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BALLOT ACCESS NEWS

www.ballot-access.org

May 1, 2003

Volume 19 Number 1

WILL NORTH CAROLINA PASS BALLOT ACCESS REFORM?

On April 17, the North Carolina House Election Law Committee passed H867 unanimously. The bill will receive a vote on the House floor any day now. The bill lowers the number of signatures for a party, or a statewide independent candidate, to one-half of 1% of the last gubernatorial vote. For 2004, that would be 14,711 signatures. Current law requires 58,842 for new parties, and approximately 100,000 for statewide independents (the exact independent requirement, 2% of the current number of registered voters, can't be known until 2004).

Since 1998 (when Florida eased ballot access), North Carolina has required more signatures for minor party and independent presidential candidates than any state except California. In 2000, the only presidential candidates on the North Carolina ballot were George Bush, Al Gore, Harry Browne and Pat Buchanan. The Libertarian Party spent \$100,000 to qualify, and Buchanan and the Reform Party spent \$250,000. If the bill passes, minor party and independent presidential candidates will be greatly helped.

The bill also lowers the vote test for a party to remain on the ballot, from 10% of the last vote for president or Governor, to 2%. If that part of the bill had been in existence during the last 50 years, the only groups that would have remained on the ballot (but which did not actually remain on the ballot under the 10% standard) would have been Libertarians in 1992 (4.05% for Governor), the Reform Party in 1996 (6.68% for president), and John Anderson's Independent Party in 1980 (2.85%). In 2000, no minor party polled 2% for President or Governor. Libertarians came closest, with 1.45% for Governor.

Unfortunately, the bill moves the petition deadline for a new party to get on the ballot from May to March. That part of the bill is probably unconstitutional, but no one is complaining at this point.

The bill also deletes a law that was declared unconstitutional in 1988. That law, no longer enforced, prohibits a new party from having any candidates for county office.

If the bill passes, the lawsuit *DeLaney v N.C. Bd. of Elections*, now pending in federal court, will be moot. That lawsuit attacks the number of signatures needed for a statewide independent candidate, and was paid for by COFOE (Coalition for Free & Open Elections).

If the bill passes, independent candidates for statewide office will only need signatures of one-half of 1% of the last vote cast for Governor (a reduction to only one-seventh of the current requirement), yet independent candidates for district office will get no relief. They will still need petitions signed by 4% of the number of registered voters in their district. Since the average North Carolina congressional district has 387,605 registered voters, an independent candidate for that office will need approximately 15,500 signatures in 2004. Therefore, if the bill passes, independent candidates for U.S. House will need more signatures than statewide independents. Under a 1979 U.S. Supreme Court ruling, that would be unconstitutional.

WISCONSIN VICTORY

On April 9, U.S. District Court Judge Barbara Crabb, a Carter appointee, ruled that states must permit out-of-state residents to circulate petitions. *Frami v Ponto*, 02-C-515-C. The state doesn't expect to appeal.

The case was filed by the Constitution Party's candidates for Congress and county office. Although the Constitution Party is qualified, the candidates still needed to petition, to get themselves on their own party's primary ballot. One needed 1,000 signatures; another needed 200. An employee of the party who lives in Michigan helped, but all the signatures he collected were invalid, since he wasn't a Wisconsin resident.

This decision is the first one to rule that out-of-staters may petition. The decision is based on two U.S. Supreme Court decisions that hold that petitioning is protected by the First Amendment.

The state had argued that out-of-staters should not be permitted to petition, because in case petition fraud is suspected, and the circulator has left the state, the state cannot subpoena the circulator. But the judge concluded that the state is free to require circulators to agree in advance to submit to its jurisdiction.

Abolishing restrictions on out-of-state petitioners will actually reduce fraud. If any adult can circulate a petition, there will be little incentive for the circulators to lie. But when states restrict the ability of some adults to circulate, that restriction creates a motive for an in-state resident to falsely claim to have circulated a petition that was actually circulated by an out-of-state circulator.

States that require circulators to be state residents are Arizona, California, Colorado, Connecticut, Idaho, Illinois, Kansas, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Virginia, West Virginia and Wyoming.

RON PAUL BALLOT ACCESS BILL

In a few days, Congressman Ron Paul (R-Texas) will re-introduce his bill to outlaw restrictive ballot access laws for candidates for the U.S. House of Representatives. The same bill was introduced in the last congress as HR 2268.

Georgia's legislature this year again refused to reform ballot access for U.S. House. A Republican-Democratic monopoly for that office has existed for 60 years. Georgia is the showcase example of why the Voter Freedom Act is needed. Check the B.A.N. website (www.ballot-access.org) for the bill number.

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ASSEMBLY ELECTIONS, PROCEDURES, & ETHICS
DATE: 5-1-03 ROOM: 3138 EXHIBIT C
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