

# DEJA VU ALL OVER AGAIN

A report by Common Cause Florida on the State's  
Readiness for the 2004 Elections



October, 2004

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## ELECTION 2004 OUTLINE

### HAVA: Help America Vote Act

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After the 2000 presidential election and the subsequent battle for the presidency in Florida, the world was questioning the legitimacy of the U.S. electoral process. Throughout the aftermath of the election, the nightly news was filled with reports of intimidation at polling places; a top elections official working on the winning candidate's campaign and a suspiciously flawed ex-felon purge list. Once the election dispute was resolved, the nation realized the need for a substantial investment for effective election administration, training and equipment. Focusing on issues resulting from the use of punch card ballot machines, election officials enthusiastically moved to purchase more sophisticated technology. While most counties in Florida moved to purchase optical scan technology, 15 counties purchased DRE or electronic touch-screen technology.

While new touch screen voting systems have solved problems such as the high number of overvotes resulting from the use of paper ballots, they have also raised a host of new and pressing questions. Any machine has potential for failure and many feel this uncertainty calls for protective measures to ensure that every vote is counted and that the integrity of the system is preserved. Without attention to the new challenges presented by the uncertainties inherent in the widespread use of new voting technologies, voter confidence in election officials and the democratic process will erode. However, this erosion will not be silent. One positive reverberation from the 2000 election has been the renewal of a vital and critical populous. After the election was decided and the law suits subsided, there was widespread agreement that changes were needed. Congress and the states were compelled to take action.

### HAVA: Help America Vote Act

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The Help America Vote Act (HAVA), signed by President Bush on October 29, 2002, promised federal funding to assist states in voting reforms. Among

important features of HAVA was the creation of an Election Assistance Commission (EAC) which conducts studies and administers grants to states to fund voter

education efforts, training for election staff and the development of voter hotlines. The EAC is also responsible for providing federal grants to states seeking to replace outdated voting equipment. According to a 2003 report issued by Florida's Secretary of State Glenda Hood, between 2001 and 2003, Florida provided counties with \$24 million to

assist in purchasing new certified voting systems. In the report Hood states that "Florida has enacted legislative and local reforms during the last two years that lead the nation. These reforms include cutting-edge voting system standards, millions of dollars for new voting technology, expanded voter education efforts, and thousands of newly trained poll workers."

## Computerized Voter Database

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HAVA also required the creation of computerized voter databases in each state and a provisional ballot system to ensure voters were not erroneously turned away from the polls. Many states have been given waivers to extend their deadline for completion of the voter database to 2006 due to delays in the allocation of federal funds.

Voting lists are a touchy subject in Florida after a list designed to purge ex-felons from the voting roles for the 2000 election led to thousands being erroneously denied their right to vote. Florida is one of only seven states that still denies ex-felons the right to

vote unless they have had their rights restored by the Clemency Board. In 2000, the list of ex-felons was flawed due to a private contractor's use of an outdated voter list along with the failure to make distinctions between details such as middle names and deviations in spelling. Ion Sancho, Leon County's Supervisor of Elections, checked his list and reported that out of 690 felons listed only 33 were confirmed as convicted ex-felons. The felon list also failed to report conviction dates for 4000 citizens and contained a disproportionate number of African Americans. This led the NAACP to sue the state.

## Felon List

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In a 2002 settlement agreement with the NAACP, Secretary of State Glenda Hood promised that Florida would work to identify and restore voting rights to thousands of voters wrongfully purged from the voting records. However, once again in 2004, an ex-felon purge list was produced by a private company contracting with the state and distributed to each of the 67 counties. Supervisors in each county were directed to confirm and remove names from the voting roles based on the list produced by ChoicePoint. Initially, the

Division of Elections refused to make the list of 48,000 felons available for public scrutiny. However, after a legal challenge by several civil rights groups, the Division of Elections was forced to make the list public. Shortly thereafter, an investigation by the Fort Lauderdale Sun-Sentinel newspaper revealed that the list failed to accurately include Hispanic ex-felons. When voters register in Florida, they can identify themselves as Hispanic. But the Florida Department of Law Enforcement database, which was used to

determine who should be barred from voting, has no Hispanic category. This meant that voters registered as Hispanic were excluded from the ex-felon voter list. Additionally, the list once again contained a disproportionately high percentage of African-Americans.

