

October 6, 2009

To: Interested Parties

From: Estelle Rogers and Erin Ferns

**Re: Federal Election Legislation 2009:
Threats & Opportunities Assessment**

In the wake of the registration problems so often cited during the 2008 election cycle, House and Senate Committees and several members of Congress have been busily holding hearings and drafting legislation. The most ambitious of the proposals in the offing is Voter Registration Modernization (VRM), variously called “universal registration” or “automatic registration” as well. Senator Charles Schumer (D-NY), Chairman of the Senate Committee on Rules and Administration, has promised a bill on VRM very soon. It is likely to include the following features:

- States will automatically register voters using information from other government lists.
- Once included on the voter roll in a state, the voter will remain registered for as long as he or she continues to live in that state.
- A voter will be permitted to correct or update his or her information at the polling place on Election Day and vote a regular ballot.

The timeline for VRM is far from certain. Such a complex and inevitably controversial proposal will undoubtedly take some time to progress through both houses of Congress. Even after such a bill were passed and signed by the President, there would probably be a multi-year period for phased-in implementation.

In the meantime, Project Vote is monitoring several other voting- and registration-related bills that have been introduced in Congress that deserve attention, which will be discussed in this memo. It also bears mentioning that any member of Congress may try to amend a voting bill with, for example, a federal ID or proof of citizenship requirement. Consequently, voting rights supporters are understandably very cautious about moving anything to the floor unless the applicable legislative procedure prohibits amendments.

The Congressional committees that have primary jurisdiction over voting rights are the Senate Rules and Administration Committee and the Committee on House Administration. (Depending on subject matter, bills may be referred to other committees instead of, or in addition to, these committees. See the attached chart for more details on the committees.) The Senate Rules and Administration Committee is chaired by Senator Charles Schumer and is composed of 11 Democrats and eight Republicans. It has no subcommittees. As noted above, Chairman Schumer is working on a broad voter registration modernization bill, and the Committee’s profile on voting issues will undoubtedly be raised considerably when that bill is introduced.

The Committee on House Administration is chaired by Rep. Robert Brady (D-PA) and consists of six Democrats and three Republicans. Its Elections Subcommittee is chaired by Rep. Zoe Lofgren (D-CA), who has shown herself to be a passionate advocate for voting rights. It has four Democrats and two Republicans. This has been a very active subcommittee, having held several hearings already in this Congress and sent three bills to the floor.

Threats To Voting Rights

After the increase in voter participation among people of color and the success of third party voter registration drives in 2008, there have been efforts to pass federal legislation limiting voting access by non-English speaking Americans and targeting community organizations that conduct registration drives. Project Vote opposes the following bills. None of them is expected to pass because of strong opposition by the majority party.

- **S 1103**, sponsored by Sen. David Vitter (R-LA), would prohibit voter registration drives from paying canvassers, prohibit former felons from being canvassers, and require organizations and canvassers to register with the state. It is currently pending in the Senate Rules and Administration Committee.
- **HR 764**, sponsored by Rep. Dean Heller (R-NV), would require that ballots used in federal elections be printed only in English, and would amend the Voting Rights Act of 1965 accordingly. (The Voting Rights Act requires certain jurisdictions where languages other than English are prevalent, to provide written materials in one or more additional languages.) The bill was referred to both the House Judiciary and House Administration Committees.
- **HR 1229**, sponsored by Rep. Peter King (R-NY), and its Senate companion bill, **S 992**, introduced by Sen. James Inhofe (R-OK), would declare English the official language of the United States and repeal the language minority provisions of the Voting Rights Act of 1965.

Opportunities In Voting Rights

Happily, the overwhelming majority of pending voting-related bills is designed to make registration and voting more accessible. Though Project Vote supports the following measures, few are expected to pass.

Voter Registration

A key subject in Congress this session, expanded access to voter registration appears in several bills, including registration assistance to the military, Internet registration, and registration at public agencies under the National Voter Registration Act (NVRA).

