

By Bev Harris, Founder of Blackboxvoting.org

Section 2 in the proposed new RIGHT TO VOTE U.S. Constitutional amendment switches election controls from state to feds. And it's a lot easier to tilt controls when they are centralized.

Especially this year, I have become wary of how news media portrays proposed legislation, as compared with what is actually in the legislation. So when I saw U.S. Rep. Mark Pocan's proposed Constitutional amendment portrayed simply as a national right to vote bill, I wondered what else was in it. I'm not saying it isn't well intended, but ...

While Section 1 states a right to vote, Section 2 puts the federal government in position to dictate anything it wants to control local and state elections. And that's a problem, because it alters balance of power. All it will take is a one-vote majority by the party you loathe -- whichever party, not the point -- to wrest control over election systems in all 50 states at once. In other words, the proposed Amendment sounds nice, but because of its Section 2, it is destabilizing.

Here is the proposed amendment in its entirety:

* * *

SECTION 1. *Every citizen of the United States, who is of legal voting age, shall have the fundamental right to vote in any public election held in the jurisdiction in which the citizen resides.*

SECTION 2. *Congress shall have the power to enforce and implement this article by appropriate legislation.*

* * *

The crux of the matter is the ensuing legislation. Whichever party controls Congress writes its own ticket on that. As I see it, and please show me where I'm wrong on this, the proposed Amendment drops just the one shoe while making sure the other shoe is ready to go. That other shoe is followup legislation with specific interpretations of exactly what will "enforce and implement" the newly specified "right to vote."

By defining whatever measure as protective of the new "right to vote," any aspect of any local election could be made subject to federal control. And any piece of future, partisan legislation can turn into a massive federal One-Bill-to-Rule-Them-All.

As we have seen with the mammoth Help America Vote Act of 2002 (HAVA), fat bills with hidden problems are the easiest place to hide special interest items, as lobbyist Jack Abramoff admitted while trying to ram his own agenda through HAVA.

By amending the Constitution to authorize the U.S. Congress to legislate any kind of election reform it deems "necessary" to protect right to vote, the next thing we will see is partisan, political, complex, pork-laden legislation rammed through. We'll be lucky if one clause in 50 pages actually addresses "right to vote."

Nothing in the amendment limits the ensuing legislation to address ONLY right to vote issues. We can expect to see legislation as dense and thick as a Russian novel, incorporating all kinds of poorly understood (but vendor-friendly) shiny new things.

Internet voting? Um, let's see here... It will protect right to vote by making it "convenient." Paraphrasing Victoria Collier, "Convenience voting is used to justify every kind of voting system that doesn't provide for public authentication and chain of custody." (Nothing in the proposed constitutional amendment says anything about transparency.)

Draconian forms of Voter ID? It will "protect" right to vote by making sure no one else is voting for you.

See what I mean? Anyone can define anything and frame it as protecting right to vote. Whichever party holds the reins drives the horse, and instead of our current state-by-state gamesmanship, it will be the one-stop-shopping national Walmart of all election reform shops, managed by whichever party is in control at the moment.

Nothing in the bill limits ensuing legislation to federal elections. The language says: "All public elections."

I quibble with the term "public elections," by the way. What we have in America are NOT "public" elections. In a "public" election the public would be able to ascertain whether claimed results are true. A public election must have not only public voting, but public accountability.

In truth, the U.S. Constitution and the Declaration of Independence on which the Constitution is based ALREADY require that representatives be "chosen by the people" and that the public hold sovereignty over its government. This amendment, in effect, changes the governmental structure laid out by the founders, by authorizing the U.S. Congress to pass any future legislation its prevailing party wants, directing states and local governments on how to conduct their LOCAL elections, and they would be able to get as specific and partisan as they choose.

Explain to me why I'm wrong about this.

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