On July 10, 2004, Hood scrapped the list and distributed a letter to supervisors, telling them to only remove names from the voter rolls which they had personally verified as ex-felons. Some charged that the attempt to remove African-Americans, who more typically vote for Democrats, while failing to remove Florida Hispanics, was a deliberate political move to increase the odds in favor of the current administration's political party.

Using a list of ex-felons to purge voters from the rolls is questionable for other reasons as well. The

administrative costs and burdens the list inevitably entails each election leads one to question its worth. Questions surrounding the accuracy of the ex-felon list and the possibility that legitimate voters will be disenfranchised lead to a deterioration in voter confidence. Some suspect that the desire to keep ex-felons from voting is politically motivated due to a perception that ex-felons would likely vote Democratic. Although the felon purge list is no longer a concern for the 2004 election, it will be an ongoing concern in future elections. Governor Jeb Bush is quoted in a St. Petersburg Times article by Matthew Waite as stating that "the list is a tool for supervisors to use, not the final arbiter." However, others believe it is impossible to administer the list without the wrongful disenfranchisement of some voters.

## Provisional Votes

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According to the U.S. Census Current Population Survey, 3 million voters said they were unable to vote due to registration problems in the 2000 election. Provisional ballots are intended to protect the civil rights of all voters by ensuring those eligible to vote are allowed to vote and that their votes will eventually be counted. Provisional ballots are also intended to ease the burden on poll workers by creating a simple avenue by which they can resolve disputes on election day. The Help America Vote Act requires that voters be allowed to cast provisional ballots. Voters who feel election officials have wrongly challenged their voting status may sign a written affirmation as to their identity and eligibility to vote. These provisional ballots are then separated from the

general ballot pool and evaluated after the election.

Citizens claiming to be properly registered in the county and eligible to vote at the precinct, but whose "eligibility cannot be determined" will be entitled to vote by provisional ballot, according to the Florida Election Reform Act of 2001. It is important that voters know that they MUST be registered in that county and be in the proper precinct for their provisional ballot to count. Whether that voter is registered and is in the correct precinct will then be evaluated by the county canvassing board. In addition, the voter's signature on the provisional ballot and on the voter's registration card MUST match.

Although provisional ballots offer an opportunity for many to vote rather than simply being turned away from the polls, civil rights groups are concerned that poll workers will carelessly hand out provisional ballots to individuals at the wrong location, rather than directing them to the correct precinct. Some believe the potential problem could have a disparate impact on minorities and lead to discarded votes from voters who move frequently.

Florida law mandates that each person casting a provisional ballot be given written instructions on how to contact a “free access system.” This system must be able to help them determine whether their vote was actually counted. The instructions provided must contain not only information on how to access the system, but also information the voter must provide in

order to find out whether the ballot was counted.

Other important features of the Help America Vote Act are requirements that voters have an opportunity to check and correct their ballots before they cast a final vote in order to ensure their intentions have been accurately recorded, as well as a requirement that by 2006 every voting jurisdiction have a voting machine that allows disabled voters to vote independently. HAVA also requires that funding be directed toward the recruitment and training of poll workers. As a component of poll worker recruitment, HAVA calls for a \$5 million dollar allocation to the Help America Vote College Program which was created to encourage student involvement at the polls.

## Identification Requirements

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Every voter must produce a current and valid picture identification at the polls before voting. For someone voting in a jurisdiction for the first time or by mail, new requirements for voter identification have been established to prevent individuals from voting twice or voting when ineligible. Under the new federal requirements, those voting in a jurisdiction for the first time or by mail must produce photo identification, the last four digits of their social security number, or a copy of a current utility bill, bank statement, government check, paycheck, or another government document that shows the name and address of the voter. These strict identification requirements have been criticized due to the possibility that many low-income voters will be unable to produce sufficient identification and be denied their vote at the polls. If a voter does not have a picture identification, he or she can complete an

affidavit attesting to their identity and they will be given a provisional ballot. Every polling place is required to post instructions for mail-in registrants and first-time voters. If you question whether you have appropriate identification, check with your county official to see if they accept any of these forms of ID.

