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Election Day Registration Not Right for Colorado: Increased Costs and System Vulnerabilities without Increased Participation

Introduction

In most states voters must register to vote prior to Election Day. Same Day Registration (SDR) allows an elector to register and cast their vote at the same time during an early voting period. Election Day Registration (EDR) allows an elector to register and vote on Election Day. Eight states plus the District of Columbia presently offer EDR.¹ Another two states--California and Connecticut--have enacted same day registration but have not implemented it. Legislation is pending in fourteen states² to adopt SDR/ EDR. Colorado has one of the highest registration and turnout rates in the country without SDR/EDR. Implementing these changes does not increase registration or participation noticeably and requires additional costs.

1. EDR/SDR retains existing voters, as opposed to encouraging new registrations, and only marginally increases voter participation.

Support for EDR/SDR is premised upon lowering the marginal cost of voting based on travel, waiting time, and opportunity costs, increasing turnout as a result. Scholars believe the closing date for registration stands as the foremost legal barrier to voting.³ With no registration closing date, SDR/EDR should, in theory, increase turnout by allowing electors to register and vote at the same time.⁴ But studies in general find that most voting reforms are better at retaining existing voters than attracting new voters.⁵ In fact, according to the federal government's own surveys, the greatest causes of individuals not registering or voting are their lack of interest

¹ National Conference of State Legislatures <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx>

² Alaska -- HB 86; Arizona -- HB 2146, HB 2368 and SB 1248; Georgia -- SB 44; Hawaii -- HB 321, HB 511, HB 1218, SB 854 and SB 857; Illinois -- HB 68; Maryland -- HB 17; Montana -- HB 30 (proposes to repeal the existing same-day registration law); New Jersey -- A 1575; New York -- A 113, A 172, A 2099, S 609, S 617 and S 1549; Pennsylvania -- HB 178; Tennessee -- HB 293 and SB 263; Texas -- HB 169, HB 464 and SB 8; Utah -- HB 91; Vermont -- HB 42

³ *Id. citing Wolfinger & Rosenstone, 1980*

⁴ "The Effect of Election Day Registration on Voter Turnout and Election Outcomes" by Jacob R. Neiheisel and Barry C. Burden, University of Wisconsin-Madison, Department of Political Science

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in politics and candidates or other reasons unrelated to the registration process.⁶ People interested in voting rarely fail to register in time to cast their ballot in a national campaign. As a result, closing dates have little influence on turnout among highly motivated people.⁷ Likewise, those least interested in participating are also unlikely to be influenced by closing dates.

“Convenience voting,” such as mail voting, no excuse absentee voting, early voting and even election-day registration, may actually hurt turnout.⁸ The general election voter turnout in 2008 was the highest in a presidential election since 1960. However, an American University study reported that in the 12 states where turnout declined in 2008 - as compared to 2004 - 10 offered some form of “convenience voting.” In the 13 states with the greatest turnout increases, seven had no forms of convenience voting. Further, four states with Election Day registration reported lower turnout in 2008, when turnout generally went up in the rest of the country. The state with the largest decrease in turnout in 2008 was Maine (minus 3.6 percentage points), which also has Election Day registration.⁹

Most studies assert that EDR increases voter turnout from *three to six percentage points* while more recent work finds *no effect*. A study published in October, 2011 regarding the effect of EDR in Wisconsin, the only state in which EDR was introduced across localities at different times, concluded:

“Our findings contrast slightly with those of earlier studies, most of which estimated the effect of EDR to be anywhere from three to six percentage points. Using a methodology that guards against unmeasured confounders, we find an effect at the low end of this range. The result also differs from recent investigations that match samples across state lines and have turned up little support for a causal link between the adoption of EDR and increases in voter turnout (Keele and Minozzi 2010).”

The Wisconsin based study established that while EDR did increase voter turnout, the effect was smaller when compared to most existing estimates.

Similarly, a study by the Maine Heritage Policy Center found that Election Day registration in Maine had “had no recognizable impact on voter turnout” since its implementation in 1973. In fact, the three election years in which Maine had its “lowest turnout years since 1960 occurred after EDR was implemented.

⁶ *Mandatory Voter Registration: How Universal Registration Threatens Electoral Integrity* by Hans A. von Spakovsky, The Heritage Foundation Background, No. 2780, March 27, 2013

⁷ *Id.*

⁸ American University News, African-Americans, Anger, Fear and Youth Propel Turnout to Highest Level Since 1960, 14 (Dec. 17, 2008)

<http://www.american.edu/research/news/loader.cfm?csModule=security/getfile&pageid=23907>

⁹ *Id.*

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Nationwide, turnout in the 2012 election was generally down from 2008, dropping a little over five percentage points, yet the turnout in Maine went down over eight percentage points.¹⁰

In the six states that had SDR/EDR prior to 2006, turnout was ten to 17 percent higher than the national average.¹¹ Minnesota has estimated that Election Day registrations account for five to ten percent of voter turnout.¹² According to a study at George Mason University, the top six turnout states in the 2008 election were Minnesota (where 77.7 percent of all eligible voters cast a ballot), Wisconsin (72.1 percent), New Hampshire (71.1 percent), Maine (70.9 percent), Colorado (70.2 percent), and Iowa (69.7 percent). All but Colorado have Election Day registration.¹³ In the 2012 Presidential Election CO had the 3rd largest turnout (70.3%), again without EDR.¹⁴ Colorado pioneered other methods for increasing voter registration. In 2012, the Colorado Secretary of State sent notices to 700,000 Coloradans who might be eligible to vote but were not yet registered, providing them information to help and encourage registration. By Election Day, Colorado voter registration reached a record level: 440,888 more voters registered than in 2008 - a 13.7 percent increase. Colorado's increase in turnout is even more notable when considering that most of the nation saw a decrease in turnout in 2012 compared to the 2008 election.

