

Worse Than Last **by Dan Jacoby**

The federal Justice Department is suing the state of New York.

It's actually not a huge deal in government terms; if we lose, it will cost us \$49 million. Things could be worse, however, when you consider what some other states have done to avoid a similar lawsuit.

The suit is over failure to implement the "Help America Vote Act" (HAVA) in time to qualify for this money. Specifically, New York is required to replace its lever-style voting machines with a system that is accessible for people with certain disabilities or language requirements. Other states are also required to replace their current voting systems with something new as well, and of the entire country, every other state has made more progress than New York. We are in last place.

There is essentially one reason for New York to be in last place; as the Brennan Center for Justice at NYU reports, "New York's legislative process is broken." (*The New York State Legislative Process: An Evaluation and Blueprint for Reform*) Our state legislature spent three years doing nothing about HAVA before deciding, on the last possible day, to pass the buck. Now, the counties have the responsibility for implementing HAVA, but first they have to wait for ... oh, never mind. The point is, nothing tangible has been done, and the clock is about to run out.

Sort of.

The clock will run out on the \$49 million in federal funds we would get to buy the new voting systems. But the true cost of the new systems will end up being far greater than what we could get from the federal government. Meanwhile, other states that took swift action, and spent a lot of their own money in addition to the federal funds, are regretting their decisions.

North Carolina bought computerized, "DRE" machines, and the result was chaos. In one county alone, 4,400 votes were lost, and the 2004 election had to be run all over again. In Miami-Dade county, Florida, after spending almost \$25 million on DREs, they have had so many election problems that they may scrap those machines as well. California's on-again, off-again affair with Diebold's DREs and the software to run them is a farce. Georgia and Maryland have had statewide troubles with their DREs as well.

By contrast, states and localities that have implemented paper ballot and optical scan systems (PBOS) have had some problems, but they are minor in comparison. One reason is that when the DREs fail, votes can be lost, and there is often no backup method of casting ballots. With PBOS, when the scanners fail the paper ballots are still there, people can vote without a hitch, and all the votes are counted. Additionally, PBOS systems are far cheaper to buy, and far cheaper to maintain than DREs.

New York may be last in terms of its original purchase of a new voting system. But if we fend off the intense lobbying efforts of the vendors and buy less expensive, more reliable PBOS systems instead of DREs, we will avoid the serious problems that other states have encountered.

Then the only way we'll be last is in having the last laugh.