



## Research Memo

**October 2012**

# Election Legislation 2012: Threats and Opportunities Assessment Update

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In this important election year, partisan lawmakers in too many states have once again tried to raise legislative barriers between eligible Americans and the voting booth. This year, however, voters, legislators, and the voting rights community have been fighting back, raising successful challenges to strict photo ID laws, voter registration drive restrictions, and early voting cutbacks. It is too early to say how this battle over access to the democratic process will pan out, but the recent willingness of the courts to act as a backstop against the most egregious laws is a positive sign.

Ever since the election of 2008—which saw a surge in voting from new voters, particularly young minorities—politicians have worked to erect more barriers to voting. Instead of finding solutions to make the democratic process more accessible, for several years now many state lawmakers have been passing laws that make it harder for eligible Americans to vote.

In addition to the millions who would be unable to vote just because they do not have the correct ID under photo ID laws, state politicians have pushed bills that would have the effect of blocking millions more citizens who rely on voter registration drives to register to vote. Anti-immigration hysteria is also increasingly being used to propose bogus anti-voter fraud measures and to conduct unlawful voter purges.

Despite the litany of regressive bills, there is a nascent legislative trend to combat these undemocratic laws. In 2012, we saw the introduction of federal bills to prohibit strict photo voter ID requirements, encourage registration and voting, condemn voter intimidation, and restore voting rights to people with past felony convictions. Some of these bills remain pending.

Election reforms that make voting more accessible to eligible citizens also gained some traction on the state and federal levels in 2012. The most prominent reforms include Election Day registration, which passed in California and Connecticut, and online voter registration, which was enacted in California, Connecticut, Hawaii, and South Carolina.

Project Vote has monitored election legislation in 46 state legislatures in session in 2012, as well as the U.S. Congress. This memo reviews both the threats and opportunities represented by election bills that have been introduced in the state legislatures and Congress in 2012, based on our bill monitoring project, discussions with state-based advocates, recent media coverage, and the partisan makeup of the legislatures and state election directors.

# Threats to Voting Rights

## Bills to Restrict Access to Voter Registration

Laws that target would-be voters and the groups that help to get them on the rolls have become the subject of great debate in this election year. The largely unfounded fear of noncitizens and voter impersonators compromising the integrity of our elections has fueled the introduction of bills that would make it difficult for citizens to register to vote. While there were some close calls this legislative session, some successful state and federal challenges to existing laws may have put pending and future legislation to restrict voter registration access under greater scrutiny.

In 2011, Florida adopted several controversial election rules that caused such groups as the League of Women Voters and Rock the Vote to halt their voter registration drives in the state. The Florida law imposed excessive fines, deadlines, and paperwork requirements that likely inspired at least four more states (MI, MO, MS, SC) to push similar requirements in 2012.

In May 2012, federal Judge Robert L. Hinkle called most of Florida's new voter registration rules "harsh and impractical," and granted a temporary injunction against the law, which allowed national voter registration groups to resume their work in the state.<sup>1</sup> "Allowing responsible organizations to conduct voter registration drives — thus making it easier for citizens to register and vote — promotes democracy," wrote Judge Hinkle in his order. "If the goal is to discourage voter registration drives and thus also to make it harder for new voters to register, this may work." Hinkle has since issued an order to permanently remove most of the restrictions on voter registration drives.

A month after Judge Hinkle's decision, the Michigan legislature put several restrictive voting bills on Governor Rick Snyder's desk, including SB 754, which would have imposed harsh filing and training requirements on community-based voter registration drives. In a surprising turn of events, the Republican governor vetoed SB 754, along with several other bills in the "election reform" package.<sup>2</sup> Secretary of State Ruth Johnson, who championed this package, and the Michigan Senate remain undeterred: the Senate has since reintroduced the vetoed bills and proposed at least one new, related bill. The new bill, SB 1219, remains pending.