Currently, voters in Colorado must register no later than 30 days before an election. However, during the ensuing 29 day period, existing voters may update their registration and vote. The majority of same-day voters typically are registered but may have moved and need to change their address to vote the proper ballot. During early voting, Colorado counties set up Vote Service Centers where voters can update their registration and vote at the same time. At the service center, the election workers have access to the statewide voter registration system and can make immediate updates to prevent improper votes. As a result, the implementation of SDR would likely have no significant impact on the counties as the service centers are already in existence during early voting. However, the requirements for the number of voter service centers are lower than that of voting centers which must be in place on Election Day. Counties will be faced with significant increased costs to insure that all voting centers have access to the SCORE system on Election Day to process registrations and issue ballots and to safeguard against fraudulent voting. Given these findings, the cost of implementation and the benefit of a modest increase in turnout increase should be carefully reviewed before implementing such changes.

¹⁰ *"The Effects and Costs of Early Voting, Election Day Registration and Same Day Registrations in the 2008 Elections"* by Barry C. Burden, David T. Canon, Kenneth R. Mayer and Donald P. Moynihan, December 21, 2009

¹¹ National Conference of State Legislatures <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx>

¹² *Id.*

¹³ The Center for Media and Democracy's PR Watch <http://www.prwatch.org/node/11875>

¹⁴ McDonald, Michael P. 2012. "Presidential Voter Turnout Rates, 1948-2012" United States Elections Project. February 18, 2013, updated through February 9, 2013; http://elections.gmu.edu/Turnout_2012G.html

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2. SDR/EDR will require additional safeguards and corresponding expenses to preserve election integrity.

Studies show that it is impossible to prevent duplicate votes in different areas or to verify the accuracy of any information provided by a voter if they are registering and voting on Election Day.¹⁵ Election officials are unable to check a registrant's eligibility or qualifications against other state and federal databases. Further, if EDR registrants are allowed to vote a regular ballot, the ballot cannot be invalidated should there be a subsequent determination that the registration is fraudulent.

Safeguards against fraud in current SDR states include:

- Photo identification at poll;
- Additional identification to verify address;
- Segregating SDR ballots and refraining from counting them until verification certificates have been sent out and undeliverable ones are returned;
- Restricting sites at which one can register on election day;
- Implementing minimum residency requirements;
- Prohibiting changing party affiliation on primary day; and,
- Enforcing a deterrent penalty for fraud.

The integrity of the election process is critical to avoid disenfranchising the electorate as a whole. Therefore steps must be taken to deter potential fraud and ensure fair elections. States offering SDR/EDR have implemented such procedures and those considering the same must follow suit.

For example, Maine, Wisconsin, Idaho and Minnesota send out non-forwardable mailings after each election to new registrants. The voter is purged from the registration list if the cards are returned as undeliverable. Voters in Maine must also disclose their place of previous registration, or state that they have never been registered to vote. Registrations will not be accepted without this information. Registrars send registration cancellation forms to previous-registration jurisdictions, whether in-state or out-of-state.

Wyoming checks for potential duplicate registrations when registration data is entered into the statewide voter registration database. Wyoming matches applicants' names, dates of birth and driver's license ID and/or social security numbers. Duplicate registrations are investigated further to determine if fraud has occurred. Lynne Fox of Uinta County, Wyoming has found that duplicate registrations are usually due to a change of residence, change of name or clerical error.¹⁶

¹⁵ *Mandatory Voter Registration: How Universal Registration Threatens Electoral Integrity* by Hans A. von Spakovsky, The Heritage Foundation Backgrounder, No. 2780, March 27, 2013

¹⁶ EDR Best Practices, July 2010 www.Demos.org

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Properly trained and sufficient personnel to handle registration are a critical component of implementation. Many states engage in significant training prior to the election to ensure a smooth process. As previously noted, the related costs of more personnel and the requisite training must be reviewed.

Probably the most significant component to preserve integrity is proof of identity requirements, which deter individuals who might use fraudulent identities to vote. Maine voters without a photo ID are given a “challenged ballot.” Challenged ballots are counted the same as a regular ballot, but they are segregated. Their validity becomes an issue and gets determined if a recount is requested and the challenged ballots are numerous enough to affect the outcome of the election.¹⁷ Given that the elector is present, photo ID preserves the election’s integrity while simultaneously reducing lines and wait time. In fact, the majority in every state support rules that require voter identification in order to vote.¹⁸

Conclusion

The time period for voting in Colorado has been expanded, the state has made efforts to register more voters, and absentee voting has become increasingly common. In short, voting is now easier for more people than ever. Without the existence of EDR or SDR, Colorado had the third and sixth highest turnouts in the 2012 and 2008 elections, respectively. The majority of voters that would benefit are already registered. Adding the SDR component for new registrations during early voting likely would not have a significant impact on the counties or the election. Implementing EDR would significantly increase the costs of the voting centers. In some counties it may not even be possible at this time. Implementation would also require increased efforts to combat voter fraud, including appropriate training, segregation of duties and photo ID requirements.

¹⁷ *Id.*

¹⁸ “*Voter Opinions about Election Reform: Do They Support Making Voting More Convenient?*” R. Michael Alvarez, Thad E. Hall, Ines Levin, and Charles Stewart III; *Election Law Journal*, November 2, 2011 © Mary Ann Liebert, Inc.