery". If he qualifies in Vermont, his name will be before 18.8% of the voters.

**Larry Holmes:** on in D.C., Michigan, New Jersey, New Mexico, New York, Washington. Party label "Workers World" except Michigan, where he is an independent. His name is before 17.7% of the voters.

**Eugene McCarthy:** on in Michigan, Minnesota, New Jersey, Pennsylvania. May qualify in Vermont. Party label "Consumer" except Michigan, where he is an independent. Many of his petitions were never completed. Assuming he qualifies in Vermont, his name will be before 15.3% of the voters, otherwise in 15.1%.

**Willa Kenoyer:** on in D.C., Iowa, New Jersey, Rhode Island, Tennessee, Utah and probably Vermont. Party label "Socialist" except Vermont is "Liberty Union" and Tennessee is "Independent". Some petition drives were never completed. Her name is before 8.3% of the voters. The August 27 issue of *Ballot Access News* showed that she was certified in Pennsylvania ; this was a typographical error.

**Earl Dodge:** on in Arkansas, Colorado, New Mexico and Tennessee. Label "Prohibition" except in Tennessee "independent". His name is before 4.8% of the voters.

**Herb Lewin:** on in New Jersey, Rhode Island and Vermont. . Label is "Peace & Freedom". His name is before 4.2% of the voters.

**Delmar Dennis:** on in Minnesota and Utah as "American". The August 27 *Ballot Access News* stated that he was on in Tennessee, but this was not true. In South Carolina, where the party is qualified but did not nominate any candidates this year, it will continue to be a qualified party because it did run candidates in 1986. To survive, however, it must run a candidate in 1990. Dennis is before 2.9% of the voters.

**Presidential candidates on in one state:** Jim Griffin (American Independent Party, California, 10.3%), William A. Marra (Right-to-Life, New York, 7.3%), John G. Martin (Third World Assembly, D.C., .2%), Young Keit (independent, Utah, .7%), Jack Herer (Grass-Roots, Minnesota, 2.2%).

## MORE LaROUCHE VICTORIES

On August 9, two more supporters of Lyndon LaRouche won Democratic primaries, in Georgia. James Olson won a contested primary for the state House, and John Chaney won without opposition for the State Senate. Both districts are in the Atlanta suburbs.

## ALASKA VICTORY

On September 12, state judge Douglas Serdahley struck down the Alaska filing deadline of early June for third party and independent candidates to submit petitions (for office other than president). *Sigler v McAlpine*, no. 88-8695. Sigler is a Libertarian running for the legislature. The state has not yet decided whether to appeal to the State Supreme Court.

## NEVADA

Nevada has long had a peculiar law which says that if only one political party has any candidates for a partisan office, then the two top vote-getting candidates in that party's primary should *both* be placed on the general election ballot. If only two candidates of the same party file, and no one else files, no primary is held for any party, and the two candidates of the same party face each other in November. Many years ago the Attorney General ruled that this special procedure should not be followed if there is an independent candidate in the race; the intent is to allow a primary run-off in November *only* if there are no candidates whatsoever in the race, except for the candidates of *one* particular party.

Despite this long-standing understanding, the county elections officials in Las Vegas this year proposed to permit two Democrats into the general election for the same office, in races in which there are also Libertarians running, but no Republicans. These were races for each house of the Nevada legislature and for the Clark County Commission. The Clark County elections officials were treating the Libertarian Party as though it wasn't "really" a political party, even though it is on the ballot as a fully-qualified party.

On August 11, the Libertarian Party won a court order enjoining the county from failing to hold a Democratic primary for the offices in question. The case was *Libertarian Party of Nevada v Del Papa*, federal court, Judge Lloyd B. George, no. 88-621. Since the judge ordered the county to hold a Democratic primary, the elections officials have taken the hint and have said they will only print the winner of the Democratic primaries on the November ballot, rather than printing the names of all the Democratic contenders on the November ballot. Of course, this outcome will help the Libertarian candidates to poll much larger votes, since now they will be facing only one Democratic Party opponent, rather than two.

## PEACE &amp; FREEDOM PARTY

Two lawsuits have been filed to overturn the California Secretary of State's decision not to print any Peace & Freedom presidential candidate on the ballot. The faction which supports Herb Lewin and the Internationalist Workers Party filed a lawsuit in state court on August 30, but Judge John Puglia of the Court of Appeals in Sacramento exercised his discretion not to hear the case, and it was dismissed. The faction which supports Lenora Fulani filed a lawsuit on August 29 in federal court in San Francisco, *Fulani and Peace & Freedom Party v Eu*, no. 88-3482-J-PV, and it will be heard before Judge Vukasin on September 22. Fulani is already qualified as an independent candidate in California, so the only impact that the case could possibly have on ballot access would be whether she should have the label "Peace & Freedom" next to her name.