- **HR 3274 and S 1265**, sponsored by Rep. Duncan Hunter (R-CA) and Sen. John Cornyn (R-TX), respectively, would provide voter registration assistance to members of the armed forces and their families.
- **HR 1719**, sponsored by Rep. Zoe Lofgren (D-CA), who chairs the Subcommittee on Elections of the Committee on House Administration, would amend the Help America Vote Act (HAVA) and the NVRA to promote the use of the Internet for voter registration purposes. While Project Vote does not consider Internet registration a high priority, the bill does contain several other provisions that would greatly enhance voting rights. These provisions include: (1) a prohibition on documentary proof of citizenship and onerous identification requirements; (2) greater restrictions on states' ability to purge voters than in current law; and (3) a provision enabling a voter to update address and other information electronically.
- **S 1125 and HR 1729**, companion bills, sponsored by Sen. Dick Durbin (D-IL) and Rep. Jan Schakowsky (D-IL), respectively, would make college campuses voter registration sites. Neither of these bills is expected to move this year, though a hearing is likely to be held in the House Administration Committee.

- **S 1556**, introduced by Senator Dianne Feinstein (D-CA), would make the Department of Veterans Affairs a designated agency that must offer voter registration under Section 7 of the NVRA.

Convenience Voting

An increasingly popular election reform on the state level, a bill providing the ability to vote at a time and place of the voter's choosing has been introduced in Congress. A related measure to improve election administration for absentee voters has also been introduced.

- **HR 1604**, sponsored by Rep. Susan Davis (D-CA), who is also on the Elections Subcommittee, would allow any eligible voter to vote by mail in federal elections. This bill, with 50 co-sponsors, was reported out of the House Administration Committee on July 16. However, it sparked sharp minority opposition in Committee, and its prospects for House floor consideration are uncertain.
- **HR 2510**, also from Susan Davis, would direct the Election Assistance Commission to reimburse states for programs to track and confirm receipt of absentee ballots and to make information on receipt of absentee ballots available online. This bill has passed the House, and was sent to the Senate and assigned to the Committee on Rules and Administration just before the August recess.

Deceptive Practices, Voter Caging, and Election Challenges

After several stories appeared in 2008 about plans to use home foreclosure lists to challenge the eligibility of voters, as well as reports of other intimidation tactics at the polls, Congress has moved to quash these practices in future elections.

- **HR 97**, introduced by Rep. John Conyers (D-MI) and referred to the Judiciary Committee, Subcommittee on the Constitution, would make it a crime to give false information intended to deprive someone of the right to vote, increase the penalty for voter intimidation, and charge the Attorney General with taking appropriate remedial action to correct misinformation.
- **S 528**, and a slightly different House bill, **HR 103**, both relate to the practice of "voter caging," the use of returned mail or foreclosure lists to compile lists of voters to be challenged at the polls. The Senate bill was introduced by Sheldon Whitehouse (D-RI), and the House bill by John Conyers. ProjectVote has been instrumental in promoting this legislation and is committed to its progress in this Congress.
- **HR 3489**, sponsored by Rep. Jesse Jackson, Jr. (D-IL), would prohibit state election officials from accepting a challenge to a voter that is based upon foreclosure status or displacement due to a hurricane or other natural disaster.

Felon Voting Rights

With millions of Americans disenfranchised due to various state laws regarding the rights of convicted felons, restoration of voting rights is becoming a more prominent issue in the civil rights community.

- **HR 59**, sponsored by Rep. Sheila Jackson-Lee (D-TX), declares that the right to vote shall not be denied on account of criminal conviction unless the voter is serving time for a felony at the time of the election. It also would require the state's chief correctional officer to inform ex-prisoners of their voting rights within 30 days of their leaving a correctional facility.

- **S 1516**, and companion bill **HR 3335**, the Democracy Restoration Act, were introduced in late July by Senator Russ Feingold (D-WI) and Rep. Conyers, respectively, and referred to the Judiciary Committee of each chamber. These bills would restore the voting rights of convicted felons upon the completion of their incarceration. Project Vote is participating in a large coalition of civil rights and criminal justice advocates urging passage of this legislation.

