



June 2013

Same Day Registration

by Estelle H. Rogers, Esq.

Same Day Registration (SDR, also known as Election Day Registration) has proven to be an innovation in election administration that both expands the electorate and conveniences voters. Initiated in the 1970s in Maine, Minnesota, and Wisconsin, SDR has now been signed into law in 13 states¹ and the District of Columbia, most recently passing in Colorado and Maryland in the spring of 2013.

Same Day Registration allows an eligible individual to register on Election Day (and/or on the state's early voting days) and cast a ballot on the spot. It also enables an already-registered voter to update his registration record and vote a ballot that will be counted.

Despite the growing acceptance of SDR across the country and its smooth implementation for 35 years—including decades before the advent of statewide voter databases mandated by the Help America Vote Act (HAVA)—there is still stiff resistance to adopting such policies in many states. Some of the attacks emanate from the misguided pronouncements of partisans seeking electoral advantage, such as the notion that SDR laws will unfairly advantage one party over another. Others raise the specter of so-called voter fraud and paint SDR as a way to game the system.

However, these allegations and concerns have proven unfounded, and SDR has been a successful and powerful means of expanding the number of voters and enhancing the diversity of the electorate for multiple election cycles.

Advantages

Capturing Interest and Broadening the Electorate

Most states have strict registration deadlines, some as far out as 30 days before Election Day. Unfortunately, many citizens are just getting interested in the issues and candidates at about the time that registration is over. Same Day Registration allows such eligible voters to participate in the election—even if they haven't planned ahead.

The states that have enacted SDR consistently boast the highest participation rates in the United States. Average voter turnout in SDR states is more than 10 percentage points higher than other states.²

Voters who move just before an election, students who decide to register at their college address, and elderly or disabled people who would rather minimize their trips to the election office all benefit from the flexibility of registering and voting on the same day. Although SDR has often been thought to benefit young voters in particular, 2012 Census figures show that 7.6 percent of voters age 65 or older used SDR, as opposed to 5.3 percent of voters age 18-24.³

Fewer Provisional Ballots

By definition, same-day registrants are “on the roll,” making provisional ballots—generally offered when the voter thinks she is registered but her name does not show up on the roll—much less necessary. In addition, most SDR laws require that the voter provide current identification documents, so confusion about duplicate registrations is largely avoided as well. In Iowa, where SDR was introduced in 2007, provisional ballot usage dropped from 15,000 in the 2004 presidential election to less than 5,000 in 2008, a two-thirds reduction.⁴ Provisional ballots also take more time to cast at the polling place and more time to process after the election, and many are not counted. In the 2008 election, two million provisional ballots were cast, and only 500,000 were counted.⁵

The post-election procedures of election officials are made more complicated and more costly with more provisional ballots. These ballots must be evaluated one by one. In some states, voters are permitted to supplement their ballots by providing additional documentation or appearing personally in the days following the election. And voters must be notified of the disposition of their provisional ballots, by phone, by mail, or both. By reducing the use of provisional ballots, SDR makes the job of running elections dramatically easier and more economical.

SDR also helps to keep voter rolls updated. Previously registered voters who have moved and lost their registration, and applicants whose names are erroneously left off of the rolls, now have a way to rectify these problems on Election Day. In fact, any eligible person who arrives at the polling place and does not appear in the poll book for any reason has one more chance to register and vote.

Retaining Mobile Voters

The United States is a particularly mobile country. Census data indicate that over 36 million people moved between 2011 and 2012, and nearly half of those were in the low-income brackets.⁶ Young people and voters of color also move frequently.⁷ These groups benefit especially from a mechanism that allows them to register and vote on Election Day. It is not surprising that people in the process of moving may forget about updating their voter registration information: notifying friends, family, credit card and utility companies seems a lot more pressing.

