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Early In-Person Voting:

Effects on Underrepresented Voters, Voting Turnout, and Election Administration

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Executive Summary

Early voting has proven to be immensely popular with voters and, despite occasional opposition, there is a seemingly unstoppable groundswell among states to implement or expand early voting opportunities.¹

Although there are many state-specific variations among early voting systems, there are two fundamental forms: mail-in absentee voting and Early In-Person Voting. In the 2008 Election, the two types of early voting in combination accounted for approximately one out of every three ballots cast.² Early and absentee mail-in voting has essentially doubled in each of the past three presidential election cycles.³ This report focuses on the impact of “no-excuse” Early In-Person Voting (EIP), particularly on the impact of EIP on the voting behavior of urban, low-income, and minority voters. (We define EIP as voting in which any voter may appear at the office of the election authority or other designated early voting center during designated times before Election Day, request an early ballot or absentee ballot, and immediately cast the ballot in the presence of election officials.)

Thirty-two states provide some form of “no-excuse” early voting, permitting any registered voter to cast an early ballot. Many new states introduced EIP legislation in 2009 and 2010, in the wake of the 2008 election. The popularity

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of EIP among voters, and the hope of increasing turnout, provides the impetus for the rapid expansion of EIP nationwide. In states that have had EIP in place for several years, over 50% of voters choose to vote early.

Until 2008, however, EIP was not found to increase voter participation among traditionally underrepresented groups such as lower-income and minority individuals. EIP voters tended to look very much like Election Day voters: they were older, more educated, and wealthier than the general population. Lower-income and minority individuals tended to use EIP at lower rates than the general population.

The 2008 Presidential election, in contrast, marked a dramatic change in the use of EIP by minority voters. African Americans cast EIP ballots in 2008 at a rate that exceeded that of White voters, and Hispanic voters increased their use of EIP to rates that matched that of White voters. In the “2008 Survey of the Performance of American Elections,” the authors found that 24 percent of African American voters cast EIP ballots, compared to 17 percent of White voters.³ On the other hand, the survey found that African American voters were less likely to cast mail-in ballots than White voters. The percentages were reversed for mail-in voting: only 17 percent of African American voters were likely to vote by mail compared to 24 percent of White voters.

Time will tell whether the dramatic difference between the data from the 2004-2006 elections on the relationship between race or ethnicity and EIP voting and the preliminary data from the 2008 election is a function of Barack Obama’s historic candidacy, or whether, once begun, the 2008 pattern of increased use of EIP by racial and ethnic minorities will continue in future elections.

The 2008 election marked a change in the effect of EIP on voter turnout. Studies conducted before the 2008 election established that differences in turnout between states that adopted EIP and those that had not were not substantial. In studies that found that turnout was positively affected, the result was not obtained by adding new voters to the electorate (thereby broadening the electorate) but by retaining voters who were already predisposed to vote.⁴ The hoped-for result—that EIP alone would be at least a partial answer to the problem of low voter turnout, particularly among urban, minority and lower-income individuals—did not materialize. The availability of EIP appeared to simply retain already active voters, and not to significantly expand the pool of voters.

The 2008 election, however, produced a dramatically different result in turnout as it relates to EIP voting, particularly among young voters, African Americans, and Hispanic voters. Each of these groups voted early in person at a far greater rate than they had in previous federal elections. Overall the increase in turnout during the 2008 presidential election among African Americans, Hispanics, and young people between the ages of 18 and 24 increased approximately 4 percent over the 2004 presidential election. Among all voters, the rate of early voting in all its forms doubled from 2006 levels.

As with the 2008 effects of EIP on expanding the electorate, it remains to be seen whether the positive relationship between EIP and minority and lower income voter turnout that was seen in the 2008 presidential election was unique to that election or whether the positive trend will continue.

To maximize the effect of EIP on turnout among minority and lower income groups, election administrators can publish lists of those who have voted early, preferably

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within 48 hours. This would allow civic organizations to focus their Get-Out-the-Vote efforts on those who have not yet voted and thereby increase their efficiency. Since voter history is generally available to the public, issues of confidentiality should not stand in the way of the early release of lists of voters who have cast ballots before Election Day. The increasing use of electronic technology in administering elections also makes reporting on early voters more feasible than in the past.

The report concludes with recommended EIP practices. First among the recommendations is that EIP should be offered for at least a two-week period and that it include at least one weekend day. Of equal importance is the need to insure that there are an adequate number of EIP polling locations, based on the density of the population. Last, but not least, it is important that election administrators provide several forms of notice regarding the availability of EIP, the locations of EIP polling locations, and the process for voting early.