## OHIO

The state of Ohio has agreed to print the partisan label "Independent by Petition" on the ballot adjacent to Russ Rosen's name. Rosen is an independent candidate for the state legislature who sued to overturn Ohio law, which does not permit any partisan label for independent candidates on the ballot. Ohio is not yet conceding that its law is unconstitutional, and will not print these words, or any words, next to the names of any *other* independent candidates. There will be a trial on the merits of the case on October 31. If Rosen wins the case, the legislature will need to pass a new law on the subject, and it is possible that the legislature may be persuaded to let independent candidates choose any label they wish, as long as it is not similar to the name of a qualified political party. Half the states do permit an independent candidate to choose any label, which means that candidates of unqualified parties can appear on the ballot with that party label. Ohio only requires 5,000 signatures for an independent candidate to appear on the statewide ballot, but requires between 30,000 and 45,000 valid signatures for new parties.

## TEXAS

The Texas Secretary of State has stated that he will not appeal to the U.S. Supreme Court to overturn *Pilcher v Rains*, the ruling which invalidated Texas' law requiring petition signatures to carry the voter's registration affidavit number. It may now be possible to use the *Pilcher* ruling against the laws of Arkansas and New York, states which require each petition to carry the precinct number of the voter.

## DEBATES

Michael Dukakis and George Bush have agreed to debate each other twice. The first debate will be under the sponsorship of the Commission on Presidential Debates (run by the Democratic and Republican Parties). The second presidential debate will be sponsored by the League of Women Voters. The single vice-presidential debate will be Commission-sponsored.

The Commission has already told Lenora Fulani that no one will be invited into its debates who does not have a realistic chance of winning the election. Of course, by that criteria, Barry Goldwater in 1964, George McGovern in 1972, and Walter Mondale in 1984, could not have been invited to debate; all three of them were more than 15 points behind in the polls by mid-September. The League still has not set forth its criteria.

Anyone wishing to write the Commission to protest its absurd criteria may do by writing to the Commission's Executive Director, Janet Brown, 1825 I st., NW, Suite 400, Washington DC 20006. Her telephone number is (202) 429-2034.

## PRESIDENTIAL WRITE-INS

States which provide that a write-in presidential candidate is supposed to file a declaration of write-in candidacy, if he or she wants write-ins counted, are Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Maryland, Massachusetts, Michigan, Missouri, New Mexico, New York, North Carolina, Ohio, Oregon, Texas, Utah and Wisconsin. Most of these states require the declarations to be filed no later than October or late September. States which theoretically count all presidential write-ins, and do not require declarations by write-in candidates, are Alabama, Alaska, Delaware, Iowa, Maine, Minnesota, Montana, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, Tennessee, Vermont, Washington, West Virginia and Wyoming. States which ban write-ins for president are Hawaii, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, Nevada, Oklahoma, South Carolina, South Dakota, and Virginia.

Although a federal court struck down Hawaii's ban on write-in votes in 1986, the case is still being appealed, and in the meantime the 1986 court order has been stayed. The Libertarian Party lawsuit against Indiana's ban on write-ins won't be heard until after the election, and its case against Virginia's ban on presidential write-ins was dismissed by its attorney.

## PETITIONING AT THE POLLS

Petitioning at the polls on primary day is an excellent technique, since everyone waiting in line to vote is a registered voter. Such petitioning has been handicapped by laws which forbid anyone from being in the polling place area, except for voters and officials. However, on May 6, 1988, a Florida Court of Appeals struck down Florida's new 50 foot limit around a polling place, for public access. The vote was 2-1. The case is *News-Press Publishing Company v Firestone*, 527 So 2d 223. The state is appealing to the State Supreme Court. Last year, Florida's old 300 foot limit was held unconstitutional, and the legislature then amended it to 50 feet.

## SENATOR CHAMBERS

On September 8, Nebraska Chief Justice William Hastings ruled that state Senator Ernie Chambers cannot be on the ballot for two offices in November. On September 14, Chambers announced he will remain on the ballot for U.S. Senate as the New Alliance candidate, and also win run a write-in campaign for re-election.

## COFOE

The Coalition for Free and Open Elections is devoted to working for fair election laws. The address is PO Box 355, Old Chelsea Sta., New York NY 10011. Dues are \$10 per year. Any individual who joins will receive minutes of board meetings, the brochure now being prepared, press releases, information about HR 1582, and a free subscription to this newsletter (or a free renewal).

## HR 1582

Several members of Congress have recently stated why they will not co-sponsor HR 1582, the bill to outlaw restrictive ballot access barriers in federal elections.

Congressman Tom DeLay, Republican of Texas, stated that he doesn't believe the federal government should tell the states how to run their elections. DeLay wasn't in Congress when the voting rights act was extended, back in 1982, so it isn't possible to compare his vote on that bill, with what he now says.

Congressman Gerald B. Solomon, Republican of New York, says that he doesn't want to co-sponsor until after hearings have been held. Of course, the problem with that is that hearings won't be held until the bill has more co-sponsors.

Congressman Thomas S. Foley, Democrat of Washington state, says that he doesn't wish to co-sponsor the bill because if hearings were held on it, it might be drastically revised.

If your member of Congress refuses to co-sponsor for reasons similar to Solomon or Foley, then ask him or her to at least ask Congressman Al Swift to hold hearings on HR 1582, or on the same bill when it is re-introduced next year.