**Electronic Benefit Card (EBT)** with photo and voter's name and address

**Medicare or Medicaid card** with photo or voter's name and address

**Section 8 rent statement** showing name and address of voter

**Senior discount transportation card**

**Social Security check statement**

**Credit card or ATM card** with photo

**Homeless shelter ID card** with photo

**Student ID card** with photo

**Out-of-state drivers' license** in addition to proof of current address

**Other government documents** showing name and address of voter, e.g. tuition bills, IRS correspondence, etc.

It is also important for voters to know that their right to vote can be challenged at the polls. A poll watcher or another voter may challenge a person's right to vote by completing a written "oath" outlining the reasons why the voter should not be

allowed to vote. The challenger must give the completed oath to the poll worker or inspector who then must give it to the person being challenged. The person being challenged must then complete an "oath" verifying that he or she is qualified to vote. The challenged voter's information will be compared to the information on the precinct register to determine whether the challenged person may vote by a regular ballot or by provisional ballot.

## Voter Confidence

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A series of problems involving voting technology, failed administrative practices and inadequate poll worker training have added to a climate of voter uncertainty in Florida. Unfortunately, the Division of Elections has further eroded voter confidence by failing to enact transparent policies. For example, the flawed ex-felon list was not made public until the state was legally forced to do so. It was not discarded until reporters revealed that the list included 2000 names of ex-felons whose rights had been restored. Similarly, Governor Bush and Secretary Hood have resisted suggestions that the states conduct an independent audit of the touch-screen voting machines as well as proposals to equip the machines with the capability to produce a voter verifiable paper trail. The most egregious example of the current administration's

failure to conduct a transparent election process is the creation of a rule exempting the 15 counties with touch-screen voting machines from state requirements for a recount in the event of another close election. Rather than working to bring integrity and transparency to the electoral process, Governor Bush and Secretary of State Glenda Hood have consistently squandered opportunities to show a genuine commitment to make every vote count. While some problems leading to voter insecurity relate to administrative and procedural matters, most of the issues involve the failure to impose measures that safeguard votes cast on touch-screen voting machines.

# FLORIDA'S VOTING EQUIPMENT

## Optical Scan Voting Technology

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These voting systems use ballot cards with names of candidates and descriptions of issues preprinted next to an empty bubble or box. The voter marks her selection by filling in the bubble and then feeds the card into a tabulating computer at the polling place. The ballots used are available for an audit if a recount is necessary in close races. With optical scan ballots, voters must understand that if the scanner rejects a ballot it may not be counted and that they should have the opportunity to correct the problem. Currently fifty-two counties in Florida use optical scan voting machines and there are four models.

### **Diebold Accu Vote - optical scanner - 30 counties**

Alachua – Brevard – Calhoun – Citrus – Columbia – DeSoto – Dixie – Duval – Flagler – Gilchrist – Glades – Hardee – Hernando – Jefferson – Leon – Levy – Madison – Manatee – Monroe – Okaloosa –

Okeechobee – Osceola – Polk – Putnam – Seminole – St. Lucie – Taylor – Volusia – Wakulla – Walton

### **ES&S M100 - optical scanner -14 counties**

Bay – Bradford – Frankline – Gadsden – Gulf – Hamilton – Hendry – Highlands – Jackson – Lafayette – Liberty – Marion – Suwannee – Union

### **ES&S Optech - optical scanner - 7 counties**

Clay – Escambia – Holmes – Orange – Santa Rosa – St. Johns – Washington

### **Sequoia Optech - Optical Scanner - 1 county**

Blake

## Direct Recording Electronic Technology

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DRE's, also known as touch-screen voting machines, are electronic and function similar to ATM machines. There is no paper ballot and voters indicate their decision by using a keypad or by touching the screen. Votes are stored on a memory cartridge, diskette, or smart card and often are backed up on one or more backup discs or drives. Multiple screens help to confirm votes and eliminate voter error. Overvotes

are impossible and many machines are equipped with voice ballot features which can make voting easier for illiterate, disabled, and senior citizens. DRE's do not produce a paper record for audit purposes, but instead save images of the votes on a disc. Voters using these DRE's must understand that once they have hit "cast ballot," their ballot is irretrievable. Currently 15 counties use DREs and there are two models.

