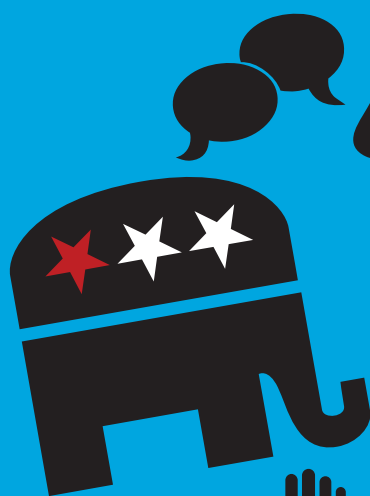




VOTE

# THE 2008 ELECTIONS: WILL YOUR VOTE COUNT THIS TIME?

FOR THE LAST EIGHT YEARS, NO ONE COULD BE SURE. AND PROBLEMS LOOM AGAIN AS THE CAMPAIGN SEASON HEATS UP. WILL WE BE PROTECTED FROM VOTE FRAUD AND VOTER PURGES? WELL, AT LEAST TWO STATES HAVE FEMINIST SECRETARIES OF STATE WHO PROMISE TO MAKE A DIFFERENCE.





BY JANET JAI

**I**N THE 2006 MIDTERM ELECTION, CHRISTINE Jennings lost her race for Florida's 13th congressional district seat to Vern Buchanan by 369 votes. Or did she?

More than 18,000 Sarasota County voters somehow cast votes in every other race on the ballot except this important House contest. Were they doing that on purpose? Or were the votes lost due to electronic voting-machine malfunction, vote tampering or poor ballot design? We will probably never know.

And that is the crux of today's crisis in voter confidence. Too many times, in too many races, we will never know who *really* won or lost and whether our vote counted or not.

Voter purges, hanging chads and butterfly ballots in Florida cast doubt on the 2000 presidential race. During the 2004 election, some Ohio voters waited up to 10 hours to vote, sometimes out in the rain, at polling places where too few voting machines were allocated. Too many other races across the country in 2002, 2004 and 2006 also suffered from a variety of voting irregularities.

The uncertainty surrounding the major elections of the past eight years has undermined our faith in the U.S. system, and we're not sure if we can trust that things will be better in 2008. Where can we turn for help?

The person in charge of most states' voting systems is the secretary of state, who is expected to rise above the partisan fray despite having run for office under a party affiliation. Yet Katherine Harris, Florida's secretary of state in 2000, and J. Kenneth Blackwell, Ohio's secretary of state in 2004, both chaired Bush's state election campaigns while in office—hardly giving the appearance of impartiality.

But now at least, two feminist secretaries of state are leading model campaigns to restore election integrity.

One is Jennifer Brunner in Ohio. She was elected secretary of state in 2006—the year Blackwell was soundly defeated in his bid for Ohio's governorship—by running on a platform of “restoring trust to Ohio's elections.” She had her work cut out for her, inheriting 21 lawsuits, mostly election-related, from Blackwell's tenure.

Brunner, whose background includes 13 years as an election-law attorney and five years as a judge in county common pleas court, also faced challenges from legislators and boards of elections on one side,

and voting-rights activists on the other. To help heal the adversarial relationship that had developed between many Ohio election officials and others concerned with Ohio's voting integrity, Brunner created an innovative Voting Rights Institute (VRI). Through VRI's 40-member advisory board and six smaller working groups, election officials and voting activists now work together with the secretary of state's office on issues of concern.

Brunner also conducted a review of voting machines in the state, and has been establishing better communication between her office and the boards of elections in Ohio's 88 counties. She plans to personally visit each board—14 down and 74 to go at press time—and personally reviews the often-lengthy elections directives sent to the boards. As a result, she has received feedback that election workers can actually understand the directives for the first time.

In California, another feminist secretary of state is tackling voting issues *before* they develop into lawsuits or national headlines. Debra Bowen—with a law degree, five terms in California's House and Senate, and authorship of laws that emphasized election transparency, enfranchisement and voting ease—is trying to set up a “gold standard” voting system that is “secure, accurate, reliable and accessible.” To ensure California meets that standard, she completed a top-to-bottom review of the state's voting machines last summer.

The tests Bowen required of California's electronic voting machines showed the frightening ease with which they—particularly Direct Recording Electronic touch-screen machines (DREs)—can be hacked, thus making votes susceptible to tampering. As a result of her findings, she decertified all of the state's voting machines, reapproving them conditionally only upon fulfillment of additional rigorous security requirements.