SDR has proven particularly popular with minority voters. In North Carolina, for example, where African Americans represented 20 percent of the voting-age population in 2008, 36 percent of those using SDR to register for that year's election were African American.⁸

Concerns

Money Worries

In these tight budgetary times, legislators often express doubts about the administrative burden of offering registration at polling places, but a Same Day Registration system can be introduced at low cost, and becomes more cost-effective over time. In fact, one authoritative study concluded that it costs no more to run elections in SDR states than in other states.⁹

Iowa, which offered SDR for the first time in a presidential election in 2008, estimated spending less than \$40,000 to introduce its system in 99 counties, with minor additional expenditures by the counties.¹⁰ A survey of six states conducted by the advocacy group Dēmos in 2010 indicated that the states considered their ongoing incremental costs of implementation to be “minimal.”¹¹

It is axiomatic that many same-day registrations and updates simply take the place of clerical work that must be done by election administrators and staff at one time or another anyway—and Election Day transactions may in fact be more accurate and less time-consuming because they entail face-to-face interaction with the voter. SDR does not so much add costs, therefore, as it distributes them differently over time.

The Fraud Question

One of the most commonly voiced objections to a number of “convenience voting” innovations is their susceptibility to fraud, but this is clearly unfounded with respect to SDR, as election officials attest.¹² Both proof of current residency and proof of identity are generally required to register using SDR.¹³ In some states, failure to present the required documents results in the need for a provisional ballot that will only be counted if the voter returns with the documents; in other states, Same Day Registration would not be available at all if the documents are not provided at the time of registration.

In states with electronic poll books and access to the statewide voter database in real time, a poll worker can also immediately determine whether an applicant has voted previously, either in person or by mail. The fact that information is provided to the poll worker face to face also lends extra security. And in some states, Same Day Registration is limited to venues where there are local officials on site, such as the central election office or town hall. The personal information provided by applicants is also checked with other state or federal databases, such as the Corrections Department or Social Security, in some jurisdictions.

It should be kept in mind that all states have criminal statutes on the books that penalize perjury, fraud, and election-related fraud. Although these problems are virtually non-existent in connection with Same Day Registration, there are already adequate laws in place to prosecute any future offender.

States that have Passed Same Day Registration

Implemented

Colorado
District of Columbia
Idaho
Iowa
Maine
Minnesota
Montana
New Hampshire
North Carolina*
Wisconsin
Wyoming

Passed, but Not Yet Implemented

California**
Connecticut***
Maryland****

* North Carolina allows SDR during early voting, but not on Election Day itself.

** California's SDR will take effect no earlier than January 2014.

*** Connecticut's SDR takes effect July 1, 2013.

**** Maryland will allow SDR during early voting, but not on Election Day itself, beginning January 2016.

State Examples

As is generally the case in all categories of election laws, there are wide variations among states that offer Same Day Registration. Some only allow provisional ballots for same day registrants. Several offer SDR only during an early voting period and not on Election Day itself. Different identification and proof of residency documents are required by different states. Uniquely, Ohio offers its own version of Same Day Registration only during "Golden Week," a one-week period just before the registration deadline that coincides with the first week of early voting, so that registration and voting can be accomplished in one visit to the county's election headquarters. The following are some of the state-specific features of SDR states:

- In **Montana**, SDR is conducted only in official county election offices. (Note that Montana's SDR law will be reconsidered by the voters as a ballot measure in the 2014 election.)
- **Maine** only permits SDR at town offices and city halls.
- **North Carolina** permits SDR only during the early voting period, beginning 19 days prior to Election Day and ending three days before. Similarly, Maryland's new law is restricted to its early voting period.
- In **Minnesota**, personal data provided by the voter is verified with other government agencies, such as the Division of Vehicle Services, Social Security Administration, or Department of Corrections.
- **Iowa** and **New Hampshire** send non-forwardable confirmation mailings to same day registrants after Election Day. If one letter is returned, another mailing is sent. After two failed attempts, the matter is referred to law enforcement for further action.

Conclusion

It is heartening that Same Day Registration is a growing trend, even amid all of the regressive measures being passed by state legislatures in recent years. In eight states and the District of Columbia, where it has been in operation for some time, SDR has been a successful means of expanding the number of voters and enhancing the diversity of the electorate for multiple election cycles, with no problems to speak of.