Voter registration policy has also been influenced by anti-immigration rhetoric. In 2012, at least seven states used trumped-up fears of noncitizen voting to propose proof-of-citizenship requirements on voter applicants for registration, despite the fact that millions of American citizens lead normal lives without current citizenship documents.<sup>3</sup>

In the last decade, Arizona has adopted separate rules to allow law enforcement to request proof of citizenship from members of the public and require citizens to submit documentary proof of citizenship with voter registration applications. Although the Supreme Court upheld the "Show Me Your Papers" provision under SB 1070,<sup>4</sup> it refused to grant a stay of the Ninth Circuit Court of Appeals' April 2012 decision to reject Arizona's restrictive election law that required voter applicants to present documentary proof of citizenship to be registered to vote.<sup>5</sup>

"This law has a chilling effect on voter registration, making the process less accessible and less convenient for Americans. The court agrees that Proposition 200 is in conflict with federal law, and we applaud the decision," said Project Vote Executive Director Michael Slater of the Ninth Circuit Court of Appeals' ruling.<sup>6</sup>

The high court, however, agreed to take up an appeal of the case in October. Arguments will take place after the New Year, and a decision is expected to be reached in June 2013.<sup>7</sup>

Last year, copycat laws requiring proof of citizenship for registration passed in Kansas and Alabama. This year, the Kansas legislature considered bills that would fast track the implementation of the 2011 law in order to take effect before the 2012 presidential elections. The bills were widely criticized for their impact on voter registration drive activity and the unrealistic timeline to update the Division of Vehicles' computer system. The bills failed upon adjournment.

Alabama's law is under federal preclearance review and cannot currently be implemented.

Seven states (CA, MA, MI, MO, NH, SC, and VA) introduced bills to require proof of citizenship to register to vote, but none of them gained traction.

Attacking voter registration drives and requiring citizenship documents to register to vote are not the only ways partisan legislators have tried to make it harder for new voters to register. In Wisconsin, the legislature caused a stir when it revoked the state's law that mandated public high schools to provide students with voter registration materials: "Democrats argue the bill is an assault on voting rights and part of a broader Republican agenda to suppress voting among people who are more likely to support Democrats," the *Associated Press* reported in March. Republicans claimed it was a burden for election officials to offer voter registration at the schools.<sup>8</sup> On April 6, Governor Scott Walker signed SB 386 into law.

### *Voter Registration Drive Restrictions*

- **California – AB 145:** (VETOED) This bill prohibits any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration. It prohibits the receipt of this per-affidavit consideration, and would make conforming changes. A violation of these prohibitions would be a misdemeanor.
- **California – SB 205:** (VETO SUSTAINED): This bill would prohibit any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration, would prohibit the receipt of this per-affidavit consideration, and would make conforming changes. A violation of these prohibitions would be a misdemeanor.
- **Maine – LD 1664:** (ENACTED): This bill establishes a deadline for community-based voter registration drives to submit voter registration application at 21 days before Election Day. In-person registration ends at the closing of the polls on Election Day.

### *Proof of Citizenship*

- **Massachusetts – HB 194:** (PENDING) This bill requires a voter registration applicant to prove, "to the satisfaction of the Clerk or Registrar," that he or she is a United States citizen. "Such proof may be made by producing a birth certificate or papers of naturalization for inspection, notation of which shall be made a part of the registration of said applicant."

### *Youth Voter Registration Restrictions*

- **Wisconsin – SB 386:** (ENACTED) This bill removes public high schools from serving as locations for eligible students and staff to register to vote.

## **Bills to Restrict Access to the Ballot**

The 2008 presidential election brought a surge of first-time voters, low-income citizens, and people of color into the democratic process.<sup>9</sup> Since then, partisan lawmakers in dozens of states have pushed for strict photo ID laws and early voting restrictions, among other policies that can reduce turnout of these new voters.

Last year alone, six states (KS, MS, SC, TN, TX, and WI) adopted some of the most restrictive photo ID laws in the country. Today, voters, advocates, lawmakers, federal courts, and the Department of Justice are taking a stand against some of these 2011 laws, and have blocked all but two state laws (KS and TN) from taking effect this November.

Although there is rising opposition to voter ID policies, at least 20 states proposed restrictive voter ID policies in 2012. Four states (MN, MS, NH, PA) have passed measures to adopt, implement, or put the voter ID issue before the voters by referendum in November 2012.

## Threats to Voting Rights

Minnesota's photo ID law proposed a constitutional amendment, to be referred to the voters in November, that would require valid photo ID for voting. A coalition of voting rights groups and advocates, Our Vote Our Future, challenged the ballot language, saying it misleads the public.<sup>10</sup> Even Republican former Governor Arne Carlson said that the voter ID amendment would cost the state millions, put the burden on underfunded local governments, and negatively impact the "500,000 people that vote in Minnesota elections" on Election Day.<sup>11</sup>

In late August, the Minnesota Supreme Court denied the challenge and rejected the claim that the wording was misleading. The voter ID question will be on Minnesota's November 2012 ballot.<sup>12</sup>