In conclusion, EIP is a strongly favored means of voting and it is here to stay. However, unless the 2008 presidential election is a harbinger of things to come, and not a unique event, it does not appear that EIP expands the electorate to include more minority and lower-income individuals. Nor does it appear that EIP has a socially or politically significant effect on voter turnout. Nevertheless, with time and with good election administration procedures, EIP holds some promise, however tenuous, that America's electorate will in the future more accurately mirror America itself.

Introduction

The early voting phenomenon—what Professor Paul Gronke of the Early Voting Information Center, has called the “quiet revolution” in election reform⁵—is very popular with voters and continues to spread. As of this writing, thirty-two states have some form of no-excuse Early In-Person Voting (EIP). Other states, such as Kentucky, Montana, and Virginia only permit EIP for those who have an excuse, such as an anticipated absence from the jurisdiction on Election Day, illness, disability, or age in order to participate.⁶ Every year, legislatures across the United States introduce bills to implement or expand early voting. At least eight states that do not currently permit EIP introduced legislation in 2009 and 2010 to make it available.⁷ Several states that have existing EIP laws, such as Florida, have legislation pending at the time of this writing to make in-person early voting more accessible.

This report will focus on the effects of Early In-Person Voting in states that make it available without the need for an excuse, and particularly on the impact of EIP on urban, low-income, and minority voters. We define EIP as voting in which any voter may appear at the office of the election authority or other designated early voting center during designated times before Election Day, request an early ballot or absentee ballot, and immediately cast the ballot in the presence of election officials. This form of voting is, of course, only available to voters who are already registered, except in states that permit Same Day Registration (SDR) or Election Day Registration. This report will use the term EIP to mean in-person early voting, and *absentee voting* to refer only to casting a ballot that is obtained (by mail or in-person) by completing an absentee ballot application and completing the absentee

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ballot outside of election authority offices. The absentee ballot may be returned by mail or in person.

It is difficult to categorize states according to these basic forms of early voting because the terminology used to describe state practices is not uniform. Practices that fit our working definition of EIP are variously referred to as “advance voting” or “in-person absentee voting” (an interesting contradiction in terms), among other names. This leads to non-uniform datasets for purposes of study. In self-reporting to the Election Assistance Commission (EAC), for example, states that in fact do permit EIP may not identify themselves as such because they view themselves simply as no-excuse absentee voting states. As a result, the 2008 EAC Voting Survey, for example, lists only twenty-two states as EIP states, whereas approximately thirty states actually permitted EIP in the 2008 presidential election.⁸ This leads to variations in the reported percentages of EIP votes cast in a particular election across datasets and a resulting difficulty in obtaining an exact calculation of the percentage of EIP ballots cast nationwide. For example, the 2008 EAC Voting Survey reports that EIP ballots represented about 13% of all ballots cast, whereas a study using a national internet and phone survey of 2008 presidential election voters determined that EIP ballots represented 18 percent of all ballots cast that year.⁹ The same report indicates that absentee by-mail ballots represented 19 percent of all ballots cast. Complicating the problem further, some states lump EIP ballots and absentee mail-in ballots together in their reports to the EAC.

In addition to the differences in defining and labelling EIP systems, the systems themselves vary broadly among states. Time periods in which EIP is available, for example, vary from 10 days or less to 45 days. Some states do not provide early voting on weekends or during

evening hours, while most do. The number and location of EIP polling sites vary also; many states only mandate a single early voting center in each jurisdiction (usually in the offices of the local election authority), while others provide many additional early voting sites.

This report reviews current state early voting laws and the early voting legislation introduced in 2009-2010. We describe the various ways in which states have implemented early voting. In the next section we review the literature on the effect of EIP on overall turn-out, both standing alone and in conjunction with other election reforms, such as Same Day Registration (SDR) and Election Day Registration (EDR). We then discuss the demographics of those who make use of EIP and whether it has promise to expand the electorate to include traditionally underrepresented groups such as low-income voters, particularly voters of color and ethnic minorities. We then turn to the attitudes of local election authorities and administrators toward early voting. Predictably, the reaction of local election authorities has a significant effect on legislators who are considering early voting. Finally, we recommend best practices for early voting systems, including, among other factors, features that may help to increase the number of traditionally underrepresented lower-income and minority voters that go to the polls.

Review of Early Voting Laws and Pending Legislation

Western states led the way in EIP when Texas introduced its EIP system in 1988. In the 1990's the practice spread to Oklahoma, Tennessee, New Mexico, and Nevada. Southern states followed. Currently EIP has spread

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broadly throughout the United States, with the exception of the Northeast in which only two states, Maine and Vermont, make EIP available to voters.¹⁰ Maryland passed legislation to introduce EIP not once but twice. The state's first early voting law was struck down in a state court on the ground that it violated the Maryland Constitution. In response, proponents launched a statewide referendum to place a Constitutional amendment on the ballot to permit early voting. The Constitutional amendment passed and, with the passage of the second EIP bill, no excuse Early In-Person Voting became the law of the land in Maryland in time for the 2010 elections.