**ES&S iVotronic - touch-screen - 11 counties**

Broward – Charlotte – Collier – Miami-Dade –  
Lake – Lee – Martin – Nassau – Pasco – Sarasota –  
Sumter

**Sequoia Edge - touch-screen - Precinct - 4**

**counties**

Hillsborough – Indian River – Palm Beach –  
Pinellas

\* No counties in Florida use Diebold touch-screen voting machines.

After the 2000 election, Florida moved to replace older voting technologies and the legislature decided that each county would choose whether to purchase an optical scan system or a (DRE) touch-screen voting system. Most counties chose the optical scan system while fifteen chose DREs. Some have criticized the state Division of Elections for embracing the DREs and allowing their certification before they were perfected. The Division claims the machines are already technologically sound and secure.

Some also question whether the state should have pressed the counties to adopt uniform equipment. The Governor's own election reform task force called for a "uniformed and standardized statewide voting system" in its series of recommendations. However, the task force recommendation did not sway the legislature's decision to leave it up to each county to decide the technology that best suits their needs. Although requiring consistent equipment in each county would remove some local control, it would ensure that voters had an equal opportunity to vote regardless of local differences. It also would have simplified the establishment of consistent statewide voting system operations as well as voter and poll worker education.

An analysis performed by the Sun-Sentinel newspaper, evaluating the performance of DRE's in the March 9<sup>th</sup> Democratic presidential primary, showed that the touch-screen voting technologies had at least 8 times as many undervotes as did optical scanners in the same election. Undervotes occur when a voter does not make a choice between the candidates in a race. The Sun-Sentinel research looked at 350,000 ballots statewide, produced in an election with only one choice on the ballot. Undervotes occurred 1.09 percent of the time in counties with touch-screen machines and 0.12 percent of the time in counties that use optical scanning. Data on the state's website pertaining to the Gubernatorial election in 2002 show a similar phenomenon with optical scan systems resulting in far less undervotes than touch-screen systems.

Additionally, the price of touch-screen equipment is dramatically higher than the optical scan equipment. For example, Broward's iVotronic system costing \$17.2 million was chosen over an optical scan system costing only \$5 million. Vendors and leaders in the state justify this by pointing out that DRE's are an improvement over the paper ballots and punch card machines used in the 2000 presidential election. However, the decision to purchase DRE technology was undoubtedly rushed. According to a July 21, 2004 St. Petersburg Times article by Tamara Lush, Mark Pritchett, the executive director of the Governor's Select Task force on Election Procedures, said the undervote issue prompted him to recommend that "counties wait for touch-screen technology to improve before buying the machines." He went on to state that the higher rate of undervotes on touch-screens "was a well-known fact in 2001." While there are risks associated with any technology, the solution to one problem should not be a rush to another flawed system.

	Undervotes Absentee Ballots	Overtvotes Absentee Ballots	Undervotes Precinct Ballots	Overtvotes Precinct Ballots	Total
Diebold AccuVote (Optical Scanner)	1,082	115	4,963	148	6308
30 counties	0.07%	0.01%	0.31%	0.01%	0.4%
ES&S M100 (Optical Scanner)	377	77	1,341	274	2069
14 counties	0.15%	0.03%	0.53%	0.11%	0.82%
ES&S Optech (Optical Scanner)	375	293	1,498	246	2412
7 counties	0.08%	0.06%	0.30%	0.05%	0.49%
Sequoia Optech (Optical Scanner)	17	7	32	21	77
1 county	0.26%	0.11%	0.48%	0.32%	1.17%
ES&S iVotronic (Touch-Screen)	1,882	247	15,829	0	17,958
11 counties	0.11%	0.01%	0.92%	0.00%	1.04%
Sequoia EDGE (Touch-Screen)	672	382	10,074	0	11,128
4 counties	0.06%	0.04%	0.93%	0.00%	1.03%

