Testimony - Kathy Dent
Supervisor of Elections Sarasota County, Florida
President of the Florida State Association of
Supervisors of Elections
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Commissioners:

I am honored to be invited to address this commission with a focus on an integral, yet sometimes de-emphasized, segment of the voting process – ballot design. As a local election official with hands-on involvement in all aspects of conducting an election, I have been asked to walk through the ballot design process from start to finish.

Prior to 2000 little attention was given to such factors as usability, uniformity and voter interface in the design process. Then along came the 2000 Presidential race with the "infamous" butterfly ballot. The State of Florida, in a comprehensive election reform package, attempted to address all of the issues that surfaced in the controversial election where 537 votes decided the Presidency of the United States. One section of that legislation created very precise specifications for ballots and a charge to the Department of State to adopt rules "prescribing a uniform primary and general election ballot for each certified voting system." The rules were also to incorporate:

- Clear and unambiguous ballot instructions and directions
- Individual race lay-out
- Overall ballot lay-out and
- The graphic depiction of a sample uniform primary and general election ballot form for each certified voting system.

This Florida Administrative Code rule became the standard for both the precinct-count optical scanners and touch screens or DRE's, which became the only voting systems allowable by law in the state. This rule provided uniformity and ballot design using Sequoia, ES&S and Premier voting systems, both optical scan and touch screen.

The Pre-Design Preparation

Before any ballot is created, there is a need to be familiar with the documentation of the specific voting system. Having personally worked with punch cards, touch screens, and optical scan systems, it is evident that each system has its limitations and may not provide all of the desirable flexibility in programming a ballot. Hard coding of many facets of the system can create the need for software and firmware upgrades just to make minor changes in ballot design. While these changes may be an election administrator's priority, it is not always the greatest priority of the voting equipment vendor.

Evaluating the impact that the spacing, placement of ovals or arrows, and timing marks is to the tabulation process is essential in ballot design. Determining how many folds or where to fold a paper ballot can affect the processing of those paper ballots. Making a decision as to how many races to place on a page of a touch screen may affect how an individual voter interacts with the ballot.

Other ballot programming challenges faced are the recording of the audio units, whether touch screen or AutoMark, in assuring the correct pronunciation of candidate names is available and that there is no inflection in voice which might affect a voter's choice; language requirements and placement and pronunciation on ballots must be reviewed; and where there is a blended system, realizing there is a sequential order to programming a ballot – with the touch screen, for example, first the absentee ballot, then the DRE screen and finally the audio portion. Any changes to one can impact the others.

Another pre-design consideration is the selection of the printing vendor. One cannot just go to "Quickie Printing" around the corner. Paper quality, availability of approved ballot stock, whether off-set or laser processing is used, ink density and ink type must be taken into account. (Florida law requires that marksense or optical scan ballots be printed on paper of such thickness that the printing cannot be distinguished from the back and shall meet the specifications of the voting system that will be used to tabulate the ballots). Sometimes even vendor-certified printing companies do not automatically meet the standards necessary to avoid scanning issues. One such vendor-certified company provided Sarasota with bad timing marks and ink that ran, resulting in excessive duplication of ballots prior to tabulation.

The final pre-design preparation is certification by the Department of State of the candidates nominated for placement on the ballot. If the certification is incorrect or not

delivered in a timely fashion, then ballot preparation is delayed and critical time is lost in the printing of the ballots.

Occasionally in Primary elections, there is a death, resignation, withdrawal or removal of a nominee. There is a process for nominating a replacement. If the new nominee is submitted after certification of the ballot by the Department of State, the ballot is not changed and the former nominee's name must appear on the ballot.

Ballot Design

After pre-design preparations have been made, then the actual design begins, always in accordance with all statutes and rules. In Florida, the title of the election must first be printed across the top of an optical scan ballot and on the first ballot screen of a touch screen in all caps bold.

Next, pre-prescribed ballot instructions must be printed directly under the title on the front side of an optical scan ballot and for the touch screen at any point before the listing of the candidates or prominently posted in each voting booth.

Following the instructions, the uniform ballot design rule then dictates that headings be used to designate races beginning with the President and Vice-President, then Congressional, State, Legislative, and County. Under those headings are listed the office titles and candidates. Nonpartisan offices appear following partisan offices and before constitutional amendments or other issues.

In Florida, ballot position is based on the number of votes received for Governor in the last general election. Therefore, if Florida has a Democratic governor, then democratic candidates are listed first and vice versa.