Mississippi also took the voter ID issue to the voters, who approved the state's law in 2011. In 2012, lawmakers adopted implementing legislation (HB 921) that would allow the law to take effect. However, the new law is not expected to go into effect in November: Mississippi's history of discrimination against voters of color requires the state to seek federal "preclearance" before implementing election changes, and that process is still underway.<sup>13</sup> In addition, the state reportedly has no budget to provide free ID to voters in need, as the law requires.<sup>14</sup>

New Hampshire Governor John Lynch rejected the state's narrowly passed voter ID bill, SB 289, for being "far more restrictive than necessary."<sup>15</sup> Despite the governor's concerns, the state legislature overrode his veto within days of his decision. The new law will partially take effect in November with some key exceptions: student IDs are accepted for voting purposes, otherwise voters will be offered a "challenged voter affidavit" to affirm identity and vote a regular ballot. Vouchers to obtain government-issued photo ID for voting purposes will also be offered to select voters between November 2012 and September 2013. After September 2013, voters who require challenged voter affidavits may have their photo taken for identifying purposes.<sup>16</sup>

Pennsylvania's highly controversial voter ID law (HB 934/ Act No. 18) was adopted in March, tested during the April primary, litigated this summer, and will not be in effect in November. The ACLU of Pennsylvania unsuccessfully challenged the constitutionality of the voter ID law at the state trial court level on the grounds that it disproportionately affected voters of color. Just before the trial, Pennsylvania officials admitted that there was no voter impersonation fraud to necessitate the restrictive law, and further revealed that at least nine percent of Pennsylvania's registered voters lack required ID, a figure that doubles in predominantly Black Philadelphia.<sup>17</sup> Adding to the partisan controversy behind the law, Pennsylvania House Republican Mike Turzai boasted in June that the new voter ID law would assure a Mitt Romney victory in November. Turzai has since received critical backlash for exposing the true motives behind voter identification laws.<sup>18</sup>

In July, Pennsylvania Senator Daylin Leach announced plans to introduce legislation that would repeal the new voter ID law after estimates of affected voters turned out to be much higher than reported at the time that the bill was approved.<sup>19</sup>

On August 15, Commonwealth Court Judge Robert Simpson declined to grant a preliminary injunction to block the law, rejecting claims that it violates the fundamental right to vote guaranteed by the Pennsylvania Constitution. The decision was appealed and the state Supreme Court sent the case back to Judge Simpson for reconsideration (less than two months before Election Day) for a finding on whether voters would be disenfranchised if the law were to be implemented for the upcoming election. This time, he found that voters would indeed be disenfranchised if the law were to be implemented in November. On October 2, Judge Simpson preliminarily enjoined the photo ID requirement for November 6, 2012 election, based primarily on the observation that the Commonwealth no longer has sufficient time to put as many IDs as are needed into the hands of voters between now and Election Day.<sup>20</sup>

At least two more states, Missouri and North Carolina, experienced critical voter ID battles in 2012. Missouri legislators attempted to push several voter ID bills and proposed a ballot initiative, but the 2012 legislative session adjourned without final action on these measures.<sup>21</sup> The North Carolina legislature failed to override Governor Bev Perdue's veto of a 2011 voter ID bill this legislative session. A countywide voter ID mandate for North Carolina's Lenoir and Greene counties also failed upon adjournment in July.

Restrictive voter ID is not the only barrier to the ballot box. In July, Michigan Governor Snyder vetoed SB 803—

which requires voters to reaffirm their U.S. citizenship on their ballots— fearing that it would create “voter confusion among absentee voters.”

“Voting rights are precious and we need to work especially hard to make it possible for people to vote,” he said in his veto message.<sup>22</sup> The Senate has since repackaged the vetoed SB 803 with a new bill, SB 1219. Despite the veto, Secretary of State Ruth Johnson arbitrarily required voters to affirm citizenship during Michigan’s primary elections, but has since been barred by a federal judge from requiring the same affirmation in November.<sup>23</sup>

Although popular among voters, early voting has also been cut back in several states since 2008. In 2011, battleground states Ohio and Florida passed laws to limit early voting. Ohio voters pushed back against the early voting restrictions under 2011 bill HB 194, but the state legislature controversially took matters into its own hands with the passage of “preemptive repeal” SB 295 in 2012. The Florida legislation was challenged in a lawsuit in the federal district court in the District of Columbia, and a compromise early voting schedule was agreed upon and eventually precleared by the Department of Justice.<sup>24</sup>

There has been a lot of legislative maneuvering around the early voting issue, the upshot of which is that Ohio’s popular<sup>25</sup> early voting weekend before Election Day may be available in November, but counties are not required to offer it.<sup>26</sup>

### *Voter ID*

- **United States Congress – HR 5971: (PENDING)** Amends the Help America Vote Act of 2002 to require each individual who desires to vote in an election for Federal office to provide the appropriate election official with a government-issued photo identification, and for other purposes.