As touched on above, 32 states currently allow no-excuse EIP (see Table 1 below). Other states, such as Utah¹¹ and New Jersey¹², permit but do not require counties to provide early voting. Several states, including Kentucky, Minnesota, South Carolina, Virginia, and Massachusetts limit early voting to voters who would otherwise be eligible for traditional, needs-based absentee voting, such as voters who are elderly, disabled, infirm, or otherwise unable to appear at the polls in person on Election Day.¹³

Table One (on the following page) demonstrates that there is wide state-to-state variation in the length of time early voting is made available prior to Election Day. The duration varies from little more than a week to as long as 45 days before the election. Ohio, Wyoming, Montana, Maine, Vermont, and Iowa permit voters to cast their early ballots in person 30 days or more before the election. Others, such as South Dakota and Idaho, permit EIP voting as soon as absentee ballots become available. Longer time periods increase the availability of early voting, and it would seem that this alone would lead to increased early voting participation, but it is not clear that this has been the case. Longer time periods have thus far not been found to significantly correlate with greater overall voter turnout.

The number of required early voting polling locations also varies widely from state to state. A majority of excuse early voting states, such as Ohio, only require one mandatory early voting polling location, usually situated in the county election offices. Several early voting states, such as Nevada and West Virginia, leave the number of sites to the discretion of individual counties.¹⁴ Finally, a few states, including New Mexico¹⁵ and Illinois,¹⁶ base the number of early voting sites on the population of each county or local jurisdiction. Satellite early in-person polling locations are generally established in places such as libraries, schools, churches, and, at times even commercial locations such as malls or grocery stores. In Nevada, early voting polling locations include fixed high traffic locations such as supermarkets, as well as mobile early voting centers, which stay at a neighborhood location like a community center for a few days and then move on to another site to ensure that early voting is available to as many voters as possible. Texas also places EIP locations in malls and other high traffic areas. The greater number of early voting centers benefits lower-income, urban voters, and some minority populations, who may otherwise be unable to vote on Election Day due to work constraints.

In states that have had EIP voting systems in place for many election cycles, such as Texas, Nevada, New Mexico, and Tennessee, and in newer EIP states, such as Georgia and North Carolina, early voting was preferred to Election Day voting by more than 50% of the voters.¹⁷

It is essential that a sufficient number of accessible early voting polling locations be made available to not only the increasing population of voters who need or desire to cast their ballots early, but also to accommodate voters who don't have ready access to transportation and those whose work does not permit them to travel to a local

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Table One

Up-to-date No-Excuse EIP states with EIP time periods

State	Begins	Ends	Need Excuse?
Alaska	15 days before election	On Election Day	No
Arizona	15 days before election	Friday before	No
Arkansas	15 days before primary or general election	Monday before	No
California	29 days before election	7 days before	No
Colorado	15 days before election	On Election Day	No
Florida	15 days before the election	2nd day before	No
Georgia	Monday before	Friday before	No
Hawaii	No later than 10 business days, incl Sat.	Not stated	No
Idaho	When ballots available	Day before	No
Illinois	22 days before election	5 days before	No
Indiana	29 days before election	Noon on Election Day	No
Iowa	Not more than 40 days before election	Not stated	No
Kansas	Tuesday before election, to 20 days, by county.	Not stated	No
Louisiana	12 days before	7th day before	No
Maine	45 before	Not stated	No
Maryland	2nd Saturday (2nd Fri thru Thurs before in 2010)	Thurs before Election	No
Montana	30 days before	Not stated	No
Nebraska	3rd Saturday	Friday before	No
Nevada	3rd Saturday	Friday before	No
New Mexico	29 days before	Saturday before	No
North Carolina	3rd Thursday before	Saturday before	No SDR
North Dakota	15 days before election	Day before	No EDR
Ohio	35 days before election	Day before	No
Oklahoma	Friday, Saturday and Monday before election	Monday before	No
South Dakota	As soon as ballots are ready		No
Tennessee	20 days before	Not less than 5 days	No
Texas	17 days before, unless falls on a weekend	4 days before	No
Utah	14 days before	Friday before	No
Vermont	45 days before primary or general election	Day before	No
West Virginia	20 days before	3rd day before	No
Wisconsin	3 weeks before	Day before	No
Wyoming	40 days before	Election Day	No

