

## **electionlineWeekly—January 29, 2009** **electionline.org**

### **I. In Focus This Week**

#### **Officials Praise Election Day Registration in Iowa**

*Challenges, some skepticism remain*

By [Sean Greene](#)

This past November more than [1.5 million Iowans cast ballots](#) for president and other state and local offices. Of these, nearly [46,000](#) did something that had never been done before in the state during a general election – registered to vote on Election Day.

Michael A. Mauro, Iowa secretary of state was pleased with his state's implementation of [Election Day registration](#) (EDR).

"Election Day Registration underwent its true test this election and no major issues were reported. County auditors and poll workers across the state who implemented this process did an outstanding job. If not for EDR, tens of thousands of voting-eligible Iowans would not have been able to participate in this historic election," he said in a December [press release](#).

Iowa became the eighth state to allow EDR, which was already in use in Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming. A ninth state, North Carolina, allows what it calls one-stop absentee voting, where voters can register to vote and cast a ballot at the same time during a more than two-week early voting period that ends three days before election day.

Approximately 3 percent of all voters casting ballots on Election Day took advantage of EDR in the Hawkeye State and while that portion was not as significant as some other EDR states, it was also not a complete surprise according to Linda Langenberg, Iowa deputy secretary of state.

"We expected our EDR turnout to be less since we had such a huge turnout and registrations at the Iowa Caucuses last year. Also, Iowa has a very high ratio of registered voters to eligible electors. While the percentage of EDR voters in Iowa was quite low compared to other EDR states, we anticipate that will change as years pass, and eligible electors realize that the option is available," she explained.

In preparing to roll out EDR in Iowa, the secretary of state's office contacted other states using the process and specifically reached out to their neighbors in Minnesota, where EDR has been in place for more than 30 years.

The office then produced an eight-minute training video that county auditors could use to train precinct officials (poll workers), prepared EDR kits including requirements and instructions for all 1,774 precincts in the state, provided relevant forms for all counties that they could reproduce as well as a colored canvass bag that poll workers could use to return all EDR-related paperwork to their county.

When Election Day arrived, the EDR process generally worked the same way in most counties:

One precinct official handled EDR voters at a separate station from already-registered voters. Registrants needed to show photo identification and some form of ID that showed their current address in the precinct. After presenting the appropriate identification, voters completed a voter registration form and an "Oath of Person Registering on Election Day" form. Finally, the voter was issued and cast a regular ballot.

The process was mostly smooth according to the secretary of state's office, but challenges emerged. There were reports of poll workers misunderstanding how to handle ballots cast by EDR voters including putting them in envelopes and treating them like provisional ballots.

Republican state representative [Doug Struyk](#), Council Bluffs, does not think treating EDR ballots like provisional ballots is such a bad idea. He has voiced concerns about poll worker and voter confusion as well as the limited checking of a voter's eligibility that can be done on Election Day.

"At a minimum we should require all same-day voters to cast provisional ballots and keep those ballots provisional until the voter has been properly vetted as a resident of the district and to not have voted in any other state or district," he said.

Struyk, who is the top-ranking Republican on the [House State Government Committee](#) which has jurisdiction over election issues, said he has asked for legislation to be drafted addressing these concerns.

County auditors reported other difficulties as well.

Grant Veeder, auditor for [Black Hawk County](#) where nearly 2,400 county residents registered to vote on Election Day, said while the process generally went fine he heard from some poll workers that it was difficult using both EDR and a new voting system for the first time during a high turnout election. The county employed a [new optical scan system](#) approved earlier in 2008.

After Election Day, county auditors sent confirmation mailings to the addresses of all Election Day registrants. News [reports](#) have indicated that in some cases these cards have been returned undeliverable.

In Black Hawk County, 85 postcard acknowledgements were returned to the auditor's office undeliverable. Twelve were discovered to have mistaken or missing address information. The remaining 73 were then sent a second notification requesting a response within 14 days as required by state law. The county followed up with telephone calls as well. After this second round, seven EDR voters still had not responded and the county has forwarded these names to the county attorney and the secretary of state.

"We appear to have had some instances of either voter confusion or fraud. I think with some prosecutions and a better understanding of the system through experience, the small amount of confusion and/or fraud will be reduced," Veeder said.

One case of fraud has been confirmed so far – an [ineligible felon](#) registering and casting a ballot in Clinton County. Langenberg stated while there may have been mistakes made by poll workers or voters, there is no evidence of any kind of fraud on a massive scale and anyone who is found to have fraudulently registered and cast a ballot will be prosecuted.