### *Citizenship Affirmation to Vote*

- **Michigan – SB 1219: (PENDING)** This bill requires a voter to affirm citizenship on Election Day in order to receive a ballot. The election inspector may challenge voters who do not affirm citizenship.

### *Early Voting Restrictions*

- **Tennessee – SB 923/Public Act 381: (ENACTED)** This bill reduces early voting by two days during presidential primary elections.

## **Disenfranchisement for Past Felony Conviction**

Today, four million Americans who have been convicted of felonies are not allowed to vote under various state laws that prohibit them from participating in the democratic process.<sup>27</sup> Depending on the state, a person may not have his voting rights restored until completing a prison sentence, probation or parole, paying restitution, or even receiving approval from the governor. Despite the already hostile state of voting rights for people with past felony convictions, at least one state adopted a law to create even more hurdles to regaining voting rights and reintegrating into society.

In March, South Dakota Governor Dennis Daugaard signed into law HB 1274 to restrict the voting rights of people who are on probation. The new law is under preclearance review by the Department of Justice and is criticized for its adverse impact on American Indians, who are overrepresented in the criminal justice system, according to the ACLU of South Dakota. The group also asserts that the law would remove thousands of voters from the rolls and create “mass confusion as to who can vote right before a Presidential election.”<sup>28</sup>

- **South Dakota – HB 1274: (ENACTED)** The bill revokes voting rights of all people convicted of a felony, including probationers. The bill also creates list maintenance provisions.

# Opportunities in Voting Rights

## Bills to Reverse Effects of Regressive Election Laws

The assault on voting rights in 2011 resulted in the enforcement of new voter ID and voter registration drive restrictions and the slashing of early voting days in many states. Some lawmakers attempted to undo the damage earlier this year. Although, most of these efforts to repeal or minimize the effects of new restrictive laws have yet to prove effective—particularly before the 2012 presidential election—they do appear to be an emerging trend for 2013.

Voter ID policies and their impact on voters were cause for concern on the state and federal level. The United States Congress and several states—including Georgia, Rhode Island, Tennessee, and Wisconsin—introduced laws to ameliorate or reverse voter ID laws. Pennsylvania Sen. Leach announced plans to introduce a bill to repeal the state’s voter ID law; it has yet to be filed. Some bills simply attempted to expand the list of acceptable ID to include student identification (GA, TN, and WI). Others tried to scrap photo ID laws altogether (RI, TN). While these bills failed on the state level, members of Congress introduced HR 3316 and HR 4126 to reduce the impact or eliminate strict voter ID laws in federal elections.

The voter registration drive restrictions under Florida’s 2011 law, HB 1355, were challenged with the introduction of SB 1636, a bill that would have extended the early voting period and the deadline to submit voter registration cards. However, the bill died in committee.

- **United States Congress – HR 5799/S 3508:** This bill would modernize voter registration, promote access to voting for individuals with disabilities, and protect the ability of individuals to exercise the right to vote in elections for Federal office. **The bill would also establish online voter registration and set standards for counting provisional ballots.**

## Beneficial Voter Registration Reforms

Expanding access to voter registration has been a subject of policy analysis for decades. In recent years, Election Day registration and online voter registration have received unwavering support from voting rights advocates for promoting accessibility to registration. At the same time, some state legislatures considered other ways to get voters on the rolls while keeping the voter registration lists up-to-date.

In 2012, at least two-dozen states introduced bills to allow people to register to vote and cast a ballot on Election Day. In May, Connecticut Governor Dan Malloy signed Election Day registration bill, HB 5027/Public Act No. 12-56. However, the law does not take effect in time for the 2012 presidential election.

With support from several groups, including the League of Women Voters, ACLU, Demos, and California Common Cause, California lawmakers succeeded in passing same-day registration in the state. Under the new bill, same-day voter registrants would be allowed to vote a provisional ballot. Although the law will not take effect this November, Governor Jerry Brown praised the legislature for enacting not one, but two laws to make voter registration more accessible. (California just implemented its 2011 online voter registration law in mid-September.)