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election office during normal business hours. Particular circumstances, including record turnout, voting system problems, and an insufficient number of early in-person polling locations led to long lines in Florida, Ohio, and other states in the 2008 Presidential election.¹⁸ Louisiana, for example, received reports of waiting periods in excess of five hours.¹⁹ Florida, which had just switched to optical scan ballots in 2008, had an even more dramatic backup of early voters.²⁰

In addition to anecdotal evidence that the lines were long, a 2009 survey of the 2008 presidential election revealed that EIP voters were in fact more likely to wait longer in line than Election Day voters. Compared to Election Day voters, twice as many EIP voters waited in line for one hour or longer. Four percent of Election Day voters waited in line for more than one hour compared to 8 percent of EIP voters. Just 10 percent of Election Day voters waited between 30 and 60 minutes, whereas 13 percent of EIP voters waited that long. It is generally understood that the 2008 presidential election may have been an anomaly, and that these results may have been a function of Barack Obama's historic candidacy and the increased African American, and Hispanic, voter participation. It remains to be seen whether early voting metrics from the 2008 election hold true in future elections.²¹

Despite long lines at early voting centers in some states, early voting is extremely popular with voters. Sixty-four percent of states already permit no-excuse early voting, and it was a popular legislative trend in 2009 and 2010. The increased push for new EIP legislation was at least partly in response to the 2008 presidential election, in which unexpectedly high numbers of voters took advantage of no-excuse early voting. Early voting bills were introduced in Michigan, Minnesota, Missouri, Pennsylvania, New York, and South Carolina. Mississippi

and Virginia each rejected early voting bills this year. Virginia, which currently requires an excuse to obtain an absentee ballot,²² already permits a limited "one-stop-shopping" form of early voting in that it allows voters to request an absentee ballot in person, fill it out, and deliver it to the election authority in one visit. Maryland, Vermont, and West Virginia passed early voting into law within the past two years.²³ In some states, such as Missouri, early voting bills were introduced as part of legislative package to attract Democratic support for Republican-sponsored voter ID bills.

Critics of early voting allege that it provides greater opportunity for voter fraud. Yet the opportunity to commit fraud at an EIP polling location is no greater than at traditional Election Day polling sites. The same opportunities to use security and verification measures, including voter ID where applicable, exist at early in-person polling locations and Election Day polling locations. Project Vote conducted an exhaustive nationwide survey of voter fraud allegations and found that voter fraud of all types is extremely rare, averaging eight cases per year among the millions of voters nationwide. Voter impersonation and double voting, the professed concerns of early voting opponents, are even more rare.²⁴

Increased administrative costs are also frequently cited as grounds for opposing EIP. There are costs associated with the implementation and, to some extent, the continued operation, of early voting. As will be discussed below, under-resourced local election officials often resist the implementation of early voting on the basis of cost and a lack of resources. In addition, resistance to changing the long tradition of a single national Election Day has been found to be a strong motivation for opposing early voting legislation.

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Local Election Officials' Response to Early In-Person Voting

Academic studies on EIP focus primarily on its effects on turnout, on diversity of the electorate, and on voting behavior. Research on the response of local election officials to EIP voting is sparse. One recent academic study, however, surveyed the reactions of Wisconsin local election officials in response to proposed EIP voting in that state.²⁵ (The study also addressed the interaction of EIP voting and other election reforms, such as EDR and SDR, on turnout.) The authors surveyed 1,850 municipal clerks and 72 county clerks in Wisconsin's decentralized election administration system and received a substantial 72 percent response rate.

At the time of the survey, Wisconsin permitted no-fault absentee voting onsite at election offices, but did not have true EIP voting in the sense of setting up and staffing voting centers where individuals could cast their ballots on a machine or by regular paper ballot. The Wisconsin Governmental Accountability Board (GAB) recently considered whether to recommend adopting EIP voting, in part as a response to the long lines for absentee in-person voting that Wisconsin experienced in 2008 and the increased burden on full-time local election staff that resulted.²⁶

The Wisconsin study found that nearly 85 percent of the local election officials who responded felt that "early voting would make my job more difficult" and only 5 percent believed that it would make their job easier—even when these officials were asked to consider that fact that the administrative burden they currently endured with in-person absentee voting would be substantially reduced. This response is surprising, given that a clear majority of the officials felt that their current in-person

absentee voting process made their jobs more difficult.²⁷ Clerks, especially in small municipalities, were more likely to object on the grounds that the costs, time, and need for additional personnel that accompany early in person voting were too great.²⁸ Some small municipalities in Wisconsin are only staffed by part-time administrators who have other jobs. In some cases there was no fixed office for election administration; election activities took place in the homes of election officials. Opposition to EIP under those circumstances is certainly understandable.