**Data compiled by Florida Division of Elections in Table entitled :**

*“Governor/ Lieutenant Governor contest: Overtvotes, Undervotes and Invalid Write-ins by  
Voting System 2002 General Election”*

## Independent Audits

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Before the August primary, a coalition of nonpartisan voting rights groups called on the governor to order an independent audit of the state's touch-screen voting machines. With voter confidence in steady decline, the nonpartisan groups called for parallel testing by a body independent of both the manufacturer of the machines and the State Division of Elections. Parallel testing involves teams who randomly pick precincts to test. The testers use separate machines to assess the level of accuracy at which the

touch-screen voting machines record and tabulate votes. The coalition urged the governor to reinstate routine audits of the optical scan voting systems used in 52 counties and argued that the state could either use funds already set aside by the Division of Elections or use a portion of the funds from the \$47 million received by the state under HAVA.

State officials dismissed the request for an independent audit and criticized the coalition for

questioning the accuracy and security of the touch-screen machines. In a Miami Herald article by Mary Ellen Klas, Secretary Hood's spokeswoman stated that, "When organizations set out to erode voter confidence, they do a disservice to the constituents of Florida who should feel nothing but confident that their votes will be counted." She argued that Florida's certification process for voting technologies is one of the most rigorous in the country. However, no test performed by

any county has demonstrated the ability of the touch-screen machines to function without error when recording the high number of votes expected at the polls this November. The use of new technology and the inherent lack of predictability raise a legitimate concern for voters which state leaders should have addressed.

## Verifiable Voter Paper Trail (VVPt)

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A reform that has been demanded by voting advocates across the country has been the call for a voter-verifiable paper trail (VVPT) that could be used for recounts in close elections. Although there is no time to install new hardware and train poll workers for the 2004 election, this issue should be addressed in 2005. According to Ion Sancho, Leon County's Supervisor of Elections, adding this sort of hardware to the current system and training poll workers would take twelve to eighteen months. It is essential that this issue be addressed for future elections, while also looking at why a voter verifiable paper trail was not sought when the touch-screen machines were originally purchased.

In a report titled "Touch-screen Voting Systems Issue Paper," the Florida Division of Elections and the Florida State Association of Supervisors of Elections defend their inaction on the call for VVPTs. In this report, they say that one of the reasons that many counties chose the DREs was the elimination of paper ballots. The state and the supervisors also argue that voters may maliciously create confusion at the polls if given a paper receipt after the vote is entered. More importantly, the state and the supervisors believe that a paper receipt would violate the spirit of HAVA by

jeopardizing voter privacy even though it is also required that a voter have an opportunity to confirm a vote before it's cast. From a practical standpoint, the state and the supervisors argue that the additional printers required to produce a paper trail would be a financial burden to counties that are already cash-strapped. They also argue that, even if funds were available, the three vendors certified by the state are not prepared to provide the technology. The report goes on to say that DRE's provide for an audit if necessary. According to the state, DREs store images of all of the votes which can be reviewed in the event of a recount to prove a vote was actually cast.

In a status update from vendors, published by the Division of Elections in April of 2004, neither Diebold, Sequoia Pacific, nor ES&S had a working model of a machine which could produce voter verifiable paper ballots. Why vendors would fail to offer this technology when there was no governmental interest in voter verifiable paper trails is not difficult to understand. It would also be difficult for vendors to develop this technology without clear standards to meet. In addition, one might suspect that the state communicated a lack of interest in technology that

would allow a VVPT and may have discouraged its expedited development by imposing a rule which says that no recounts will be conducted for votes entered on DREs.

The desire to move away from the use of paper is understandable, but with all of the glitches in software that have occurred regarding DREs, it is obvious that this technology is not dependable. According to the state, “touch-screen systems offer the highest level of accuracy and security.” We find that this is completely inaccurate and contradicts the Division of Elections own data on undervotes in the 2002 election.