“Voting—the sacred right of every citizen—should be simple and convenient,” said Brown in a statement. “While other states try to restrict voters with new laws that burden the process, California allows voters to register online—and even on Election Day.”<sup>29</sup>

Online voter registration policies continue to pick up steam with at least 12 states introducing legislation to allow citizens (who have a driver’s license or state ID and access to the Internet) to register to vote in one sitting. Hawaii enacted HB 1755 in June; however, the state is not required to implement the law until the 2016 elections.<sup>30</sup> Connecticut also adopted an online voter registration bill, HB 5024, but the system is in development and will not be available until January 2014. South Carolina adopted HB 4945/Act. 265 in June; it went into effect after the Justice Department approved the law in early October. A similar bill remains pending in New Jersey.

Same-day registration and online voter registration policies are popular ways to improve access to democracy. However, both rely on the voter to take initiative to ensure she is properly registered. In America's highly mobile society, existing voter registration laws and state voter rolls remain woefully outdated.<sup>31</sup>

Paperless registration—a process that helps streamline voter registration for voters and the state by updating the state's voter rolls through a government agency's database—was proposed in at least four states. Maryland was the only state to adopt a variation of this, allowing for electronic signatures to submit voter registration cards through a government agency (HB 173/Chapter 106).

Three more states proposed bills to expand or enforce the number of state agencies that provide voter registration services. The National Voter Registration Act or "Motor Voter" law mandates that certain government agencies, such as Medicaid offices and the Department of Motor Vehicles, provide and monitor voter registration services. California adopted a bill that will strengthen enforcement of the state's obligations under the National Voter Registration Act and expand the number of California agencies that may offer online voter registration to clients.

### *Voter Registration Agencies*

- **California - SB 35: (ENACTED)** This bill will require voter registration agencies to designate accountable officials to be responsible for voter registration in agencies and imposes data collection and reporting requirements. It also requires the California Health Benefit Exchange (established to implement health care reform) to offer online voter registration to its clients.

### *Online Voter Registration*

- **New Jersey – SB 2168: (PENDING)** This bill requires the secretary of state to establish a secure Internet Web site for online voter registration and authorizes the use of digitized signatures from the New Jersey Motor Vehicle Commission's database.

### *Election Day Registration*

- **United States Congress – HR 3317: (PENDING)** This bill amends the Help America Vote Act of 2002 to require states with a voter registration requirement to make same-day voter registration available at the polling place on Election Day or during the early voting period.

## **Youth Voter Engagement**

The surge in turnout among first-time voters in 2008, particularly young voters of color, seemed to fuel youth-oriented voter engagement policy proposals. Unfortunately, in the last two legislative sessions, the interest in pushing policies to engage young people in the democratic process has declined, at least in part due to state budget worries.

The most popular youth engagement policy in 2012 was preregistration, which allows citizens as young as 16 to "preregister" to vote in advance of reaching the legal voting age of 18. Then election officials would activate the registration when the person reaches the state's legal voting age. While legislators in five states have proposed these laws, only one bill gained traction, in Washington. Supporters of House Bill 2205 said the bill would boost youth registration rates in the state.

"This is huge because 41 percent of all voter registrations come from the DMV," said Abigail Doerr from the organization Washington Bus. "Sixteen year-olds don't go back to the DMV until they're 21, so this would provide a gateway and an opportunity for young people to automatically be systematically included into the political process."<sup>32</sup>

## Opportunities in Voting Rights

The bill was adopted by the state House, but ultimately failed in the Senate, allegedly due to budget issues. As in years past, preregistration appears to be an important policy issue for Washington youth voter advocates, lawmakers, and even one secretary of state hopeful.<sup>33</sup>

### *Preregistration*

- **New Jersey – AB 1126:** (PENDING) This bill clarifies that a 17-year-old citizen will be able to register to vote, and may vote at the next election occurring on or after the citizen's 18th birthday.

### *Poll Workers*

- **Georgia – SB 101/Act 720:** (ENACTED) This bill creates the Student Teen Election Participant program. It would allow full-time public, private, and home-schooled children to volunteer to work as “poll officers” during primary, special, or general elections. Participating students must be United States citizens, have Georgia ID, have demonstrated academic ability, and have a history “of responsible school and community behavior.”

## Restoration of Voting Rights

Disenfranchisement laws across the country block four million Americans from voting because of their criminal histories. In 2012, legislators in eight states and in Congress proposed a variety of laws—from automatic restoration to notification of voting rights upon release from incarceration—to help give these citizens their voices back. So far, these efforts are largely overlooked.