Although concerned with the cost and administrative burden, most Wisconsin local election officials did not see ballot security as a serious issue in EIP voting. They were confident that the existing in-person absentee voting system "did not undermine election security, with 73 percent of officials disagreeing that security was an issue (and 29 percent strongly disagreeing) and only 14 percent agreeing (and 5 percent strongly agreeing).²⁹

Only 23 percent of local election officials surveyed thought EIP voting would increase turnout, and 48 percent believed turnout would actually decrease if early voting were implemented. This contrasts with the finding that out of the small group who thought that early voting would make their job easier (by spreading out the administrative burden of absentee in-person voting), a decisive majority of 89 percent thought EIP voting would increase turnout, in contrast to 16 percent of this group who thought that it would not increase turnout.³⁰

The final report to the Wisconsin GAB on public and local election official response to proposed options on EIP voting, revealed that, of 340 clerks who responded to the state's survey, only seven stated that they preferred the option of making EIP voting mandatory for all

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counties (“Option A”).³¹ The option of requiring EIP voting based on population (thus addressing the unique concerns of small municipalities) or at the option of local jurisdictions drew a similarly negative response: only seventeen of the 340 clerks approving of this option (“Option B”). The last option, that of instituting true EIP voting, but expanding locations for early absentee voting and giving local jurisdictions flexibility in administering it, won the approval of 160 of the 340 clerks (“Option C”). Ultimately, the report to the Wisconsin GAB did not recommend instituting EIP voting at this time.

Costs, the need to expand resources, and increased administrative burdens were the primary reasons that local election officials, particularly in small municipal jurisdictions, opposed an expansion to true EIP voting in Wisconsin. (The Wisconsin study found that a concern for loss of the civic experience was also a consideration for many local officials.) Costs of implementing EIP voting include the need for additional personnel, which is the largest budget item. Other costs include the expense of additional voting centers, telecommunication costs to enable remote centers to communicate with the main office, and the cost of providing additional voting machines or optical scanners. The administrative burdens include supervision and training of additional staff, staffing from already scarce pollworker pools for days or weeks prior to Election Day, ensuring the security of voting machines or scanners over a prolonged period, and providing a sufficient number of accessible early voting locations.

Missouri introduced legislation in 2010 to permit EIP voting (tied to voter ID legislation), which met with similar opposition from local election officials. The Missouri local election officials, like those in Wisconsin, emphasized the cost of implementing early in-person

voting and a lack of resources as grounds for their opposition. St Louis County, Missouri, for example, estimated that the cost increase would be about 1.3 million dollars.³² (This estimate may not be an accurate reflection of the ultimate cost of EIP voting in the county, however, because it is based on an assumption that there would be 21 days of early voting, whereas the legislation—which ultimately did not pass—only provided 7 days of early voting.)

In contrast to local election officials’ opposition to EIP voting in Wisconsin and Missouri, local election officials in Texas, where EIP voting has been in effect for more than 20 years, now have a positive view of EIP voting. However, there was significant initial reluctance on the part of Texas local elections officials when early voting was first instituted in 1987. In its retrospective analysis of the EIP voting program in Texas, the Election Assistance Commission concluded:

No empirical studies are available regarding election officials’ attitudes about early voting, but anecdotal evidence from throughout Texas suggests that it was greeted with general reluctance, which was to be expected with any unfunded mandate. More than 20 years after implementation, however, local election officials have fully incorporated any extra costs associated with early voting into their budgets and reported that they favor the alternative voting method.³³

Proponents of EIP cite beneficial effects such as shorter lines on Election Day, greater opportunities to vote during non-working hours, and greater opportunities to correct errors in polling lists or to obtain necessary identification documents for those voters who initially appear to vote without proper documentation. The hope

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for shorter lines has not been borne out, however, as voters in the 2008 election actually waited in line longer than voters on Election Day. The difficulties that Florida, Ohio, and other states have experienced with early voting also demonstrate the unique challenges that arise in the initial implementation of EIP voting. These include issues of security, uniform and sufficient allocation of accessible early voting centers, distribution of resources, and funding the costs of early in-person voting. The most powerful impetus toward adopting EIP voting, however, has been a belief that, by expanding opportunities for voters to participate, early voting would increase turnout. This has been of particular concern to advocacy organizations, such as Project Vote that seek to increase voter participation in traditionally under-represented low-income communities and among people of color. The next section will explore the promise and the observed effects of early voting on voter turnout and expansion of the electorate.

The Promise of Early Voting: Increased Turnout?

