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Electronic voting minus paper trails makes it easy to rig elections

By Jason Leopold

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September 4, 2003—It seems fitting that a someone who gained the highest office in the land because of a scandalous election would enact a law to overhaul the electoral process to make it easier for people to choose their leaders the second time around.

But that's not what the Omnibus Appropriations Bill, signed into law by George W. Bush in October 2002, will do. Instead, the law will force most states to switch from paper balloting to a fully computerized system—one that is currently rife with programming flaws and is incapable of being audited—that could call into question the legitimacy of future local and national elections and put the wrong candidates into office.

The bill contains \$1.515 billion to fund activities related to the Help America Vote Act, a federal election reform bill that provides money to states for the improvement of elections; including \$15 million to the General Services Administration to reimburse states that purchased optical scan or electronic voting equipment prior to the November 2000 election.

Bev Harris, a Seattle resident who runs a small public relations business, is credited with uncovering the flaws in electronic voting machines and has recently written a book on the subject called "Black Box Voting: Ballot Tampering in the 21st Century."

Harris' muckraking on electronic voting has been featured on Scoop, an award-winning Internet news site based in New Zealand, (full disclosure: I am a regular contributor to Scoop) that is quickly developing a reputation in the United States for its groundbreaking investigative news stories.

Harris recently uncovered "some 40,000 files that included user manuals, source code and executable files for voting machines made by Diebold, a corporation based in North Canton, Ohio," according to an Aug. 21 feature story on Harris in the Seattle Times, and exposed the massive flaws in Diebold's software that can easily be manipulated. An in-depth report on Diebold's electronic voting machines can be found at www.scoop.co.nz

Diebold's chief executive officer, Walden O'Dell, in a fundraiser his company sponsored for Bush last week promised the president [sic] that his company would "deliver" the necessary votes needed to keep Bush in the White House for a second term, prompting Democrats in Congress to call for Diebold to remove its machines from being used during next year's primary election.

Michelle Griggy, a Diebold spokeswoman, dismissed any appearance of a conflict of interest saying the company routinely holds fundraisers for other political causes absent of any bias.

While much ink has been spilled in the corporate media on the so-called benefits of computerized voting (cheaper, faster, more reliable), you would be hard-pressed to find an equal number of stories highlighting the side effects that comes from computerized voting.

The disastrous 2000 presidential election and the subsequent ballot recount in Florida, in which hanging chads made it difficult to figure out whether people in the Sunshine State voted for Al Gore or George Bush, led to a full-scale campaign by lawmakers to outlaw paper balloting in favor of user-friendly computerized voting machines.

The problem with the omnibus bill, according to Rebecca Mercuri, a computer science professor at Bryn Mawr College in Pennsylvania and one of the most vocal opponents of paperless balloting, is that it leaves no paper trail, making it ripe for manipulation.

"Any programmer can write code that displays one thing on a screen, records something else, and prints yet another result," Mercuri told a reporter for Common Dreams.org. "There is no known way to ensure that this is not happening inside of a voting system. No electronic voting system has been certified to even the lowest level of the U.S. government or international computer security standards . . ." The Federal Election Commission provides only voluntary standards, and even those don't ensure election "integrity," she says.

That's exactly what happened in Ohio on May 7, 2003. Election officials said they ran into problems with the electronic voting machines when they tried to merge the numbers from their Lorain and Elyria city offices.

The elections board used two different kinds of "touch-screen" voting machines in Ohio cities Elyria and Lorain during local city council elections. The results couldn't be merged with totals from another city, which came from more familiar punch cards.

"I don't know exactly what happened . . . we're having software people look into that now," said Marilyn Jacobcik, director of the Lorain County elections board. "But we are assured that all the numbers are accurate."

One of the biggest problems, according to one election worker, was that the office wasn't prepared to compile data from three different computer systems.

John Blevins, a member of Elyria's board of elections, attributed the breakdown to "growing pains."

Because of the Help America Vote Act passed last year, he said, elections boards are required to install electronic voting machines by the 2004 election.

"We were basically trying two different computer systems," Blevins said, noting the county used machines provided by Diebold in North Ridgeville and MicroVote in the Amherst race. "I realize maybe things move a little slower but in the end it will be a much smoother operation. We have to do this by November 2004."

Computerized voting and the technological problems related to the system had already been realized before hanging chads became a household phrase. In November 1998, an election in Hawaii was held using state-of-the-art computers designed by Electronic Systems & Software, a company with close ties to Republican lawmakers in Washington, D.C.

