



LEAGUE OF WOMEN VOTERS®
OF THE UNITED STATES

President
Elisabeth MacNamara
Atlanta, Georgia

Vice Presidents
Janis McMillen
Overland Park, Kansas

Mary T. Klenz
Charlotte, North Carolina

Secretary-Treasurer
Patricia L. Donath
Lansing, Michigan

Directors
Peggy Appler
Charleston, South Carolina

Carolyn V Brown
Douglas, Alaska

Toni E. Larson
Denver, Colorado

Karen Nicholson
Midland, Texas

Anne B. Schink
South Portland, Maine

Norman Turrill
Portland, Oregon

Linda P. Wassenich
Dallas, Texas

Susan Morris Wilson
Redding, California

Executive Director
Nancy E. Tate

STATEMENT BY
ELISABETH MACNAMARA, PRESIDENT
LEAGUE OF WOMEN VOTERS OF THE UNITED STATES
FOR THE
SENATE COMMITTEE ON THE JUDICIARY
ON
THE *CITIZENS UNITED* COURT AND THE CONTINUING
IMPORTANCE OF THE VOTING RIGHTS ACT

Wednesday, September 12, 2012

Mr. Chairman, my name is Elisabeth MacNamara and I am president of the League of Women Voters of the United States. We have over 140,000 members and supporters nationwide, with Leagues in all 50 states and in 800 communities across the country.

The League has been fighting for equal access to the polls since our inception 92 years ago, when our organization was formed by those who successfully fought to gain the right to vote for women. Across the country, we register voters, provide educational non-partisan voter guides, hold candidate debates and do all we can to make democracy work. In addition, the League has been a leader in seeking campaign finance reform at the state, local, and federal levels for more than three decades.

Mr. Chairman, members of the Committee, the United States of America is the greatest country on earth. One of the things that makes our country great is that every citizen is included in our democracy. Voters make the decisions in our system of government and it is through voting that we, the people, control our country and control our own destinies.

Today, however, we are facing two very significant challenges to our representative system of government and to the role of individual citizens in our democracy. We are experiencing an unprecedented attack on voting rights and we are seeing an explosion of special interest money in our elections.

Follow us on [Facebook](https://www.facebook.com/leagueofwomensvoters) - [facebook.com/leagueofwomensvoters](https://www.facebook.com/leagueofwomensvoters)
and [Twitter](https://twitter.com/LWV) - @LWV

1730 M STREET, NW, SUITE 1000, WASHINGTON, DC 20036-4508
202-429-1965 - Fax 202-429-4343
<http://www.lwv.org> - email lwv@lwv.org

With the Supreme Court decision in *Citizens United*, corporations, unions, lobbyists and special interests can now spend millions of dollars to get the elected officials they want into power, and can do so in complete secrecy. The result is that the voices of real people are being drowned out. This growing influence of money in politics threatens to corrupt our representative form of government, where the people -- through their votes -- are supposed to make the decisions.

With *Citizens United*, we seem to be headed toward recognizing only the most explicit forms of corruption -- where a candidate agrees with a donor to vote a certain way when elected -- to justify limits on big-money in campaigns. But special interests that seek and receive special access, special consideration and special treatment once the candidate is elected to office also corrupt our politics and distort the democratic process where the voter is meant to come first. This is a significant threat to our democracy and the League urges this committee to look carefully at steps the Congress can take to roll back this disturbing trend and put the voters back in control.

On the voting rights front, an assault on voters is sweeping across the country, state by state. This is one of the greatest self-inflicted threats to our democracy -- our way of governing -- in our lifetimes. These new laws threaten to silence the voices of those least heard and rarely listened to in this country -- the elderly, the poor, racial and ethnic minorities, the young and the differently abled, and even our veterans. These new laws and practices require restrictive forms of photo ID and/or proof of citizenship in order to vote, they restrict independent voter registration drives, decrease early voting, wrongfully purge eligible voters and eliminate Election Day registration. And they create confusion for voters and poll workers alike.

The League of Women Voters opposes these laws and practices because:

- They threaten the voting rights of millions of eligible voters.
- They cost millions of dollars to implement.
- There is no evidence that there is a need for such draconian measures.