In June, Delaware celebrated a minor victory with the passage of the Hazel D. Plant Voter Restoration Act (HB 9), which is the “first leg” of a constitutional amendment to remove the five-year period that citizens must wait to have their voting rights restored after completion of sentence. To take effect, the legislature must adopt an identical measure in 2013.<sup>34</sup> “This change does not go far enough—but it is a step in the right direction,” wrote Anitra Johnson, at the ACLU of Delaware Web site.

Virginia and Kentucky are known for having two of the nation’s strictest disenfranchisement laws, but in 2012, legislators in both states introduced measures to improve the process to restore voting rights. The Kentucky House adopted a bill (HB 70) to restore the voting rights of certain citizens upon release from incarceration, but the bill failed in the Senate.<sup>35</sup> The Virginia House and Senate introduced bills to restore voting rights for nonviolent felons: only one bill, SJ 35, will carry over to the 2013 session.

“Criminal disenfranchisement laws are rooted in Jim Crow. ...Unfortunately, the impact of those laws continue today,” said Deborah Vagins, ACLU senior legislative counsel.<sup>36</sup> To reverse the substantial damage that these laws cause on the communities that are overrepresented in the criminal justice system, the ACLU, along with the Brennan Center, Project Vote, and many other civil rights groups, banded together in support of the Democracy Restoration Act, a proposal to restore voting rights in federal elections for citizens who have been released from incarceration. House and Senate companion bills are pending, but no hearings have been scheduled this year.

- **United States Congress – S 2017/HR 2212:** (PENDING) These bills would restore voting rights in federal elections to people convicted of felonies after they have been released from prison.

## Prohibiting Deceptive Practices

While the influx of new restrictive voting laws has been a focal point this election year, a few lawmakers on the state and federal level have turned some of their attention to combating the persistent problem of those who

would deceive or intimidate voters to prevent them from participating in the democratic process. One example of this is the radio commercial or “robocall” that intentionally tells voters the election is on the wrong day, or that the outcome has already been decided.

In 2012, bills were introduced in five states (CO, CT, NY, VA, WI) and in the U.S. Congress to prevent or punish voter intimidation tactics. “We thought the days of disenfranchising minority voters were over but they’re not,” testified Senator Ben Cardin before the Senate Judiciary Committee on S. 1944, the “Deceptive Practices and Voter Intimidation Prevention Act,” in June. Project Vote and other voting advocates have testified in support of this important measure, though S. 1944 and its House companion bill, HR 5815, have not gained traction.

In addition to minority voters, student voters are also a concern. In February, Congress introduced HR 3978 to protect college students from deceptive practices and broaden existing voter ID policies to include the acceptance of student identification for voting purposes.

So far, only one bill has successfully moved through a state legislature. Connecticut enacted HB 5022 to increase the maximum penalties for violating existing laws relating to influencing or intimidating voters.

### **Convenience Voting**

“Convenience voting” policies are designed to give voters more options to ensure access to the ballot. As with many forward-looking election reforms, these policy proposals have been scaled back significantly in 2012. Early voting, the most popular type of convenience voting since 2008, was eclipsed by the flurry of restrictive voting proposals and subsequent lawsuits, media coverage, and debate.

In 2012, only two states approved measures to study or expand convenience voting. Connecticut adopted a constitutional amendment (HJ 2/Public Act No. 124) to allow any eligible voter to vote by absentee ballot, and Utah will study voting by mail in the state under HB 172. As noted earlier, federal legislation encompassing a broad array of reforms was introduced in 2012 as HR 5799/S 3608.

## **Conclusion**

Too often in recent years, the voters’ rights to the franchise have been taken political hostage by laws that erect barriers to democracy. The 2012 legislative session was no different. In this important election year, the national debate over restrictive voter ID laws dominated public attention, while lawmakers pushed new bills to intercept the rights of citizens before they can even vote—at registration.

Despite these significant setbacks, the rising consciousness among the public and the press of the centrality of voting rights has fueled the fight against these regressive laws through lawsuits, repeals, and new affirmative legislation. In 2013 and beyond, we hope to see more lawmakers and election officials focus on making sure all eligible Americans can register, vote, and cast ballots that count.

# Notes

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## Appendix I: Election Legislation Threats

### U.S. Congress

#### Photo ID

Status: PENDING

HR 5971: Requires voters to show government-issued photo identification to vote in federal elections.