One such lawmaker, Sen. Chuck Hagel, R-Neb, was part owner and former chairman and chief executive of ES&S, a company that made all the equipment that counted the votes during his last two runs for office, yet he failed to list his ties to the company on federal disclosure forms.

Seven of ES&S' 361 voting machines used in Hawaii on Election Day in November 1998 malfunctioned (five units had lens occlusion, one unit had a defective cable and one unit had a defective "read head"), which led to Hawaii's first ever statewide election review and a first in the history of the United States. Hundreds of people who used the machines complained mightily to local election officials that the candidates they picked did not register in the computerized system.

Mercuri said in an interview with Common Dreams last year that in order for an electronic voting system to be foolproof, five components must be present—a voter, a ballot, a computerized voting machine, a printer, and an optical scanner—and three basic steps must be taken.

"First, the voting machine registers a voter's selection both electronically and on a paper ballot. Second, the machine then displays the paper ballot behind clear glass or plastic so that the voter can review their

selection, but not take the ballot home by mistake. If the voter's selection doesn't agree with the ballot or the voter makes a mistake, the voter can call a poll worker to void the ballot, and then re-vote. And third, the paper ballot is optically scanned (most likely at the county administration building), providing a second electronic tally. If anything goes wrong with either the voting machines or the optical scanner, the paper ballots can be hand-counted as a last resort or as part of an audit. And voila! We have a fully auditable voting system with checks and balances, review and redundancy.”

There are dozens of other horror stories that spawned from the signing of the omnibus bill by Bush and these too involve Florida and another Bush.

The new touch-screen equipment used during the September 2002 Florida primary elections wrongfully credited GOP gubernatorial candidate Jeb Bush in one precinct when votes were cast for a Democratic candidate for governor because of a "misaligned" touch screen. No one knows how many votes were misrecorded. Miami-Dade was still licking its wounds over the 2000 presidential election that helped put George Bush in office. For the primary election, the county spent \$24.5 million for 7,200 voting machines, but many polling places opened late or did not have enough machines up and running. Many poll workers had problems collecting votes from the machines, delaying the final results of the election for a week.

The November general election was relatively glitch-free, but the county had to turn the logistics of the election over to the Miami-Dade police department and dedicate at least three county employees to each polling place.

In May, a Miami-Dade inspector general released the results of a seven-month investigation into the use of the electronic voting machine that were credited with helping Bush secure a second term in office. The results of the probe are damning.

For one, the company that sold the touch-screen voting machines, ES&S, to Miami-Dade county misled county officials about the “about the equipment and delivered goods that were “hardly state-of-the-art technology,” according to the Miami Herald, which obtained a copy of the inspector general’s report.

“The draft report by the county inspector general's office following a seven-month investigation provides a critical account of the process leading to the \$25 million purchase of a voting system that was expected to lead to trouble-free elections. Instead, the Sept. 10, 2002, election—a national black eye for Miami-Dade—was plagued with problems caused in part by the lengthy start-up time for the machines,” the Herald reported.

Moreover, the report found that ES&S told county officials that its electronic voting machines would provide voters with a system that could run a trilingual ballot, in English, Spanish and Creole. Although state certification was pending for the trilingual ballot software, the county only considered the possibility of having separate English/Spanish and English/Creole machines as a backup plan.

In its oral sales presentation, ES&S told the county that having a trilingual system would not require additional data capacity. Yet, the company's own documentation from 2001 indicated that the type of files that would be required for such a system would require an additional storage device.

The report questions why the boot-up time for each machine under the software used in the primary election was so lengthy, noting that the processor for each machine is an Intel 386 EX processor, technology that is more than a decade old.

Testing by the State of Florida found numerous "anomalies and deficiencies" in newer versions of voting machine software that would have sped up the boot-up process. The report also cautions the county not to be "overly reliant" on representations made by ES&S about what a highly touted upcoming version of the software will do.

Still, because Miami-Dade invested more than \$25 million into the technology, the inspector general did not recommend scrapping the electronic voting machines, but rather work within the limitations of the system and “hope” that it will pull off a successful general election come 2004.

Linda Rodriguez-Taseff, president of the South Florida chapter of the American Civil Liberties Union and a leading advocate of voting reform in Miami-Dade, said the report was not surprising.

"It's everything we said it would be," she said. "The time to act is now. Let's scrap this system and get a new system in place."

Despite the malfeasance, it's become difficult for county officials to challenge the results of tainted elections.

In city council elections in Palm Beach last March, when a losing candidate challenged the results, a local judge denied the challenger and his consultant the opportunity to inspect the machines, citing the rights of the manufacturer, Sequoia, to protect its trade secrets.