She thinks most of these challenges can be addressed through poll worker training.

"Precinct official training is imperative since these officials are on the frontline. Election administrators nationwide realize that the job of precinct official gets more complicated each year, and EDR is just one more process to learn, but we were pleasantly surprised at how well the precinct officials in Iowa handled the new process. For other states considering EDR, I would say the most important part of the process is to train your poll workers well."

## **House subcommittee debates D.C. voting rights**

*Retrocession, abolishing income tax also discussed*

By [Kat Zambon](#)

At the January 27 U.S. House Subcommittee on the Constitution, Civil Rights and Civil Liberties [hearing](#) on [H.R. 157](#), a bill that would give the District of Columbia a voting member in the House of Representatives, those testifying agreed that the lack of representation for the District of Columbia is a wrong that needs to be righted but some questioned the bill's ability to withstand scrutiny by the Supreme Court.

House majority leader Rep. Steny Hoyer, D-Md., [pledged to bring the bill to House floor](#) and acknowledged opposing arguments but [said](#) "legal arguments are best sorted out in the courts," urging his colleagues to "make our case on principle, not on technicalities."

Freshman Rep. Jason Chaffetz, R-Utah, disagreed. "There are many people that argue that principles should matter and I agree," he [said](#), "but how we remedy that, how we move forward is important."

Chaffetz said the bill would lead to over-representation in the state of Utah because it would give the state an at-large representative, meaning every resident of Utah would have two members of Congress in the House. It would also allow D.C. Delegate Eleanor Holmes Norton to keep her job, therefore giving D.C. residents two votes in Congressional committees.

"I still don't think you should just run around the Constitution to get what you want," Chaffetz said, but "we need to fix this idea that there is taxation without representation."

Rep. Louie Gohmert, R-Texas, [concurred](#) and said he planned to introduce legislation this week that would allow District residents to discontinue payment of the federal income tax, at which point the audience watching the proceedings in an overflow room broke into applause. Rep. Jerrold Nadler, D-N.Y., subcommittee voiced his support for Gohmert's proposition.

Former Rep. Tom Davis, R-Va., tried to dispel some of the myths that surround the founding of the District and explained that the disappearance of records from 1800, when the capital officially moved to D.C. makes it difficult to judge the founders' intent. "But there is absolutely no evidence the Founding Fathers – who had just put their lives on the line to forge a representative government – then decided the only way to secure that government was to deny representation to some of their fellow citizens," he [said](#).

D.C. residents chimed in as well. Wade Henderson, president and CEO of the Leadership Conference for Civil Rights and life-long Washingtonian [said](#) his DC neighbors only get to be spectators to democracy. Yolanda Lee, a captain in the D.C. National Guard and recipient of the Bronze Star then [testified](#) about her service in Iraq during the country's first free election in 50 years.

### **Constitutional questions**

Jonathan Turley, a professor at George Washington University praised the bill's intent but called it a violation of the Constitution and suggested that a vote for the District would be better achieved with either retrocession – District land being given back to Maryland - or a constitutional amendment. The Constitution and statute affirm that the District is not to be considered a state except in cases related to individual rights such as those enshrined in the Bill of Rights, he said.

If H.R. 157 is unconstitutional, Richard Hasen, a professor at Loyola Law School [wrote](#), the only way to get representation for District residents is with a constitutional amendment, a process that involves securing support from two-thirds of Congress and three-quarters of states. "This is precisely why Congress should pass the current law ... Rejection by the court would put the issue on the front burner," allowing President Barack Obama to push for the constitutional amendment by pointing out that previous steps forward in voting rights required amendments to the Constitution.

### **Related legislation**

Sen. Joseph Lieberman, I-Conn., introduced [S. 160](#), a bill similar to H.R. 157 on January 6 and it currently has 13 co-sponsors. Unlike H.R. 157, however, S. 160 abolishes the position of D.C. delegate.

[H.R. 665](#), introduced by Rep. Dana Rohrabacher, R-Calif., on January 23 would allow District residents to vote with the state of Maryland in federal elections.