- \* A run-off election for Town Council in Wellington, Florida on March 26, 2002 revealed that 78 ballots, cast electronically, were recorded as blank in a race in which the losing candidate lost by only four votes.
- \* During the November 2002 general election, when Gov. Jeb Bush defeated challenger Bill McBride, there were a total of about 34,000 under votes according to a report compiled by the Florida Division of Elections and reported in The Miami Herald.
- \* Detailed records of Miami-Dade’s first election using touch-screen voting machines were lost after several computer crashes in May and November of 2003. The malfunction was discovered after the Miami Dade Election Reform Coalition requested all of the data from the 2002 gubernatorial primary election.
- \* During a small special election for District 91

of the Florida House of Representatives appearing on the ballot, there were 134 ballots invalidated as undervotes. The election was conducted on touch-screen machines and the winner won by only 12 votes. The Supervisors of Elections in Broward and Palm Beach Counties were able to print out a report from each machine on which a flawed vote was registered, however this would only tell them that the vote registered was an undervote. There was no indication or ability to determine voter intent.

- \* A study published by the Fort Lauderdale *Sun-Sentinel* on July 11, 2004 found that the percentage of undervotes during the March 2004 Democratic Primary was eight times greater in those counties using DRE’s than in those counties employing optical scan voting equipment.
- \* As a result of a public records request, a memo from a Miami-Dade County election official revealed that the audit logs of five touch-screen machines failed to register votes cast in the October 2003 election in Homestead, FL. These audit logs were useless for recount purposes or for certifying an election. The missing votes constituted approximately 13% of the total vote in that election.

These incidents along with several convincing studies demonstrating the vulnerabilities of DRE machines to hackers, inept poll workers or voters with malicious intentions, leaves one baffled as to why the state would want to deny citizens a paper record of the vote count. Although the Diebold Accu Vote TS- DRE system is not used in Florida, the John Hopkins Report

as well as a report conducted by Raba Technologies in Maryland, raise security questions about the software on all DRE systems. The acknowledgment of the need for some form of paper back up has even led the Republican Party of Florida to send a notice to its members reminding them that the touch-screen machines are not capable of performing a paper audit. The flyer recommends that voters use absentee ballots if they wish to ensure their vote is counted.

Rather than reassuring voters that back-up measures exist in the event of a close election or mechanical problem, Governor Bush and Secretary of State Glenda Hood have failed to address concerns

surrounding the touch-screen machines. They accuse voices critical of their policies as attempts to shatter voter confidence. Although it is too late to install new voting equipment for the 2004 election, we believe that the state should immediately take action to ensure that all voting machines are subject to recounts in future elections and that every machine be equipped with the ability to conduct a paper recount.

## The No-Recount Rule

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On April 13, 2004, the state issued a rule ( 1S-2.0131(7) ) prohibiting manual recounts on Direct Recording Electronic voting systems (DRE). This technology is used in 15 Florida counties whose population constitutes more than half of Florida's voters. The Division of Elections argues that the only purpose for a manual recount in a close election is to establish voter intent and that recounts are unnecessary on DREs because the voter's intent is established in the voting booth. They also argue that the systems do not allow a voter to overvote, or choose more than one candidate, and a count of the undervotes, where voters fail to choose any candidate, would not establish the voters intent.

This rule had several problems. First, it conflicted with §102.166, Fla. Statutes which expressly requires a manual recount of overvotes and undervotes when an election has been decided by a margin of one-quarter of one percent or less. Rule 1S-2.0131(7)

prevented elections supervisors from doing their jobs as required by the legislature. Second, the rule presumed that the equipment will function properly. This assumption is obviously flawed given the series of equipment malfunctions, computer crashes and lost data that has occurred within the state since the 2000 election. (see above)

Not only is a recount necessary to establish voter intent, but it is necessary to verify the integrity of the data. Lost votes can never be recounted and its impossible to prove whether a vote has been cast at all. Additionally, as illustrated in the study performed at John Hopkins University, DRE's are subject to manipulation and susceptible to tampering. Failing to make at least a minimal effort to ensure an accurate vote count further increases the skepticism and lack of confidence in our voting system already pervading the public psyche after the flawed 2000 election. The attempt by the state to prevent a recount on electronic

touch-screen machines can most charitably be interpreted as a blind faith in technology and an attempt to ease the costs and administrative burden on county elections supervisors. We believe that the goal of an election is not to make the process easier for the government, but to truly reflect the will of the people. We also maintain the view that it is essential to the integrity of the electoral process that the results of close elections be subject to a manual verification which is transparent to the electorate. Moreover, the denial of a recount in close elections seems to contradict the primary goal of HAVA, which was to ensure that every vote would count.