Since 2011 we have seen a huge increase in the number of new voter suppression laws enacted at the state level:

- Nine states (AL, KS, MS, PA, RI, SC, TN, TX and WI) have passed new restrictive photo ID laws.
- Three states (AL, KS and TN) passed laws requiring documentary proof of citizenship as a prerequisite to voting.
- Four states (FL, IL, TX and WI) have made it more difficult for groups like the League of Women Voters to register voters.
- Five states (FL, GA, OH, TN and WV) have passed legislation that would eliminate or shorten the period of early voting.

These laws have added new bricks to the wall of obstacles some face on their way to the ballot box. They are confusing, time-consuming and cost-prohibitive for many citizens, including some who have been exercising their legal right to vote for decades and are now unsure if they can “jump high enough” to get to the ballot box.

A study by the Brennan Center for Justice entitled *"Voting Law Changes in 2012"* shows that as many as five million eligible voters could be disenfranchised by new laws passed in the states.

What is especially disappointing is that politicians too often are imposing these restrictions on voting rights in order to manipulate the electorate for their own political gain. This is wrong. This is the real threat to the integrity of our elections.

These accelerating threats to the exercise of a citizen's right to vote go against fundamental American values because so much of American history is the story of voting rights. The colonists rebelled because Britain governed without the consent of the governed and this great country was started on the premise and the promise that “all men are created equal, endowed by their Creator with certain unalienable rights.” With the first expansion westward, property requirements for voting were abandoned. We fought a bloody civil war in order to recognize African Americans as citizens and amended the Constitution to ensure voting rights for all men, black and white. After more than seventy years of struggle, the 19th Amendment was ratified, giving women the right to vote. The 24th Amendment abolished the poll tax and the 26st Amendment extended voting rights to citizens 18 years of age or older.

The Civil Rights Movement of the 1950s and 1960s transformed American society in many ways, and voting rights was a core value and essential goal of that movement. With the Voting Rights Act of 1965, the promise of the 15th Amendment is now being enforced. Once, only white male property owners could vote -- now every American citizen over the age of 18 has the right to vote. The right to vote is inscribed in our DNA as Americans and included throughout our Constitution, which, after all, was established by “We, the people.”

American exceptionalism is defined by voting rights and the assault on voting rights that we see around the country is unacceptable. After generations of progress towards the most open and accessible voting system in the world, symbolized by the Voting Rights Act, the National Voter Registration Act and the Help America Vote Act, we see states cutting back on early voting hours which have made voting accessible to millions of hardworking American voters; states are restricting independent voter registration drives that make registration accessible to eligible citizens at times and places convenient to them; in the guise of preventing virtually non-existent voter impersonation fraud, voters are being required, in many states, to travel long distances at inconvenient times to obtain specific forms of government-issued photo ID that is otherwise unnecessary in their daily lives.

And if that were not enough, states are purging voters from voter rolls in the months before elections using inaccurate and faulty information and systems that are far more likely to disenfranchise properly registered voters than to correct errors. The result? An election system

where politicians have manipulated the system for their own political gain and restrictive laws that undermine the integrity of our elections by keeping eligible voters from casting their ballots.

Some even seek to justify restrictions on voting rights, arguing that only those who pay taxes should vote, or that “educated” voters should make the decisions in our democracy. Others have gone so far as to suggest that the Voting Rights Act is somehow unconstitutional. Well, in America, any person can believe anything they wish. But, we in the League of Women Voters hope and believe that these arguments have been settled, and that the right to vote of every American, unburdened by a poll tax, a literacy test, or a restrictive ID requirement, will be protected. We must not turn back the clock on the gains that help make America the greatest democracy on earth and the envy of the world.

The League of Women Voters and many of our sister organizations have been fighting these attempts to cut back on voting rights, and we have actively opposed voter suppression legislation in more than 20 states. We have battled in state legislatures, we have urged governors to veto bad laws, and we have challenged restrictions on voting in state and federal courts. In the courts, we have relied on the federal Constitution and state constitutions, and we have pointed to the requirements of the Voting Rights Act and the National Voter Registration Act. We have won many of these fights, and several are still unresolved. But the politicians that seek to restrict voting rights for their own political gain have won some as well.