Congressman William Gray of Philadelphia, one of the few members of the Black Caucus who has not co-sponsored HR 1582, spoke at the Cleveland City Club on July 8 and offered to answer questions. Libertarian activist Bernard Baltic asked Gray about HR 1582. Gray answered by denying that there is any problem. He then mis-stated Pennsylvania law, by claiming that only 1,000 signatures are needed for a third party candidate to run for Congress in his home state. Actually, he was confusing the requirement for Democrats and Republicans who must petition to get on their own party's primary ballot, with the requirement for third parties. Third party candidates for congress need about 2,700 valid signatures in Pennsylvania. And Pennsylvania is far from being the most difficult state. It would have been interesting to hear what Gray thinks about Florida law, where a new party which wants to run only one candidate for Congress must collect 161,000 valid signatures in a limited period of time, and then must pay approximately \$30,000 in petition-checking fees, to get the party on the ballot in that one district.

## BO GRITZ

Bo Gritz narrowly lost the Republican Nevada primary for Congress in the First District, on September 6. Gritz, a professional soldier, had earlier run in the American Independent Party presidential primary and had also been nominated for vice-president by the Populist Party. Then, he had decided he would rather run for Congress as a Republican. In a three-way race, he polled 42.3% of the vote, but his chief opponent, Lucille Lusk, polled 47.6%.

U.S. MILITARY VOTER SERVICES

The Department of Defense is setting up a Voting Information Center. Tape-recorded information will be provided to anyone who dials a particular toll-free number. The Voting Information Center has stated it will only provide information about presidential candidates who are on the ballot in all states. At this time it appears that the Center will carry information about Lenora Fulani, since she meets the criterion. In 1948 and in 1964, the Democratic Party presidential candidate did not appear on the ballot in all states, and in 1912 the Republican Party presidential candidate did not appear on the ballot in all states. It is difficult to believe that the Voting Information Center thought out its rules very carefully.

MICHIGAN INDEPENDENTS

Since Michigan did not have any statutory requirements for independent candidates to get on the ballot until May 1988, various independent presidential candidates have been filing lawsuits to be put on the ballot automatically, without needing to petition. All of these lawsuits which were filed earlier than August 30 have succeeded, except for candidates which had earlier run in presidential primaries. Eugene McCarthy, Lenora Fulani, James Warren (Socialist Workers), and Larry Holmes (Workers World) all got on the Michigan ballot this way.

The technique did not work for David Duke (Populist) or Lyndon LaRouche (independent). The federal judge who handled their cases ruled that the new independent candidate provision, which bars anyone who ran in a primary from being an independent candidate, should be enforced this year even though the petitioning provisions for independents could not be enforced. Technically, the ruling seems to be on shaky ground, since Duke and LaRouche did not run in any primary in Michigan (Michigan held no presidential primary). No one pointed out that Fulani and Holmes had also run in a presidential primary, the California Peace & Freedom primary. It cannot be said that these rulings upheld the constitutionality of a sore loser statute for presidential candidates, since attorneys for Duke and LaRouche never thought to challenge the constitutionality of the law; it never occurred to them that the law would be construed this way.

The technique of filing a lawsuit did not work for Earl Dodge, the Prohibition Party nominee, either. He was kept off the ballot on the grounds that his lawsuit had been filed too late. He had filed it in the first week of September, whereas the other lawsuits had been filed in August or earlier.

AMERICAN INDEPENDENT PARTY

The nominating convention of the American Independent Party, a ballot-qualified party in California, chose Jim Griffin for president and Chuck Morsa for vice-president. The convention was August 27-28 in Sacramento.

Griffin, 50, is a trucker who ran for U.S. Senate in 1980, Governor in 1982, and Lieutenant Governor in 1986. He also won the party's presidential primary this year. He lives in Riverside County, California. Morsa, 52, is a realtor who lives in Ventura County, California. Morsa tried to obtain the presidential nomination and only lost it to Griffin by 10 votes.

LIBERAL & CONSERVATIVE PARTIES

Both the Liberal Party of New York, and the Conservative Party of New York, will hold their presidential conventions in New York city on September 24. It is certain that the Conservatives will nominate Bush, and that the Liberals will nominate Dukakis, so that each of these candidates will appear twice on the New York November ballot. The only time that either of these parties ever supported a presidential candidate other than the Democratic or Republican nominee was in 1980, when the Liberal Party nominated John B. Anderson.

CORRECTION: The August 1 *Ballot Access News* stated that the Workers League would be on the third column on Pennsylvania ballots, because it had submitted its petitions before any other petitioning party. This was incorrect. Pennsylvania uses alphabetical order to determine the order of new political parties on the ballot, so the Consumer Party will be listed third, after the Democrats and Republicans.

THANK YOU! Ed Jowett, Robert Bakhaus, Communist Party of Northern California, Jennifer Palonus, Dianne Pilcher, Bob Auerbach, Richard Gardiner, Jim Lendall, and Rick Arnold, for contributions.

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

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