For those reasons, Common Cause Florida, along with the ACLU, People for the American Way and others, challenged Rule 1s-2.031(7) in Administrative Court. On August 27, 2004, Administrative Law Judge Susan Kirkland issued a ruling invalidating the rule. In her decision, Judge Kirkland wrote, “It is clear that Respondent (the Department of State) exceeded its grant of rulemaking authority in promulgating Florida Administrative Code Rule 1S-2.031(70).” Unless that ruling is reversed on appeal or a new rule is promulgated, the 15 counties using the DRE machines will be subject to the same recount requirements as other counties using optical scan machines.

## Absentee Ballots

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Many critics of the touch-screen machines have recognized that voting by absentee ballot is a viable alternative by which a voter can ensure that there is a paper record of their vote. Since the 2000 election, the legislature has made voting by absentee ballot easier for voters through several procedural changes. Any voter can request an absentee ballot from the supervisor of elections in their county in person, by telephone or mail. The absentee ballot may be requested by a voter, a member of the voter’s immediate family or the voter’s legal guardian. For instance, one no longer needs to give a reason to justify using an absentee ballot. Additionally, overseas ballots are no longer required to be postmarked by election day and now must only be dated by election day and arrive within 10 days after the election.

A first-time voter registered by mail must include a copy of a picture ID for the absentee

ballot to be counted. All absentee ballots, except for overseas ballots, must be signed, dated and arrive at the local election office no later than 7 p.m. on the day of the election or they will be rejected. When requesting an absentee ballot, one must include the voter’s name, address and date of birth as well as the requesters name, address and date of birth. If you request an absentee ballot and then change your mind and decide to vote in person, you should return the ballot to poll workers on election day. They will void the ballot and allow you to vote. Absentee ballots may be counted by the county canvassing boards as early as 7:00 a.m. on the fourth day preceding the election, but not later than 12:00 p.m. on the day after the election.

While voting by absentee ballot is an appealing option considering all of the potential problems DRE’s present, some say it could lead to a higher number of spoiled ballots. Critics of absentee ballots question whether the rush to vote absentee is a wise decision considering all

of the common human errors that could lead to a rejected or spoiled ballot such as coffee stains, rips, and accidental overvotes. However, election officials say they are prepared to handle the administrative burden of a high number of absentee ballots and a large number of voters choosing this method may reduce the lines at the polls.

## Overseas Ballots

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In the 2000 election, hundreds of overseas ballots were thrown out because they lacked postmarks. To avoid a recurrence, the Pentagon has equipped voting assistance officers worldwide with devices to postmark and date election ballots. Additionally, the Pentagon has teamed up with the U.S. Postal Service to prioritize the shipment of military ballots by using specially marked envelopes to identify and ship elections materials overnight. The Pentagon has recommended that voters submit their ballots by Oct. 15<sup>th</sup> to ensure their timely arrival.

To use an FPCA (Federal Post Card Application), one must be a U.S. citizen and a

member of the Uniformed Services or one of their family members. Uniformed Services are defined as the U.S. Armed Forces, Merchant Marine, Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration. Florida allows overseas Uniformed Services members to send the FPCA request for an overseas ballot by fax. After submitting the fax, the original FPCA must be sent by mail. For more information on overseas ballots and a downloadable FPCA visit <http://www.fvap.gov/pubs/vag/pdfvag/fl.pdf>.