Mr. Chairman, it would be difficult to exaggerate the importance of the judiciary in protecting our voting rights. We have won many legislative battles, but the courts are where we must turn when fundamental rights are at stake. Both federal courts and state courts have invalidated voter suppression laws (AZ, FL, WI, TX) and the Department of Justice has cautiously applied the Voting Rights Act in challenging illegal schemes, pre-clearing less-restrictive photo ID requirements (NH, VA) while blocking the most restrictive (SC, TX).

One of the most wide-spread challenges we face is the imposition of restrictive photo ID requirements on eligible voters. In public, proponents of ID requirements say they are needed to protect the integrity of our elections and that if even one ineligible person votes it is a threat. In actuality, however, there is remarkably little evidence of voter-impersonation fraud, which an ID requirement might block. The greater threat to the integrity of our elections is that restrictive requirements block eligible voters from voting. And there is clear evidence of that problem.

One example comes from Tennessee where Ms. Virginia Lasater, 91 years old, had voted and worked on campaigns for the past 70 years, but when she went to the Tennessee department of motor vehicles to get a photo ID so she could continue to exercise her right to vote, she saw a line of 100 people in front of her, no place to sit, and no assistance from the state workers to accommodate her needs (even after asking for help). She was physically unable to wait that long in line without sitting down and thus, left with no other options; she departed without getting her photo ID.

Women in general and elderly women in particular are being disproportionately harmed by the new laws. In some instances citizens who have been voting for decades are being required to obtain birth certificates (which some elderly people do not have since they were born at home) and their wedding certificates in order to prove who they are and what is their legal name. In some states they are faced with a catch 22 – you must have a photo ID in order to obtain a birth certificate and you can't get a birth certificate without a photo ID. In most cases there are costs associated with getting a birth certificate and marriage license. This becomes more complicated if you were born or married in a state in which you are not currently living. Birth certificates cost between \$7 and \$30 dollars, depending on the state, and can take up to eight weeks to obtain.

An example of this conundrum is 96-year-old Dorothy Cooper from Chattanooga, Tennessee. She was born before women had the right to vote in the U.S. Armed with a plethora of documents including a rent receipt, a copy of her lease, her voter registration card and her birth certificate, Ms. Cooper attempted to obtain a photo ID. However, her birth certificate had her maiden name on it and thus the clerk denied her request for a photo ID. Ms. Cooper, an African American, later stated on MSNBC that she didn't have any problems voting under the Jim Crow laws.

In Wisconsin, a memo from top Department of Transportation officials came to light showing that although the state will provide photo IDs for free, the individual must specifically ask for the free ID or they will be charged, thus creating yet another barrier for low income individuals.

These new laws do not only target the elderly but young people as well. For example, South Carolina and Texas do not accept student photo IDs issued by state-run universities as valid photo IDs at the polls. It is interesting to note, however, that in Texas they will accept a concealed carry permit for a firearm.

A non-legislative attack on student voting occurred in Maine. The Secretary of State targeted legally registered voters by sending them threatening letters which appeared to be constructed in a way that would dissuade the students from exercising their right to vote. After conducting an investigation that found no instance of illegal voting or registration, the Secretary of State sent a letter to 191 college students warning them that they may be violating Maine's motor vehicle and election laws by not having their vehicle registered in the state of Maine and/or having a Maine driver's license. He attached a form to the letter which would allow the students to cancel their voter registration in Maine. He did not include any forms to register their vehicles or apply for a driver's license.

Even our veterans have not escaped from restrictive photo ID requirements. In Ohio, a veteran was blocked from voting even though he presented his valid ID from the Department of Veterans Affairs. Paul Carroll, a retired World War II veteran who has lived in the same Ohio town for four decades, was denied a chance to vote in the state's primary contests after a poll worker denied his form of identification, a recently-acquired photo ID from the Department of Veterans Affairs. The poll worker rejected the ID because it did not contain an address.