### California

#### Voter Registration Drives

Status: VETOED

AB 145: Prohibits paying voter registration drive employees on a per-affidavit basis.

#### Voter Registration Drives

Status: VETO SUSTAINED

SB 205: Prohibits paying voter registration drive employees on a per-affidavit basis.

### Maine

#### Voter Registration Drives

Status: ENACTED

LD 1664: Establishes a deadline for community-based voter registration drives to submit voter registration applications 21 days before Election Day.

### Michigan

#### Voter Registration Drives

Status: VETOED

SP 754: Requires voter registrants to present photo ID to register to vote at a Department of State office and enforces various restrictions on voter registration drives.

#### Proof of Citizenship

Status: PENDING

SB 1219: Requires a voter to affirm citizenship on Election Day in order to receive a ballot.

### Mississippi

#### Voter ID

Status: ENACTED/PENDING FEDERAL APPROVAL

HB 921: Implements voter ID law, as approved by voters in 2011.

### New Hampshire

#### Voter ID

Status: ENACTED

SB 289/Chapter 0284 I. Section 7-13: Requires voters to show valid photo identification to vote in person or complete an affidavit and respond to identity-verification letter; provides vouchers for non-driver's photo ID.

### Pennsylvania

#### Voter ID

Status: ENACTED

HB 934/Act No. 18: Requires voters to show valid photo identification to vote in person.

### South Dakota

#### Felon Disenfranchisement

Status: ENACTED

HB 1274: Revokes voting rights of all people convicted of a felony, including probationers.

### Tennessee

#### Early Voting Restrictions

Status: ENACTED

SB 923/Public Act 381: Reduces early voting by two days during presidential primary elections.

### Wisconsin

#### Youth Voter Registration Restrictions

Status: ENACTED

SB 386: Removes public high schools from serving as locations for eligible students and staff to register to vote.

## Appendix II: Election Legislation Opportunities

### United States Congress

#### Reverse Photo ID

Status: PENDING

HR 3316: Prohibits photo identification requirements.

#### Election Day Registration

Status: PENDING

HR 3317: Requires states with a voter registration requirement to make same-day voter registration available at the polling place on Election Day or during the early voting period.

#### Deceptive Practices and Expanded Photo ID

Status: PENDING

HR 3978: Prohibits the dissemination of false information for the purpose of discouraging a student of an institution of higher education from registering to vote or voting in an election for federal office. Requires photo ID states to accept student ID.

#### Voter ID at No Cost

Status: PENDING

HR 4126: Requires voter registration agencies in voter ID states to provide ID for the purpose of voting at no cost.

#### Omnibus

Status: PENDING

HR 5799/S 3508: Modernizes voter registration, promotes access to voting for individuals with disabilities, and protects the ability of individuals to exercise the right to vote in elections for federal office.

#### Deceptive Practices

Status: PENDING

SB 1994/HR 5815: Prohibits anyone from knowingly communicating misinformation to voters within 90 days before an election for the purpose of deterring, hindering, or preventing another purpose from exercising the right to vote.

#### Restoration of Voting Rights

Status: PENDING

S 2017 and HR 2212: Restore voting rights in federal elections to people who have been convicted of felonies.

### California

#### Voter Registration Agency

Status: ENACTED

SB 35: This bill would require voter registration agencies to perform specified tasks related to voter registration.

#### Election Day Registration

Status: ENACTED

AB 1436: Establishes "conditional voter registration."

### Connecticut

#### No-Excuse Absentee Voting

Status: ENACTED

HJ 2/Public Act No. 124: Amendment to the state constitution to allow voters to cast absentee ballots without an excuse.

#### Online Voter Registration

Status: ENACTED

HB 5024: Allows voters to register to vote online.

#### Election Day Registration

Status: ENACTED

HB 5027/Public Act No. 12-56: Allows eligible citizens to register and vote on Election Day at a location designated by the registrars of voters.

### Delaware

#### Restoration of Voting Rights

Status: ENACTED

HB 9: First leg of a constitutional amendment process to eliminate five-year waiting period to restore voting rights. Will not take effect unless similar bill passes in 2013.

### Georgia

#### Student Poll Workers

Status: ENACTED

SB 101/Act 720: Creates the Student Teen Election Participant program.

### Hawaii

#### Online Voter Registration

Status: ENACTED

HB 1755: Provides for online voter registration in Hawaii.

## Appendix II: Election Legislation Opportunities

### Maryland

#### Paperless Registration

Status: ENACTED

HB 173/Chapter 106: Allows applicants to register to vote at a voter registration agency using an electronic copy of her signature.