## The August 31st Primary Election

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After a great deal of anticipation, the Florida voting systems performed well during the August 31<sup>st</sup> primary. Polls opened on time, lines were short and only a few problems were reported. The Miami-Dade Election Reform Coalition reported several complaints from voters who were unable to use provisional ballots at their polling place. The Election Protection Coalition also reported several complaints about machines freezing or failing to boot up and several machines in

Davie, Florida, were unable to bring up Democratic ballots. Given that no election runs perfectly, the August primary election went fairly well.

Unfortunately, a relatively smooth primary election does not guarantee a problem-free November election. Questions still exist as to whether the touch-screen voting machines will accurately record votes and whether these votes can be recounted in the case

of a close election. Although the positive results of the August 31<sup>st</sup> primary are reassuring, the general election will involve a substantially larger flow of voters along with much higher stakes and there is still no way to determine whether or not the machines will malfunction or lose data.

In conclusion, this report recommends that in the 15 counties using electronic touch-screen voting machines, voters seriously consider voting absentee to ensure a verifiable paper record of their vote. It's entirely possible that the 2004

election in Florida will go smoothly and the new electronic voting technology will function as it is supposed to. But there has been ample evidence to suggest that there will be problems on election day and Floridians should be cautious and continue to question state and local officials when they offer blanket assurances that all legitimate votes will be counted. The bottom line is to be knowledgeable and watchful. Vote absentee if you are concerned about touch-screen machines, but above all VOTE!

## Acknowledgements

The principal authors of this report were Ben Wilcox, Executive Director of Common Cause Florida and Brad Ashwell, Senior Research Associate for Common Cause Florida.

## Methodology

Much of the information for this report was gathered through interviews with supervisors of elections and representatives from their offices. We attempted to contact the supervisors in twenty counties including those counties using touchscreen voting systems and others which had experienced difficulties administering the 2000 election. Additional information was obtained from the Florida legislature, the Florida Statutes, news reports and the websites of the Florida Division of Elections and supervisors in each county.

## Voter Education and Information

### **At every polling place, the following must be posted for voters on Election Day**

- \* A sample of the ballot for that election.
- \* Information regarding the date of the election and the hours during which polling places will be open.
- \* Instructions on how to vote, including how to cast a provisional ballot.
- \* Instructions for mail-in registrants and first-time voters.
- \* General information on voting rights, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.
- \* General information regarding prohibitions on acts of fraud and misrepresentation.

### **Voter Bill of Rights**

1. To be provided with another ballot if you made a mistake,
2. To have written and oral voting instructions, if requested,
3. To request and receive assistance in voting,
4. To bring an aide or interpreter if you are disabled or have a language barrier,
5. To not be prevented from voting for any reason if you are a registered voter,
6. To vote if you are in line by the time the polls are closing,
7. To prove your identity by signing an affidavit if officials doubt your identity,
8. To be given an explanation if you are refused the right to vote and to be allowed to cast a provisional ballot,
9. To vote on a machine in working condition that will accurately count and provide confirmation of your vote,
10. And, finally, to have your vote counted.

### **Florida State Election Offices**

#### **SECRETARY OF STATE-**

**chief election officer, elected for four year term.**

**provides guidance to Supervisors of Elections.**

**provides technical assistance to Supervisors of Elections.**

**prescribes voter registration forms and procedure.**

**prescribes rules concerning electronic voting systems.**

#### **ELECTION CANVASSING COMMISSION-**

**Governor, Secretary of State and Director of Elections (appointed by Secretary of State).**

**canvasses all county returns and prepares election abstract.**

**LOCAL OFFICES:**

**SUPERVISORS OF ELECTIONS-**

chief election official at the county level, elected for four year terms.

appoints other local election officials.

administers voter registration.

administers absentee voting.

conducts poll worker training.

distributes election materials to each precinct.

**COUNTY CANVASSING BOARD-**

includes Supervisor of Elections, County Court Judge and Chairman of the County Board of Commissioners.

tabulates county vote and prepares abstracts for transmittal to the Secretary of State

**ELECTION DAY OFFICERS:**

**ELECTION BOARD-**

two Boards per precinct composed of Inspectors and Clerks appointed by Supervisor of Elections.