Carroll told the Cleveland Plain Dealer that he got the ID after his driver's license expired because he doesn't drive anymore:

"My beef is that I had to pay a driver to take me up there because I don't walk so well and have to use this cane and now I can't even vote," said Paul Carroll, 86, who has lived in Aurora nearly 40 years, running his own business, Carroll Tire, until 1975.

"I had to stop driving, but I got the photo ID from the Veterans Affairs instead, just a month or so ago. You would think that would count for something. I went to war for this country, but now I can't vote in this country."

And from Wisconsin, Ricky Lewis, an honorably discharged veteran, tells his story as part of the litigation against that state's restrictive photo ID requirement:

"I have tried, and tried to get a photo ID so I can vote. I showed them all kinds of ID. I showed them photo IDs – one from the V.A. and one from Milwaukee County. I also showed them my discharge papers from the Marines. They said it wasn't enough because I didn't have a birth certificate. So I wrote a letter to Madison and the vital records office, and sent them a check for \$20. They sent me back a birth certificate. But guess what. It had the wrong name. They said if you want to get your birth certificate corrected, you have to file a lawsuit in circuit court.

The brief in that case continues:

Ricky T. Lewis is a registered Wisconsin voter who has voted in previous elections and intends to vote in 2012. He was honorably discharged from the U.S. Marine Corps and his sole source of income is a monthly veteran's pension of \$1,021. In the summer of 2011, Mr. Lewis became aware that he would need a WisDOT photo ID to vote, so he went to a DMV office to apply for one, both for voting and for other purposes, such as check cashing. To prove his identity and residence, Mr. Lewis presented to the DMV clerks his Department of Veterans Affairs (VA) photo ID, a Milwaukee County photo ID, his Marine Corps DD-214 military service record, and a Wisconsin Energies gas bill. However, the DMV clerks denied him a WisDOT Photo ID because he did not produce a Social Security card and a birth certificate. (Ex. 23, Lewis Dep. Tr. 5-6, 8, 10-11; Lewis Aff. ¶¶1, 2, 4) 34. In the summer of 2011, Mr. Lewis sent \$20 to the State Registrar for a certified copy of his birth certificate, but on November 14, 2011, Mr. Lewis received a letter informing him that there was no record of his birth as Ricky Lewis, but there is a birth certificate for "Tyrone DeBerry." Tyrone is Mr. Lewis's middle name, and DeBerry was his mother's maiden name. The State informed Mr. Lewis that he could file a petition in circuit court for an order to amend the birth certificate and then submit a certified copy of the court order to the State Registrar to correct the birth certificate. As

of April 13, 2012, Mr. Lewis had not obtained a birth certificate or a WisDOT photo ID, and had spent 10 to 15 hours in his efforts to obtain them. He considers the fees and court costs involved excessively burdensome for obtaining a proper birth certificate to exercise his right to vote. (Ex. 23, Lewis Dep. Tr. 5, 13-14; Lewis Aff. ¶¶7, 9)

New photo ID requirements potentially disenfranchise millions of registered voters due to disability, age, illness, transportation, accessibility of necessary underlying documentation, or financial issues. As many as 11 percent of United States citizens, more than 21 million individuals, do not have government-issued photo identification, according to the Brennan Center study. The increased burden will be greatest for citizens for whom the financial cost is prohibitive or who are not able to take off from work, get transportation, or stand in line to apply for documentation. Often these individuals don't have the underlying documentation that is needed to get an ID. Thus, these requirements, whether by design or happenstance, disenfranchise the very people who currently must work the hardest to vote.

While the League worries most about those who will be disenfranchised by these new restrictive laws, we are also concerned about the fiscal impact of these new government programs on the cash-strapped states. Photo ID requirements are a prime example of wasteful use of taxpayers' money. For example, new voter ID laws in Missouri and South Carolina could cost their citizens \$6 million and \$1.3 million respectively, in the first year of implementation alone.

At a time when states are in the midst of an ongoing fiscal crisis, it seems irresponsible to use taxpayer's money to address an issue that doesn't exist – voter impersonation at the polls. Our state governments should be in the business of making it easier for citizens to vote, not adding costly restrictions and hassles that will negatively impact voter turnout.