Nonetheless, as with many policies to expand the electorate and make voting more convenient, SDR has recently come under attack. (As of this writing, Iowa, Montana, and North Carolina are all considering measures that would eliminate their SDR systems.) It seems the voter suppression tide that has threatened the right to vote has cast doubt on SDR as well. Policy makers would do well to consider the overwhelming benefits of SDR in expanding the electorate by offering this last-minute alternative to voters who want to participate but failed to plan ahead. Given the successful track record in states that have adopted SDR, legislators should resist the ill-advised attempts to roll back this important innovation.

Notes

1. National Conference of State Legislatures, last updated May 15, 2013: <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx#how>. Note that several states' laws have not yet gone into effect, and several offer "same day" opportunities, but not on Election Day itself.
2. United States Election Project, <http://elections.gmu.edu/Turn-out%201980-2012.xls>, last visited May 21, 2013.
3. Voting and Registration in the Election of 2012, Table 12, Method of Registration by Selected Characteristics: November 2012, <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/Table12.xls>.
4. Iowa Secretary of State Michael A. Mauro, "Iowa Secretary of State 2008 Report," http://publications.iowa.gov/7483/1/SOS_report_2008_final.pdf, at p.6.
5. United States Election Assistance Commission, *2008 Election Administration and Voting Survey*, <http://www.eac.gov/assets/1/1/Documents/2008%20Election%20Administration%20and%20Voting%20Survey%20EAVS%20Report.pdf>.
6. U.S. Census Bureau, Geographical Mobility 2011-2012, Table, <http://www.census.gov/hhes/migration/data/cps/cps2012.html>.
7. Id.
8. Democracy North Carolina, "2008 Recap: The Year of the Voter," Dec. 26, 2008, <http://www.democracy-nc.org/downloads/WRapUpYearofVoterPR2008.pdf>.
9. R. Michael Alvarez, Stephen Ansolabehere, and Catherine H. Wilson, *Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate* 18-19 (Caltech-MIT Voting Technology Project Working Paper #5, 2002, available at http://www.vote.caltech.edu/sites/default/files/vtp_wp5.pdf).
10. Laura Rokoff, Emma Stokking, Small Investments, High Yields: A Cost Study of Same Day Registration in Iowa and North Carolina, Demos: A Network for Ideas & Action, Feb. 15, 2012: <http://www.demos.org/publication/small-investments-high-yields-cost-study-same-day-registration-ia-and-nc>.
11. "Election Day Registration: A Ground Level View," Demos, <http://www.demos.org/publication/election-day-registration-ground-level-view-0>.
12. Lorraine C. Minnite, *The Myth of Voter Fraud* (Ithaca, NY: Cornell University Press, 2010).
13. <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx#how>, *supra*, note 1.

About the Author

Estelle H. Rogers is Project Vote's Legislative Director. In this position, she coordinates the organization's policy work on both state and federal levels, including interacting directly with legislators and staff, writing testimony and public education materials, and building coalitions with other organizations. Rogers speaks frequently on voting rights and election administration at conferences, academic panels, and to the media. She is the co-author of a chapter in the 2012 book, *America Votes*, 2nd ed., a publication of the American Bar Association. Among her other publications are two law review articles and a chapter in the book *Changing America*, a 1992 publication presenting a comprehensive policy agenda to the incoming Clinton administration.

Disclaimer

The information contained in this document is for general guidance only. It should not be used as a substitute for consultation with professional legal or other competent advisers. Project Vote is not responsible for any errors or omissions, or for the results obtained from the use of this information.

Project Vote is a national nonpartisan, non-profit 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.

©2013 by Project Vote. This paper is covered by Creative Commons "Attribution-NonCommercial-ShareAlike" license. (See <http://creativecommons.org>.) This work may be reproduced in whole or in part for non-commercial use. Reproduction or adaptation must attribute Project Vote, and must bear the Creative Commons "Attribution-NonCommercial-ShareAlike" license. Please notify Project Vote if reproducing or adapting this work.

"Project Vote" is a trademark of Project Vote, and registered in the U.S. Patent and Trademark Office. The Project Vote logo is a trademark or common law mark of Project Vote.