## II. Election Reform News This Week

- Legislatures around the country continued their work this week with election administration items coming up on the agenda nationwide. In [Montana](#) two voter access bills—one to eliminate same-day registration and the other to put stricter controls on identification at the polls both failed in committee. In [Indiana](#) a bill was introduced that would change the date of elections and another was introduced that would do away with Indiana's [long-time alcohol prohibitions](#) on election day. A bill limiting types of ID a voter may use at the polls was introduced into the [Utah](#) House. A bill in [Virginia](#) that would clarify voter registration rules for students moved forward in a House committee. In [North Dakota](#), Secretary of State Al Jaeger is opposing a current bill that would require county officials to verify voter affidavits within three days. In [Washington](#), a proposal to restore voting rights for ex-felons has made another appearance. Tensions remain high in the [Texas](#) legislature over a proposed voter ID bill. And in [Washington, D.C.](#) a committee of the Council of the District of Columbia will consider same-day registration.
- A trial began this week on the reliability of [New Jersey's touch-screen voting machines](#). According to the *Associated Press*, at issue is whether a judge should decommission touch-screen voting machines used in all but three of the state's 21 counties. Opponents of the system sued, saying the machines are error-prone and easily hacked. The judge said she would not allow a rebuttal witness to comment on the question central to the case. That's whether most of New Jersey's voting machines should continue to be used.
- The Hillsborough County, Fla. saga continued this week when the *St. Petersburg Times* reported that [elections officials knew about missing ballots](#) that could swing a close Temple Terrace race a month earlier than previously disclosed. The discovery came during the week of Dec. 12, when a temporary worker found 440 ballots from two precincts in a ballot box stored in a warehouse, according to a memo obtained Monday by the paper. Although a top deputy for then-Elections Supervisor Buddy Johnson was told about the find, nothing was said publicly until mid January. That's when the incoming supervisor of elections, Phyllis Busansky, told a roomful of reporters about the missing votes. The total was enough to alter the outcome of a narrow race for Temple Terrace City Council. Yet as she made the announcement Jan. 16, Busansky didn't know the ballots had actually been discovered a month earlier. "My theory is the staff was afraid to say anything until Buddy left," Busansky told the paper.
- Former Louisiana elections commissioner [Jerry Fowler](#) passed away this week, he was 68. According to the *Times-Picayune*, a former professional football player who served in the statewide elected office for two decades, his legacy was marred by a criminal conviction that he said was unjust and a personal tragedy when his wife was abducted and never seen again. Largely because of his actions while in office, the seat of elections commissioner was eliminated and its duties rolled into the office of the secretary of state. Mr. Fowler, a Democrat, could take credit for initiating a sweeping modernization of the state's voting machines. He started a centralized voter registration system, linked by computer to every parish that helped reduce dual registrations. But he also represented the colorfully unfavorable repute of the Louisiana way of self-serving politics and the high-stakes gambler. "There certainly were some serious problems and issues and misdeeds, but there also was tremendous vision," Secretary of State Jay Dardenne told the paper.

## III. Opinion

National: [Voting Rights Act](#); [Voter ID](#); [ACORN](#)

Minnesota: [Recount, II](#); [Voter ID](#)

Mississippi: [Voter ID](#)  
Ohio: [Voting system](#)  
Virginia: [No-excuse voting](#)

*\*\*some sites require registration*

#### **IV. Job Opportunities**

*All job listings must be received by 12 p.m. Eastern on Wednesday for publication in our Thursday newsletter. Job listings are free but may be edited for length. Whenever possible, include Internet information. Please email job postings to [mmoretti@electionline.org](mailto:mmoretti@electionline.org)*

**Director, Federal Voting Assistance Program, Arlington, Va.** -- responsible for overseeing the administration of the Uniformed and Overseas Citizens Absentee Voting Act (UOV AVA), and directs a broad national program involved in the voting rights of more than six million citizens. The incumbent creates and establishes policies including legislation affecting the 55 states and territories and the more than 13,000 local election jurisdictions within the United States. Director engages actively with Governors, Secretaries of State, state legislatures and local governments; and prepares and presents testimony before Congressional Oversight Committees. Incumbent develops policies and plans for, and analyzes and evaluates the Voting Assistance Programs of Executive Branch departments and agencies; and evaluates the performance of the DoD components in carrying out responsibilities assigned to them by DoD Directive 1000.4 and the DoD Voting Action Plan. The Director is responsible for the creation, maintenance, and operation of a system for electronic transmission of absentee ballots and related election materials for use by voters and election officials; and ensures a comprehensive program of information, education and direct assistance to the myriad of intermingled local and state systems and the citizens covered by the Act. The incumbent evaluates and analyzes state election laws to assess their degree of compliance and initiates court action through the Department of Justice to enforce compliance with the Act. The Director is also responsible for the implementation and administration of the National Voter Registration Act of 1993, to ensure the Congressional intent and compliance with the specific provisions to enable all citizens to register at armed forces recruitment offices. **Salary Range:** \$117,878 to 162,900.00. **Deadline:** February 13. **Application:** For more information about the position and how to apply [click here](#).