In several states the League of Women Voters is involved in lawsuits attempting to overturn restrictive photo ID laws. LWV South Carolina and LWV Texas have intervened in the Section Five pre-clearance cases under the Voting Rights Act. The Leagues in Wisconsin and Pennsylvania are involved state challenges.

Every one of these cases has two simple truths that have been illuminated in the courts.

1. Not one state has produced any evidence of anyone impersonating someone else at the poll.
2. Court evidence does show hundreds of thousands of current registered voters do NOT have the required ID needed to vote and are at risk of being disenfranchised.

Let's take a closer look at each state.

- In Wisconsin, the court documents show that as many as 9.3% or over 301,000 do not have a driver's license or state ID.

- In Pennsylvania, the State Transportation Department estimates that three quarters of a million registered voters do not have a required photo ID.
- In Texas, an expert witness stated research showed as many as two million voters could be disenfranchised if the photo ID law were to go into effect. The State could not show even one instance of voter impersonation at the polls.
- In South Carolina, elections officials say 217,000 registered voters do not have the required ID needed to vote and again not one instance of voter impersonation was found.

Of course proponents will say that these registered voters can obtain a free photo ID from the state. In reality voters may need to pay for underlying documents (a birth certificate and/or marriage license) in order to obtain the state ID. The Brennan Center for Justice came out with a report this month on the Challenges of Obtaining a Voter ID.

Take the example of 86-year-old Darwin Spinks, who served in World War II and Korea, and had to pay for a "free" Tennessee voting ID. Under the Tennessee law, any resident without a photo ID is supposed to get one free of charge, presumably to ensure that the photo ID requirement is not challenged as a poll tax. When Spinks went to get a photo ID for voting purposes, he was sent from one line to another and then told he had to pay an \$8 fee, in addition to the fees he had already paid to renew his driver's license.

In addition to voter suppression from restrictive photo ID requirements, we are also seeing an assault on another front – independent voter registration drives. Just three years ago, the League of Women Voters of Florida, along with other groups, won a lawsuit to overturn an unfair law aimed at penalizing citizens who participate in voter registration drives, including the League's own members. But then last year the Florida legislature passed another new registration suppression law that required volunteers to go down to local Supervisors' offices, register by providing detailed personal information, take an oath *and be held personally and financially liable if they do not deliver* the completed forms back to the Supervisor within 48 hours. Fines were to be levied up to \$1,000 per person.

The League could not ask volunteers to take on this significant financial risk if they were late in returning registration forms. Through this law, Florida's politicians took aim at voters and the legions of volunteers who have over decades volunteered their time to register new voters, in the belief that active and informed citizens strengthen our democracy. This law brings back Jim Crow-style tactics to intimidate Florida voters and volunteers who believe in the democratic process. The League of Women Voters of Florida suspended their voter registration drives in the state because of the financial risks associated with the new law. And they sued.

Organizations such as the League are crucial to assuring that voter registration is available to EVERY voter, but the facts also show conclusively that we are key to assuring that minority voters have access to registration. In 2004, approximately 8.5 percent of registrants had been

registered by the efforts of independent organizations, according to the Bureau of the Census. The data also make clear who is impacted by restrictions on independent voter registration efforts. In 2004, 15 percent of African-American and Hispanic registrants had been registered to vote as a result of an organized drive – a rate much higher than the 8.9 percent rate for Whites.

The Florida League's suit was just recently decided, and they succeeded in overturning the restrictions on voter registration activity because they violate the federal Constitution and the National Voter Registration Act. And the Florida League has restarted its voter registration programs. That is the good news. The bad news is that the restrictions were in place for 11 months, so many eligible citizens did not have an opportunity to register to vote and it will take some time to reach out and make up for the lost time.

A third tactic being implemented to suppress voting comes in the form of cutting back early voting period. Thus far, we have seen this in five states (FL, GA, OH, TN and WV).