Other design requirements include:

- Headings and office titles must be in all caps bold.
- Names of candidates must be in upper and lower case.
- Under each office title must be printed (Vote for One), or where more than one vote is permitted, (Vote for no more than the # to be elected).
- When required, the appropriate abbreviation of a party name or no party affiliation must be to the right of the candidate's name, in all caps and not in parentheses.
- No candidate race can appear in more than one column on an optical scan ballot or on more than one screen of a touch screen ballot.

- On two-sided optical scan ballots the words ”VOTE BOTH SIDES OF THE BALLOT” must appear on the bottom of the front and the bottom of the back of the ballot in all caps bold.

- On touch screen ballots the language choice must appear prior to the first ballot screen.

- Font sizes are based on the number of candidates and races on the ballot but no font or ballot image can be smaller than 10 point type.

- If there are more candidates than will fit in one column or on one screen, or if the party or candidate name is too long to fit on one line in the minimum font size, then approval must be sought from the Division of Election prior to printing the ballot.

Upon completion of the ballot design, which is always conducted under dual or tri-control, the layout design is proofed. Sometimes as many as eight pairs of eyes review the ballot. Several staff members actually read letter by letter the language on the ballot. If, for example, we are conducting an election for a municipality, then the proof is also sent to the city official to sign off.

The files are then shipped to the printer who supplies proofs of ballots which are again reviewed by staff before giving the OK to print. When ballots are received from the printer, the next step is to proof and test each ballot style. Finally, a public logic and accuracy test is conducted prior to early voting or the mailing of absentee ballots.

What Have We Learned

One would think that all of the steps taken since the 2000 election in Florida would have resolved all of the issues with ballot design. Yet, in the 2006 13th Congressional District race, there were 18,000+ under votes. There were even higher under votes in the Attorney General’s race in other Florida counties. Analysis by David Dill of Stanford University, Ted Selker of MIT and others have studied the ballot design and have come to many conclusions:

- David Dill’s report stated: “It seems likely that ballot design contributed to higher CD-13 undervote rates in Sarasota, but the ballot does not explain all of the high undervotes.”
- The Caltech/MIT Voting Technology Project concluded the obvious: “Bold-colored headlines above some races distract people from ones without them;

races with a small field of candidates can be overlooked when next to a race with a large field; and second- chance voting can indeed reduce errors."

- The Voting Technology Project also reported data which indicated that test subjects "did not miss the Sarasota CD 13 if they had a sample ballot to follow in the voting booth."

It is interesting to note that every registered voter in the CD-13 race had received a sample ballot prior to the election, and that there was indeed second-chance voting via a review screen at the end of the ballot which indicated the selection made, or in the event of an undervote, "No selection made." Voters then had the opportunity to make changes prior to casting a vote.

The Elections Assistance Commission, following the November 2006 election, conducted a study resulting in "Effective Designs for the Administration of Federal Elections." Design for Democracy provided testimony at the Florida Administrative Code public workshop on November 11, 2007, which required substantial rewording of 1S-2.032, Florida's Uniform Primary and General Election Ballot rule. To date, this rule has not been amended.

So, where do we go from here? We know that it is critical that the voter have optimum opportunity to interact with a ballot that has clarity and ease of use. Studies such as mentioned above have certainly highlighted and set standards for the effectiveness of design. But from a local election administrator's perspective, there are additional areas to be considered and analyzed:

- The lack of flexibility in the vendor ballot creation software
- The length of the ballot
- The costs involved
- The usability of printing on the front and back of one page vs. a two-page ballot
- The impact of multi- language on ballot design
- How ballot certification deadlines affect the process

Again, it is interesting to note that both the butterfly ballot and our CD-13 ballot were designed because of the length of the ballot. Ironically, the butterfly ballot was designed to increase the font and make the long Presidential Race easier to read, and ours in Sarasota County, to reduce the number of screens the voter had to navigate. In reality ballot design is not a great challenge until there is an attempt to balance readability with ballot length.

We thank you [the EAC] for the work that has already been done. I believe that election administrators across the country are now in tune to the effect that ballot design can have on minimizing voter confusion in the voting process. Additional change really needs to come from the top down. I would ask the EAC to assist us during the initial certification of voting systems in insisting that the design standards that have been established as best practices are taken into consideration by the vendor; that the local users have the ability to format a ballot based on state statute, rule, and variation in ballot length; that you work with state officials in the development of uniform rules utilizing professional design experts for each voting system certified; and that legislators are informed as to the sometimes unintended consequences delivered to the election administrator. Only then can we expect to have resolved the ballot design issues.