A number of studies have addressed the issue of whether no-excuse EIP and no-fault absentee mail-in voting have fulfilled their promise of increasing voter turnout. A review of the existing literature on the subject leaves one with as many questions as answers. Early studies suggested that, contrary to expectations, early voting in general (by mail and in person) may have actually decreased voter participation by a small margin in some elections.³⁴ Professor Paul Gronke, in conjunction with others at EVIC, did find a slight but statistically significant increase in turnout related to EIP, but only for mid-term elections.³⁵

A more recent study by Jan E. Leighley and Jonathon Nagler indicates that there has been a small but statistically significant increase in turnout for federal general elections in relation to EIP.³⁶ This study surveyed the effect of no-excuse absentee mail-in voting and EIP on voter turnout for the years 1972 through 2008, and concluded that, controlling for other factors, for this period of time states that adopted EIP voting and/or no-excuse absentee voting had a greater increase in turnout than they would have had if they had not adopted these reforms. In states that did not experience an increase in voter turnout relative to other states, the authors found that other factors intervened. Overall all, the study found a 3 percent increase in turnout related to EIP and no-excuse absentee voting. This is a significantly higher increase in turnout for federal general elections than has previously been reported. The data sources for this survey were the aggregated reports of the official turnout from each state, the political characteristics, and the election laws from each state. The Current Population Survey was used to calculate turnout by characteristics including ethnicity, income, and age, which data is not included in official state turnout records.³⁷

Differences in methodology, beyond the scope of this report, may account for some differences in academic findings on turnout. For example, the Leighley-Nagler survey classified states as EIP states only if their state election code expressly stated that the voter may complete a ballot in the presence of election officials. Some states' statutory language omits that express statement and only refers to filling out the EIP ballot in person at specific locations established by local election authorities. The requirement that the ballot be filled out in the presence of election officials is implied, not expressed. In addition, the variables aside from the presence or absence of EIP that are used to gauge the effect of EIP on turnout differ

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from study to study. Finally, the databases on which each analysis is predicated also differ as to the source and the methodology by which the data is collected.

Regardless of the methodology, the data analyzed prior to the 2008 election established that differences in turnout between states that adopted EIP and those that did not were not substantial. Where it appeared that turnout was positively affected, the positive result was obtained not by adding new voters to the electorate (broadening the electorate) but by retaining voters who were already predisposed to vote.³⁸ It appeared that the hope that EIP alone would be at least a partial answer to the problem of low voter turnout, particularly among urban, minority and lower-income individuals, was not borne out by the facts on the ground. The availability of EIP serves to retain regular voters, and not to dramatically increase the pool of voters. Convenience alone has not spurred voter turnout or broadened the electorate to include previously under-represented demographic groups, at least in elections prior to the 2008 presidential election.

The 2008 presidential election produced dramatically different results in turnout in relation to EIP voting, particularly among young voters, African Americans, and Hispanic voters. Each of these groups voted early in person at a far greater rate than they had in previous federal elections. Overall, the increase in turnout during the 2008 presidential election among African Americans, Hispanics, and young people between the ages of 18 and 24 increased approximately 4 percent over the 2004 presidential election.³⁹ Among all voters, the rate of early voting in general doubled from 2006 levels.⁴⁰ This fact in itself affects the results of the 1972-2008 survey of early voting election reforms discussed above. Given the unique historical nature of the 2008 election, only time will tell whether the changes in EIP voting witnessed in that

election year will continue or, as some scholars predict, will not be repeated in future elections.⁴¹

The Promise of Early Voting: Has EIP Expanded the Electorate?

As noted above, in considering the question of whether EIP has brought historically under-represented low-income citizens and ethnic and racial minority groups into the democratic process, there are two distinct eras: all federal elections prior to 2008 and the 2008 election of this country's first African American president. Studies of the 2004 and 2006 federal elections consistently concluded that EIP voters and absentee-by-mail-voters were "cut from the same cloth."⁴² In general, the literature generally points to a conclusion that the demographics of early voters, absentee-by-mail voters, and EIP voters, largely mirrored those of Election Day voters: they tended to be older, more educated, wealthier, and more politically engaged than the overall population.

The Early Voting Information Center at Reed College (EVIC) issued a 2008 report, covering both no fault absentee voting and in-person early voting, which essentially seeks to answer two primary questions: who votes early and why? To answer these related questions, the authors explored multiple variables, starting with demographic variables of age, education, and income. The study expanded beyond the fundamental demographics and added substantially to the analyses by also controlling for the level of political engagement, the strictness or flexibility of the respective jurisdictions' early voting laws, the level of partisanship in the election, and whether the voter was contacted by a campaign. The analysis did not include the variables of race or ethnicity; nevertheless, it would seem that controlling for income gives some

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indication of whether or not early voting expands the electorate to include traditionally under-represented people of color and minority and ethnic groups, who may be over-represented as a percentage of the low-income population. In analyzing the multiple variables, the EVIC team found that “many of the statistically significant relationships [between groups] disappeared.” The report did, however, find some statistically significant differences between early voters (by mail and in-person) and Election Day voters during midterm elections, finding that midterm early voters tended to be more politically informed and engaged. Most significantly, EVIC found that across the table, differences between early voters and Election Day voters increased as early voting became more available.