Even with added security, Bowen has restricted California's use of touch screens to one per polling place, primarily to provide access for disabled voters. The use of the more secure optical-scan voting machines—voters fill in ovals on a paper ballot, which is then optically scanned—remains the standard for the time being. Bowen now feels confident that she'll be announcing the correct outcome of every California election because each ballot will have a paper record and results will be checked by audits.

## KEEP YOUR EYE ON THE POLLS

The U.S. needs poll workers—about 2 million in each big federal election. It may be just a day's job, but it's a vital one.

"It's extremely important," says Mary G. Wilson, president of the League of Women Voters of the United States. "If we're short even one poll worker, it's a problem for a voter somewhere. If it happens to be your poll that's short a worker, you're the one standing those extra 20 minutes in line."

When a polling place isn't run correctly and efficiently, voters can be disenfranchised. Voter-poll worker interactions also affect voters' perceptions of the fairness of the election and their confidence in the outcome.

Unfortunately, too many polling places remain understaffed. A 2006 election-day survey by the U.S. Election Assistance Commission (established by HAVA, the Help America Vote Act of 2002) showed that 5.8 percent of polling places lacked enough workers. But the problem was far more severe in jurisdictions that were predominantly African American (16.9 percent of polling places were understaffed), the lowest in income (23.5 percent were understaffed) or ranked the lowest in education attainment (20.8 percent were understaffed).

Those concerned with voting integrity are encouraging states to better recruit, train, retain and pay poll workers. Wages for the long day's work can range from a bare minimum per hour—15 states don't even specify a minimum—to as much as \$325 a day in some New York jurisdictions. States are looking at a variety of ways to increase the polling-place workforce, from partnering with businesses, allowing non-voting-eligible teens to serve, recruiting at colleges, splitting the day into two shifts, encouraging adopt-a-poll programs (in which local groups provide staffing for their "adopted" polling place) and mandating that businesses not penalize employees who take the day off to work the polls.

While full data is not available, it appears that two-thirds to three-quarters of poll workers are women, and their average age was estimated to be 72 in the last presidential election—though it may now be lower, as younger workers have been joining the ranks. Wilson points out that technologically savvy workers are particularly valuable, given the rising use of voting machines. And, says Wilson, working the polls can be fun—"You get to see the process up close and personal and you get to meet a lot of good people."

So if you want to make sure that the votes cast in your precinct count, that the lines aren't discouraging and that no one feels disenfranchised, contact your county Board of Elections or elections department to sign up as a poll worker (or check the League's voter information website, [www.vote411.org](http://www.vote411.org), for each secretary of state's contact information). You can make a direct impact on the leadership of your state and nation.

—MICHELE KORT

Auditing, Bowen says, is crucial for accuracy and transparency in the voting process. "Voting machines are still evolving. There is no one perfect voting system yet."

Secretaries of state are not the only ones determining election procedures, as voting must conform to federal and state election laws. County and local boards of elections also make election decisions, such as choosing which voting machine to purchase from a list certified by both state and federal governments. Because of these diverse centers of power, voting integrity can be restored by efforts at any of these government levels.

One current federal effort is HR 811, the Voter Confidence and Increased Accessibility Act of 2007, authored by congressman Rush Holt (D-N.J.). The bill mandates voter-verified paper records—a paper record of the vote that's checked by the voter and usable in recounts—plus random audits nationwide, both to be put in place before the 2008 presidential election. However, it remains stalled in Congress.

Activists have been divided about HR 811. Some want the law to ban DREs completely, as would be required by the Senate companion bill, S.2295, sponsored by Bill Nelson (D-Fla.) and Sheldon Whitehouse (D-R.I.). But others feel DREs are needed, at least to increase voting ease for the disabled. The latest opposition to Holt's bill comes from election officials who claim there is neither the time nor the money to fix the paper-trail problem before November 2008. Holt counters, "I think it is a matter of political will rather than time and money [that keeps the legislation stalled]." He points out that Florida has been able to replace all its paperless DRE voting machines with optical-scan machines for the 2008 presidential election.

The federal bill is particularly important because 20 states, including the important battleground Pennsylvania, currently do not require voter-verified paper records. That adds up to more than 30 million untrackable votes. Of the 38 states that do have a paper trail, only 16 also require the audits that Bowen and others say are crucial.