Early voting has become very popular in the United States. In 2010 over 19 million citizens utilized early voting in their states. Now, Florida and Ohio have specifically targeted their cutback on early voting on Sundays. The greatest impact of this step may be on people of color and Hispanics who tend to vote in proportionately larger numbers on Sundays. Florida has eliminated early voting on the last Sunday before an election and Ohio has eliminated early voting on any Sunday. According to the Brennan Center, "in the 2008 general election in Florida, 33.2 percent of those who voted early on the last Sunday before Election Day were African American and 23.6 percent were Hispanic, whereas African Americans constituted just 13.4 percent of all early voters for all early voting days, and Hispanics just 11.6 percent."

Both the Florida and Ohio restrictions on early voting were challenged in court and are unresolved at this point, though there will not be voting in Florida on the Sunday before Election Day.

Last-minute purging by elections officials also risks the voting rights of eligible voters. So often these late voter removal programs are based on inaccurate information. Just last month, the Colorado Secretary of State sent letters to nearly 4,000 people questioning their citizenship as part of a plan to have them voluntarily withdraw or confirm their eligibility to vote. Apparently the names were selected by comparing DMV records with the voter registration records. Now we find out that state officials were able to run 1,400 of those names through a federal immigration database and found that more than 1,200 were U.S. citizens. Verification of the remaining names is still pending, but so far, the search hasn't turned up non-citizens registered to vote.

Recently, the state of Florida created a list of tens of thousands of voters to purge from the rolls. It was so inaccurate even the state itself admitted it was unreliable when challenged in federal court. Within weeks of rolling out that program, 500 voters confirmed their citizenship, including Bill Internicola, a 91-year-old World War II veteran who was born in Brooklyn.

Even in states where voting rights proponents have succeeded in fighting back against voter suppression measures, there is a significant problem that remains: voter confusion. In the current environment, there is a real risk that voters will be disenfranchised – either intentionally or inadvertently – due to confusion over procedural changes – especially last-minute changes.

While the League of Women Voters of Ohio and coalition partners have been able to fend off many restrictions in that state so far, significant damage has been done. The constant tug-of-war, continually changing the rules in the midst of a major election cycle, has resulted in a great deal of confusion amongst voters, poll workers, and elections officials as to exactly what the rules are this cycle.

The Ohio League believes the highest risks involve confusion over whether voter ID requirements have changed (they have not), applications and time periods for early and absentee voting (some changes have occurred while others are on hold due to challenges), and maintenance of voter registration rolls (also the subject of both legislative and administrative changes).

In summary, Mr. Chairman, we are seeing a wide-ranging challenge to voting rights in this country. The League of Women Voters calls on state legislatures to repeal and reject the whole range of voter suppression measures and on chief elections officials in the states to protect the right to vote rather than threaten it. These voter suppression measures are costly, unnecessary and undemocratic. If the states are unable or unwilling to protect the rights of every eligible citizen to vote, the federal government must step in to ensure these rights are protected.

- We call on this committee and Congress to support and encourage the Department of Justice in enforcing our voter-protection laws, especially the Voting Rights Act, but also the National Voter Registration Act and the Help America Vote Act. It is a sad fact that this enforcement is needed now more than it has in decades.
- We ask that you continue to conduct investigations into the real-life impact voter suppression laws and practices have on citizens and their right to vote.
- We ask you to closely and carefully examine the commitment to voting rights of any nominees to the federal judiciary when they come before the committee.
- We ask you to consider legislation to protect and enhance the voting rights of every eligible American.
- We ask for your support in our ongoing efforts to fight back voter suppression legislation and to repeal existing voter suppression laws in the states.

The right to vote and have your vote counted is the very foundation of our democracy and today it is under attack. We must work together to repeal these unjust and prejudicial laws and

implement new laws that will lower the barriers to voting and ensure that every eligible citizen will have the ability to vote and have their votes counted.

Our message, Mr. Chairman, was simply put by President Lincoln during the Civil War. The United States must be a government “of the people, by the people, and for the people.” Restrictions on the right to vote limit the role of citizens in our democracy and are simply unacceptable. So too are the decisions that have turned special interests loose to dominate our elections and distort our democracy. We have a lot of work ahead.

Thank you.