The increase of EIP voting by minority voters in the 2008 election, as mentioned, marked a dramatic change from prior years. Unlike previous elections, in the 2008 presidential election, African American and Hispanic voters cast EIP ballots at a rate exceeding or matching that of white voters.⁴³

Data released by the state of Georgia during the state’s 2008 early-voting period showed that, at that point, African Americans had voted early in person at a much higher rate as a percentage of their group than White voters.⁴⁴ In Florida, as of late October 2008, about half way through Florida’s early-voting period, African American voters were voting at half the rate of White voters as a percentage of the overall vote, which represented a marked increase. African American voters in Florida accounted for about 14 percent of the registered voters but approximately 20 percent of the early in-person vote at that point.⁴⁵ North Carolina had a similar result. As of late October 2008, African American voters cast their ballots early at a rate equal to half that of White

voters, yet as a group they represented only 20 percent of registered voters.⁴⁶

These interim and anecdotal reports of increased EIP voting by African American voters and other ethnic groups in the 2008 Presidential Election was borne out by the “2008 Survey of the Performance of American Elections.”⁴⁷ In this survey, the authors conducted an internet survey of 10,000 voters and a parallel phone survey of 2,000 to establish the database for their analysis. The survey revealed that African American voters were significantly more likely to vote by EIP ballot than White voters: 24 percent for African American voters, compared to 17 percent for White voters. Conversely, African American Voters were less likely to vote by absentee mail ballots than White voters, 17 percent versus 24 percent. Hispanic voters and voters in the 18-24 age group also turned out in greater numbers than ever before. Hispanic voters, on the other hand, cast EIP ballots at about the same rate as White voters.

The authors caution that the change in African American EIP voting in 2008 may reflect regional variation and, in part, reflect the uneven distribution of racial and ethnic groups across the regions. The authors stated that they could not conclude from this information that EIP increased turnout among African Americans in the context of the 2008 election.

It remains to be seen whether the dramatic difference between the 2004-2006 data on the relation between race or ethnicity and EIP voting and the preliminary data from the 2008 presidential election may be found in future studies to be a function of Barack Obama’s candidacy—or whether, once begun, the 2008 patterns continue and at what level of intensity in future elections.

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One important means to maximize the value of EIP as part of an effort to increase voter participation among traditionally under-represented populations is to obtain timely information on who has voted, in order to enable civic organizations to focus more effectively their get-out-the-vote (GOTV) efforts on those who have not voted. To this end, it is important that local elections officials make the names of people who have already cast their early ballots available for GOTV programs by civic groups as well as election campaigns. As voter history is made widely available after an election, early publication of “voted” lists do not constitute an invasion of privacy. The ability of civic organizations to focus their efforts only on those who have not voted, would also reduce the number of contacts voters receive from GOTV campaigns in the weeks leading up to an election. With the advance of technology, providing timely lists of the names of voters who have cast early ballots should be relatively cost-free and not burdensome.

Conclusion

Early In-Person Voting is, without doubt, expanding across the nation. EIP and absentee mail voting has doubled in each of the last three presidential election cycles.⁴⁸ Based on our experience in the 2008 election, and the trajectory of no-fault absentee balloting reform, the push toward EIP voting is not going to diminish. The Northeast, at present, lags behind the West, South and Midwest regions of the country, yet it is apparent that EIP is under intense consideration in legislatures throughout the Northeast.

We are still too close to the 2008 election to gauge whether African Americans, generally speaking, will continue to favor EIP over other forms of voting. If we

treat the 2008 presidential election more as an outlier (due to its unique place in American history), it can otherwise be said that EIP does not appear to have any substantial effect on turnout or upon the goal of expanding the electorate to include traditionally under-represented minorities or lower-income individuals.

Recommendations

The following are recommended as best practices to maximize the effectiveness of EIP voting systems:

- Provide a minimum two-week period of early voting
- Require that the number of EIP polling locations be proportional to the population size and density of the jurisdiction
- Ensure that EIP polling locations are accessible to voters with disabilities.
- Initiate effective notice procedures, such as public service announcements and mailings about availability of EIP.
- Develop streamlined processes for processing voter identification
- Combine EIP with Same Day Registration and, where politically feasible, also provide Election Day Registration of voters.
- Assure that some EIP polling locations, depending on population, are placed in lower income and minority neighborhoods and neighborhoods in which private transportation is limited.