Election Administration

Though there are few viable bills to date, efforts to improve election administration range from improving poll worker performance and polling place equipment to amending the Constitution to permit Election Day Registration.

- **HR 253**, introduced by Rep. Alcee Hastings (D-FL), directs the Election Assistance Commission to give grants to states for voting infrastructure improvements, including additional equipment, additional polling place officials, and improved training for poll workers.
- **HJR 28** is a Constitutional amendment, proposed by Rep. Jesse Jackson, Jr., that would require states to administer elections in accordance with performance standards set by Congress, and would also permit Election Day Registration.
- **HR 3416**, sponsored by Rep. Artur Davis (D-AL), would ensure that absentee voting and registration procedures available to military and overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 would be extended to victims of major disasters. It would also direct the EAC to make grants to states to respond to extraordinary election administration needs occasioned by major disasters.
- **HR 3552**, introduced by Rep. Rush Holt (D-NJ), would amend HAVA to provide certain safeguards to voters casting provisional ballots. Specifically, a provisional voter's ballot would count in Presidential and Senatorial elections if she is registered in the state, even if she casts her provisional ballot in the wrong polling place. Similarly, her ballot would count in a Congressional race if she is eligible to vote in the district, regardless of where her provisional ballot is cast in that district. In addition, the bill provides a right for the voter to challenge a negative disposition of her ballot, and requires that a rejected provisional ballot be treated as a voter registration application for future elections.

Omnibus

- **HR 105**, introduced by Rep. Conyers, is an omnibus voting improvements bill that would amend HAVA to provide a federal form for absentee ballots, implement standards for counting provisional ballots, and provide minimum requirements of personnel and equipment for polling places. The bill also calls for Election Day Registration, early voting, standards for conducting recounts, and online voter registration. In addition, the bill would amend the federal criminal code to prohibit deceptive practices, increase the penalty for voter intimidation, and prohibit voter caging. It would also restore voting rights to offenders other than those serving felony sentences at the time of the election, and it would make Election Day a holiday for federal employees while urging private employers to do likewise.

Uniformed and Overseas Voting

A particularly active area of legislation this year would make improvements to absentee voting for overseas citizens and military voters, with a majority of legislation emphasizing the latter. Though the following bills likely would not directly affect the underrepresented constituencies who are the focus of Project Vote's work, we nevertheless support the bills that improve absentee voting provisions for all overseas citizens. It is generally expected that at least some of this legislation will pass.

- **S 1390** is pre-eminent among these bills and is expected to pass. It is the Department of Defense Authorization Act, including Sections 581-596 (Subtitle H—Military Voting), which: requires the states to provide electronic registration and electronic voting for overseas and military voters; relaxes certain formal and time requirements for overseas and military voters; and enables the Secretary of Defense to designate military pay, personnel, and identification offices as voter registration agencies under the NVRA.
- **HR 2393** (which has passed the House Administration Committee) and **S 1026** improve procedures for the collection and delivery of absentee ballots of overseas service personnel. If these bills were amended to benefit other similarly situated overseas citizens in addition to military voters, Project Vote would support them.
- Similarly, **HR 2823** and **S 1443**, which improve the distribution and submission of absentee ballots, also apply only to members of the Armed Forces and should be amended to include other overseas voters.
- **HR 1659, 1739, and 2082** would amend the Uniformed and Overseas Citizens Absentee Voting Act with the purpose of encouraging greater participation in elections by overseas and military voters by liberalizing formal requirements for ballots and reimbursing express mail costs of overseas military voters. Project Vote supports these bills.

Additional resources:

The following websites provide helpful information on a number of registration voting issues generally, as well as some of the particular federal bills discussed above.