In February 2003, Daniel Spillane blew the whistle on his former employer, VoteHere, a privately held electronic voting machine company in Washington, D.C., run by a former senior military aide to Vice President Dick Cheney and whose board includes former CIA Director Robert Gates, claiming the company's patented digital balloting software contained severe programming errors, which could lead to, among other disasters, the massive deletion of ballots.

Spillane, who was fired from VoteHere in 2001, alleged in a wrongful termination lawsuit against his former employer, that VoteHere's undertook measures to thwart an independent review of its software. He said he voiced his concerns with company executives and that he was fired hours before VoteHere was scheduled to meet with representatives from the Independent Test Authority, an auditing group that scrutinizes electronic voting equipment and software, and the U.S. General Accounting Office.

Spillane is one of a half-dozen experts to question the wisdom behind the omnibus bill and warns that the law's true goal is to facilitate the sale of electronic voting machines.

He and Mercuri wrote in November about Sequoia Voting Systems, an outfit seeking to install electronic voting booths in Santa Clara County, California. Most of Sequoia's machines provide nothing in the way of receipts or physical audit trails, which would facilitate a recount, ripening the prospects for electronic election fraud. She and other experts have also been barred from examining Sequoia's product, because it is sold under restrictive trade-secret agreements.

Spillane, Mercuri, and 453 other technologists have endorsed a "Resolution on Electronic Voting" which warns of the dangers inherent in electronic voting systems that keep only digital records of ballots cast. The resolution states that programming error, equipment malfunction, and malicious tampering are serious risks which call for a voter-verifiable audit trail—a permanent, physical, tamper-resistant record of each vote which can be checked by the voter before casting their ballot, and retained afterward.

Despite the resolution, Santa Clara County made its final decision last Tuesday to spend \$20 million on 5,000 touch-screen voting booths made by Sequoia, most of which will not include a printed audit trail. Sequoia has a history of involvement with government corruption, including the alleged pay-off of Louisiana election official Jerry Fowler.

The San Francisco Chronicle is one of only a handful of news organizations that called into question the veracity of electronic voting when it became clear that the new technology could lead to voter fraud in Santa Clara County.

David Dill, professor of computer science at Stanford University and leader of an anti-electronic voting campaign, told the Chronicle that the electronic voting machines Santa Clara planned to purchase “pose an unacceptable risk that errors or deliberate election-rigging will go undetected, since they do not

provide a way for the voters to verify independently that the machine correctly records and counts the votes they have cast.”

Dill, in consultation with other experts, and his Stanford colleagues had voiced their concern via a petition urging that voting machines not be purchased or used unless they provide a voter-verifiable audit trail, according to the Chronicle.

When such machines are already in use, the petition stated, they should be replaced or modified to provide such a record. And Dill had collected the signatures of hundreds of technologists, including many of the best-known names in computer science, security and election technology.

The opposition movement caught the eye of Kevin Shelley, California's new secretary of state. In January 2003, Shelley appointed a task force to advise him and the board charged with certifying voting equipment in the state on security and audit ability issues raised by touch-screen voting.

Peter Coyote, who narrated a documentary film last year on the disasters surrounding the 2000 presidential election, has launched a grassroots letter writing campaign urging federal lawmakers to take a second look at how the Help America Vote Act can put the wrong candidates in office.

In his letter to California's Democratic Senator Barbara Boxer, Coyote writes: “Last year, I narrated a film called "Unprecedented" by American journalist Greg Palast.

This film documents the illegal expunging of 54,000 black and overwhelmingly Democratic voters from the Florida rolls just before the presidential election. We interviewed the computer company that did the work, filmed their explanations of the instructions they received and their admissions that they knew that their instructions would produce massive error. That figure has now been revised to 91,000. Jeb Bush was sued, and was supposed to have returned these voters to the rolls, and did not, which explains his last re-election. The Republicans have something far worse in mind for the next presidential election and Democrats need to be prepared.

“Unless the issue of voter fraud is elevated to an issue of national importance, not only is it highly probable that Democrats will lose again and again, but eventually voters will ‘sense’ even if they cannot prove, that elections are rigged, and the current 50 percent of those boycotting elections will swell to the majority. Privatization of the vote is tantamount to turning over the control of democracy to the corporate sector. I urge you to use your considerable powers and influence to address this issue.”

Jason Leopold spent two years covering California's electricity crisis as bureau chief of Dow Jones Newswires. He has written more than 2,000 news stories on the issue and was the first journalist to report that energy companies were engaged in manipulative practices in California's newly deregulated electricity market. Mr. Leopold is also a regular contributor to CNBC and National Public Radio and has been the keynote speaker at more than two-dozen energy industry conferences around the country.