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- As understanding of the popularity of EIP develops, provide adequate numbers of ballot stations to meet the anticipated turnout and avoid long lines at EIP locations.
- Frequently publish lists of those who have cast their ballots early, at least every 48 hours, to assist civic organizations and campaigns in carrying out GOTV campaigns.

Notes

- ¹ Paul Gronke and Daniel Krantz Toffey, *The Psychological and Institutional Determinants of Early Voting* Reed College and Early Voting Center, Sept. 2008, p. 4.
- ² 2008 Current Population Survey, U.S. Census Bureau, accessed August 24, 2010, <http://www.census.gov/hhes/www/socdemo/voting/index.html>.
- ³ Paul Gronke, James Hicks, and Daniel Krantz Toffey, "The Anomalous 2008 Election and Lessons for Reform," paper presented at the American Political Science Association 2009 Toronto Meeting. Available at <http://ssrn.com/abstract=1451900>.
- ⁴ Paul Gronke, Eva Galanes-Rosenbaum, and Peter Miller, "Early Voting and Turnout" Early Voting Information Center (EVIC), Reed College, 2007; Priscilla I. Southwell and Justin Burchett: "Does Changing the Rules Change the Players? The effect of All-Mail Elections on the Composition of the Electorate?" *Social Science Quarterly*, 2000, vol. 81, no. 3, pp. 837-845.
- ⁵ Paul Gronke, Presentation to National Association of Secretaries of State (NASS), Feb. 2009.
- ⁶ Jan E. Leighley and Johnathon Nagler, "The Effects of Non-Precinct Voting Reforms on Turnout, 1972-2008," January 15, 2009.
- ⁷ National Conference of State Legislatures, <http://www.ncsl.org/default.aspx?tabid=16588>, last accessed April 14, 2010. Bills were filed in Michigan, Minnesota, Mississippi, Missouri, New York, Pennsylvania, South Carolina, and Virginia. Bills in Mississippi, Missouri and Virginia have failed this year. In New York, a bill entitled Early Voting Act failed, similar bills were pending at the time of this writing.
- ⁸ "2008 Election Administration and Voting Survey," Election Assistance Commission, November 2009.
- ⁹ Thad Hall, Michael Alvarez, Stephen Ansolabehere, Adam Berinsky, Gabriel Lenz, and Charles Stewart III, "2008 Survey of the Performance of American Elections," Nov. 25, 2009.
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- ¹¹ Nathan Cemenska, Jan E. Leighley, Jonathon Nagler, and Daniel Tokaji, "Report on the 1972-2008 Early and Absentee Voting Dataset," p. 7, 42, submitted to Pew Charitable Trusts April 30, 2009.
- ¹² N.R.S. 293.3561, W. Va. Code, § 3-3-2a, W.S.A. 6.86
- ¹³ N. M. S. A. 1978, § 1-6-5.7
- ¹⁴ 10 ILCS 5/19A-10
- ¹⁵ Alvarez, Supra. n.8.
- ¹⁶ "Long Lines, Glitches Reported during Early Voting," CNN, accessed April 15, 2010, <http://www.cnn.com/2008/POLITICS/10/24/voting.problems/index.html>.
- ¹⁷ EVIC, <http://www.earlyvoting.net/blog/2008/10/interesting-turnout-figures-louisiana>
- ¹⁸ "Long Lines, Glitches Reported during Early Voting," supra. fn. 8
- ¹⁹ Gronke, Paul, et al. Supra n. 3
- ²⁰ Va. Code Ann. § 24.2-700
- ²¹ National Conference of State Legislatures, www.ncsl.org, last accessed April 16, 2010.
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- ²⁶ Id. p. 18
- ²⁷ Id. p. 21.
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³³ Id. P. 6.

³⁴ Paul Gronke, Eva Galanes-Rosenbaum, and Peter Miller, "Early Voting and Turnout," Early Voting Information Center (EVIC) Reed College, 2007; Priscilla I. Southwell and Justin Burchett: "Does Changing the Rules Change the Players? The effect of all-mail Elections on the Composition of the Electorate?" *Social Science Quarterly*, 2000, vol. 81, no. 3, pp. 837-845

³⁵ CPS release 7-20-2009.

³⁶ EAC 2008 Election Day Survey

³⁷ Gronke Supra n. 3.

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⁴³ Supra, n. 8

⁴⁴ Gronke, n. 3.

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, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.

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