### New Jersey

#### Online Voter Registration

Status: PENDING

SB 2168: Requires secretary of state to establish a secure Internet Web site for online voter registration.

#### Preregistration

Status: PENDING

AB 1126: Clarifies that a 17-year-old citizen will be able to register to vote, and may vote at the next election occurring on or after the citizen's 18th birthday.

### South Carolina

#### Online Voter Registration

Status: ENACTED

HB 4945/Act. 265: Allows citizens to register electronically on the State Election Commission Web site.

### Virginia

#### Restoration of Voting Rights

Status: PENDING CARRYOVER

SJ 35: Authorizes the General Assembly to provide by law for the restoration of civil rights for people convicted of nonviolent felonies who have completed all terms of their sentences. Retains the right of the governor to restore civil rights.

## Appendix III:

### Partisan Composition of the Legislatures and Governor's Offices

#### *Democratic Legislature and Governor*

Arkansas  
California  
Connecticut  
Delaware  
Hawaii  
Illinois  
Maryland  
Massachusetts  
Vermont  
Washington  
West Virginia

#### *Republican Legislature and Governor*

Alabama  
Arizona  
Florida  
Georgia  
Idaho  
Indiana  
Kansas  
Louisiana  
Michigan  
Maine  
North Dakota  
Ohio  
Oklahoma  
Pennsylvania  
South Carolina  
South Dakota  
Tennessee  
Texas  
Utah  
Virginia  
Wyoming

#### *Republican Legislature and Democratic Governor*

Minnesota  
Montana  
Missouri  
North Carolina

#### *Divided Legislature, Democratic Governor*

Colorado  
Kentucky  
New Hampshire  
New York  
Oregon

#### *Divided Legislature, Republican Governor*

Alaska  
Iowa  
Mississippi  
Wisconsin

#### *Democratic Legislature, Republican Governor*

Nevada  
New Jersey  
New Mexico

#### *Unicameral Legislature and Republican Governor*

Nebraska

#### *Democratic Legislature, Independent Governor*

Rhode Island

## Appendix IV: State Election Chiefs

### *Republican Secretaries of State*

Alabama: Beth Chapman  
Arizona: Ken Bennett  
Arkansas: Mark Martin  
Colorado: Scott Gessler  
Florida: Kurt Browning  
Georgia: Brian Kemp  
Idaho: Ben Yursa  
Indiana: Charlie White  
Iowa: Matt Schulz  
Kansas: Kris Kobach  
Louisiana: Tom Schedler  
Maine: Charlie E. Summers  
Michigan: Ruth Johnson  
Mississippi: Delbert Hosemann  
Nebraska: John Gale  
New Jersey: Kim Guadagno  
New Mexico: Dianna Duran  
North Dakota: Alvin "Al" Jaeger  
Ohio: Jon Husted  
Oklahoma: Glenn Coffee  
South Carolina: Mark Hammond  
South Dakota: Jason Gant  
Tennessee: Tre Hargett  
Texas: Esperanza "Hope" Andrade  
Washington: Sam Reed  
Wyoming: Max Maxfield

### *Democratic Secretaries of State*

California: Debra Bowen  
Connecticut: Denise Merrill  
Kentucky: Alison Lundergan Grimes  
Massachusetts: William Galvin  
Minnesota: Mark Ritchie  
Missouri: Robin Carnahan  
Montana: Linda McCulloch  
Nevada: Ross Miller  
Oregon: Kate Brown  
Rhode Island: A. Ralph Mollis  
Vermont: Jim Condos  
West Virginia: Natalie Tennant  
Wisconsin: Douglas La Follete

### *Miscellaneous*

Alaska: Gail Fenumiai, Director, Division of Election  
Delaware: Commissioner of Elections, Department  
of Elections  
Hawaii: Scott Nago, Chief Election Officer, Office of  
Elections  
Illinois: William McGuffage, chairman, State Board of  
Elections  
Maryland: Robert L. Walker, chairman, State Board  
of Elections  
New Hampshire: Michael A. Delaney, Attorney  
General  
New York: Todd Valentine and Robert Brehm, Co-  
Directors, State Board of Elections  
North Carolina: Gary Bartlett, Director, State Board  
of Elections  
Pennsylvania: Carol Aichele, Secretary of the  
Commonwealth  
Utah: Greg Bell, Lt. Governor  
Virginia: Janet Polarek, Secretary of the  
Commonwealth

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.

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