Project Vote:

<http://www.projectvote.org/>,

and its special Election Legislation site:

<http://www.electionlegislation.org/>

American Civil Liberties Union:

http://www.aclu.org/legislative/browsebyresults.php?issue_select=Voting+Rights&aff_select=§ion_name=Legislative+Update&content_type=12&Submit=Go

Brennan Center for Justice:

http://www.brennancenter.org/content/section/category/voting_rights_elections/

Pew Center on the States:

http://www.pewcenteronthestates.org/topic_category.aspx?category=514

Bills & Locations

House

Bill Number Status

HJR 2	House Committee on House Administration
HJR 28	House Committee on House Administration
HR 59	House Judiciary Committee
HR 97	House Judiciary Committee
HR 103	House Judiciary Committee
HR 105	Joint Referral: House Judiciary Committee; House Committee on House Administration; House Oversight & Government Reform Committee
HR 253	House Committee on House Administration
HR 764	Joint Referral: House Judiciary Committee; House Committee on House Administration
HR 1229	Joint Referral: House Judiciary Committee; House Education and Labor Committee
HR 1604	Reported out of House Committee on House Administration
HR 1659	Joint Referral: House Rules Committee; House Committee on House Administration
HR 1719	House Committee on House Administration
HR 1729	Joint Referral: House Education and Labor Committee; House Committee on House Administration
HR 1739	Joint Referral: House Oversight and Government Reform Committee; House Committee on House Administration; House Foreign Affairs Committee
HR 2082	House Committee on House Administration
HR 2393	Reported out of House Committee on House Administration
HR 2510	Passed House; In Senate Committee on Rules and Administration
HR 2823	Joint Referral: House Armed Services Committee; House Committee on House Administration
HR 3274	Joint Referral: House Armed Services Committee; House Committee on House Administration
HR 3335	House Committee on House Administration
HR 3416	Joint Referral: House Transportation and Infrastructure Committee; House Committee on House Administration
HR 3473	House Committee on House Administration
HR 3489	House Committee on House Administration
HR 3552	House Committee on House Administration
HR 3576	House Committee on House Administration

Senate

S 48	Senate Committee on Rules and Administration
S 528	Senate Committee on Rules and Administration
S 992	Senate Committee on Homeland Security and Governmental Affairs
S 1026	Senate Committee on Rules and Administration
S 1103	Senate Committee on Rules and Administration
S 1125	Senate Committee on Rules and Administration
S 1265	Senate Committee on Rules and Administration
S 1390	Passed Senate; Sent to House
S 1431	Senate Committee on Rules and Administration
S 1443	Senate Committee on Rules and Administration
S 1516	Senate Judiciary Committee
S 1556	Senate Veterans Affairs Committee
S 1648	Senate Committee on Rules and Administration



Committee Composition

House

Committee	Partisan Composition			Committee Chair	Ranking Member
	D	R	I		
House Administration	9	4	0	Rep. Robert A. Brady (D-PA)	Rep. Dan Lungren (R-CA)
Judiciary	23	16	0	Rep. John Conyers (D-MI)	Rep. Lamar Smith (R-TX)
Oversight & Government Reform	23	16	0	Rep. Edolphus Towns (D-NY)	Rep. Darrell Issa (R-CA)
Education & Labor	28	19	0	Rep. George Miller (D-CA)	Rep. John Kline (R-MN)
Armed Services	36	25	0	Rep. Ike Skelton (D-MO)	Rep. Howard P. McKeon (R-CA)
Foreign Affairs	25	19	0	Rep. Howard Berman (D-CA)	Rep. Ileana Ros-Lehtinen (R-FL)
Transportation and Infrastructure	43	30	0	Rep. James L. Oberstar (D-MN)	Rep. John L. Mica (R-FL)

Senate

Committee	Partisan Composition			Committee Chair	Ranking Member
	D	R	I		
Rules and Administration	11	8	0	Sen. Charles E. Schumer (D-NY)	Sen. Robert Bennet (R-UT)
Judiciary	13	7	0	Sen. Pat Leahy (D-VT)	Sen. Jeff Sessions (R-AL)
Veterans Affairs	9	5	1	Sen. Daniel K. Akaka (D-HI)	Sen. Richard Burr (R-NC)
Homeland Security and Governmental Affairs	10	7	0	Sen. Joseph Lieberman (D-CT)	Sen. Susan M. Collins (R-ME)

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, legal services, and advocacy to ensure that our constituencies are not prevented from registering and voting.

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