Another arena of voting concern is the new statewide voter-registration databases, mandated (as were the new voting machines) by the Help America Vote Act of 2002. To create the database, states match voter registration information against records held by such government sources as motor-vehicle departments or the Social Security Administration. This was supposed to make it easier for states to verify voter identities, but some states have instead used it to keep eligible citizens off voter registration lists or to purge registered voters if the information sources don't match. The exactness of the match is sometimes carried to extremes: A space rather than a hyphen in two otherwise

matching names can mean disenfranchisement.

As a California state senator in 2006, Bowen spoke strongly against the stringent matching regulations agreed to by then-Secretary of State Bruce McPherson, a Republican, and the U.S. Department of Justice. At that time, nearly 43 percent of 34,000 voter registrations in Los Angeles had been rejected within just three months.

As Bowen and others point out, “no match, no vote” disproportionately affects women (who change names more often than men), citizens whose surnames might be difficult to read, and younger registrants (such as college students) who move more frequently than older adults and may not have matching addresses.

The Brennan Center for Justice at NYU School of Law won a 2006 suit to block a “no match, no vote” law in Washington state, where 15 to 30 percent of new voter registrations were being hung up. In the wake of that decision, most other states that used “no match, no vote” have changed course, but Florida, Louisiana, Iowa and South Dakota continue to enforce the policy, while other states may be pursuing it under the radar.

Last, but certainly not least, one of the biggest roadblocks to full enfranchisement of eligible voters—particularly women, minorities, the poor, the young and the elderly—is voter ID. More than 20 states have passed laws requiring some form of voter ID, and in some states only government-issued photo IDs are acceptable.

Indiana’s voter-ID law is considered among the most restrictive, requiring either a federal or state-issued photo ID. Many college students have out-of-state driver’s licenses or private-school IDs, neither of which is acceptable in Indiana, thus making the voter-ID program a deterrent to their enfranchisement (they have to obtain a separate state ID). Nearly 5 million more young adults voted in 2004 than in 2000, and the turnout for that group was the highest since the 1972 presidential election. But a recent survey shows that the voting turnout of young adults in college was 8 to 10 percent lower when they registered at home rather than on campus.

A similar voter-ID law passed in Georgia in 2005 banning out-of-state and private-school IDs. And, until 2006, the state charged \$20 for a voter ID card—a fee tantamount to a poll tax. Georgia’s ID law, suspended for a time but now being enforced, was originally “pre-cleared” by Department of Justice (DOJ) Civil Rights Voting Section Chief John Tanner, despite fears that it would adversely affect minority voters. In fall 2007, testifying before a subcommittee of the House Judiciary Committee, a former voting section employee suggested that a full review of the pending Georgia law had

been stifled because the section had become highly politicized.

Tanner also drew outrage this fall after he told the National Latino Congress that voter-ID laws affect primarily elderly voters, and thus are less likely to impact minority voters. “Our society is such that minorities don’t become elderly the way white people do,” said Tanner. “They die first.” This utterance led to numerous calls for his resignation from members of Congress.

Why the sudden demand for voter ID? Supporters say it is to stamp out voter fraud at the polls. Yet progressive Tova Wang and conservative Job Serebrov, two election experts who prepared a bipartisan study on voter fraud for the U.S. Election Assistance Commission, insist there is very little voter fraud to stamp out. Says Wang, “It’s so infrequent that...you’re more likely to get hit by lightning, statistically. What you have here is a solution but no problem, and the solution actually causes a bigger problem, which is that it disenfranchises...groups that are already marginalized.”

Ohio’s Secretary Brunner suggests that vote fraud has been purposefully confused with voter fraud. The latter is the rare instance where an individual tricks their way into the polls to cast an illegal vote. The former is the far more pervasive systemwide fraud, like the 2004 controversy about punch-card ballots in Ohio being prepunched. Says Brunner, “Certain political people who wanted to get voter ID going were very clever in converting vote fraud to voter fraud, and getting people to buy it.”

The U.S. Supreme Court has agreed to hear two consolidated cases this January on the constitutionality of Indiana’s voter-ID law, with a ruling expected by the summer. And in Florida, the U.S. Government Accountability Office (GAO) has undertaken the most complete study to date of the voting machines used in Sarasota in 2006.

But Christine Jennings isn’t waiting around for its findings: She’s running again for Congress in 2008. This time, if there are any doubts about the outcome, she can at least expect a fairer recount, as Sarasota’s votes will now be cast on verifiable paper ballots.

*For updates on important voting issues, visit [www.electionline.org](http://www.electionline.org), [www.brennancenter.org](http://www.brennancenter.org) and [www.verifiedvoting.org](http://www.verifiedvoting.org). ■*

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