

# The Maine View

Published by The Maine Heritage Policy Center

October 5, 2011

## Protecting the Integrity of Maine's Elections: *Election-Day Registration in Maine*

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Free and open elections are the cornerstone of our democracy. A free and open election is one where every vote counts, and no vote is counted as less or more than another. The people of Maine must be confident in the integrity of our electoral process, and there must be structural assurances that their votes are not negated by votes cast fraudulently or in error. This requires a constantly-evolving assessment of the balance between ballot access and structural safeguards.

In the shadow of the debacle in Florida during the 2000 presidential election, states must constantly reassess the structure they have in place to avoid the contentious and subjective vote counts that resulted from an inadequate voting system. Our research shows that Maine's system is riddled with inadequacies that present the possibility of voter disenfranchisement through double-voting, voter impersonation, and non-citizen voting.

Age Band	November 4, 2008	Percent	November 2, 2010	Percent
18 - 24	17,171	35%	7,020	38%
25 - 34	15,377	31%	4,804	26%
35 - 44	8,353	17%	2,806	15%
45 - 54	5,460	11%	2,104	11%
55 - 64	2,204	4%	1,044	6%
65 - 74	603	1%	324	2%
75 +	498	1%	262	1%
Total	49,666	100%	18,364	100%

*Source: Maine Secretary of State and The Maine Heritage Policy Center*



Maine's Voting System

In order to contain these problems, Maine must take steps to create a more sound structure and process for verifying the integrity of cast ballots. While the practice of Election-Day Registration is a convenience that Mainers may take advantage of, it does not allow the requisite time to ensure ballot integrity in the absence of stronger structural support.

### Background

Election-Day Registration (EDR) was implemented through legislation passed in Maine in 1972. It was first used in the elections of 1973.

Maine's use of EDR in the 2008 presidential election was roughly 6.7% of total turnout (49,666 of 744,542).<sup>[1]</sup> In 2010, EDR represented 3.2% of total votes cast (18,364 of 580,538).<sup>[2]</sup> As shown in Table 1, EDR is used primarily by younger voters, and very seldom used by voters above the

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age of 65.

In June 2011, the Maine Legislature passed LD 1376, which ended the practice of EDR, and set a two-day pre-registration requirement for new voters in a municipality. This law set the same two-day cut-off for the use of absentee ballots.

In September 2011, a ‘People’s Veto’ of LD1376 was placed on this November’s ballot. This placed the implementation of LD1376 on hold, and effectively restored the process of EDR until the November vote decides the future of the law.

As shown in Table 2, Maine is currently one of only nine total states that allow EDR. In fact, 93% of all U.S. citizens are required to register in advance of election day. Legislative initiatives to implement EDR have failed in 25 states since 2005, and referendum initiatives to implement EDR in California and Colorado both failed in 2002.

**Potential for Fraud**

California’s 2002 referendum to implement EDR failed by a 59% to 41% vote.<sup>[3]</sup> Major newspapers, such as the *Los Angeles Times* and *San Francisco Chronicle*, editorialized against the implementation of EDR, citing the potential for fraud as the major reason to avoid the practice. According to the *LA Times*, EDR “offers too many chances for fraud.”<sup>[4]</sup> The *San Francisco Chronicle* noted that the referendum measure to implement EDR “simply does not include sufficient safeguards against fraud.”<sup>[5]</sup>

One of the most notable commentaries on the practice of EDR came from a 2004 report by the Milwaukee Police Department (MPD). The MPD noted a number of egregious breaches in the integrity of elections, and said this about EDR: “The one thing that could eliminate a large percentage of fraud or the appearance of fraudulent voting in any given Election is the elimination of the On-Site or Same-Day voter registration system.”<sup>[6]</sup>

The potential for fraud in Maine resulting from EDR comes from a severe lack of structural safeguards in our overall process. Maine voters are not required to provide photo identification or citizenship proof when voting or registering, leaving verification of the validity of registrants solely to the discretion of municipal clerks. When voters register and vote on the same day, municipal clerks have no time to verify registrant eligibility, or check for duplicate votes in other municipalities.

Additionally, once a ballot is cast on election day, it is placed in the general population of ballots, leaving no ability to discount the vote if problems are detected after election day. This leaves Maine’s elections exceedingly vulnerable to problems.

Another major hurdle to the practice of EDR is the lack of a sound central voter database. Maine’s Central Voter Registry (CVR) does not allow for the verification of citizenship, and cannot be used as a safeguard on election day to check registrations. Maine Secretary of State Charlie Summers conducted a recent review of 478 registrants in the CVR, and found that six registered voters were not U.S. citi-

Table 2 Mail-In Voter Registration Deadlines	
State	Days Before Election
Alabama	10
Alaska	30
Arizona	29
Arkansas	30
California	15
Colorado	29
<b>Connecticut</b>	<b>14 (for Presidential Elections, EDR)</b>
Delaware	4th Saturday Before Election
Florida	29
Georgia	5th Monday Before Election
Hawaii	30
Idaho	Same Day
Illinois	28
Indiana	29
Iowa	Same Day
Kansas	15
Kentucky	29
Louisiana	30
<b>Maine</b>	<b>Same Day</b>
Maryland	21
<b>Massachusetts</b>	<b>20</b>
Michigan	30
Minnesota	Same Day
Mississippi	30
Missouri	28
Montana	Same Day
Nebraska	3rd Friday Before Election
Nevada	5th Saturday Before Election
<b>New Hampshire</b>	<b>Same Day</b>
New Jersey	21
New Mexico	28
New York	25
North Carolina	Same Day
North Dakota	Does Not Require Voter Registration
Ohio	30
Oklahoma	25
Oregon	21
Pennsylvania	30
<b>Rhode Island</b>	<b>30 (for Presidential Elections, EDR)</b>
South Carolina	30
South Dakota	15
Tennessee	30
Texas	30
Utah	30
<b>Vermont</b>	<b>Wednesday Before Election</b>
Virginia	22
Washington	30
West Virginia	21
Wisconsin	Same Day
Wyoming	Same Day

Note: Voter registration deadline is for mail-ins. Some states allow for in-person registrations that are closer to election

Source: U.S. Election Assistance Commission and The Maine Heritage Policy Center.

zens.<sup>[7]</sup> Summers’ investigation was limited based on the requirement of “articulable suspicion,” so the overall number of non-citizens registered to vote in Maine could not be determined. This bears repeating – Maine State Government has no ability to determine how many non-citizens are currently registered to vote in our state.

**Maine’s Central Voter Registry (CVR)**

The CVR was implemented in 2005 as part of the Help America Vote Act (HAVA), and was meant to provide “an accurate, secure and reliable CVR for Maine citizens.”<sup>[8][9]</sup> Although great strides have been made to purge erroneous records from the old paper record system, the CVR still falls short of being ‘accurate, secure and reliable.’

As shown in Table 3 prior to implementing CVR, Maine had **more registered voters than voting-age citizens** three times in the last ten general elections – in 1992, 1996, and 2004. In 1996, the number of registered voters surpassed the voting-age population by more than 57,000.

CVR data correction is an ongoing process, and the Secretary of State’s office has brought the number of erroneous records down significantly in recent years. However, there are still many problems with current voter data. Though no thorough audit of the system has ever been conducted, a recent investigation by Secretary Summers revealed an **84% error rate** in the registrations his office reviewed.<sup>[10]</sup> Our research into the database shows a similarly-alarming set of problems.

MHPC found that 178,000 of 972,000 total registrants are shown to have **registered to vote on January 1, 1850**. The Secretary of State’s office has explained that these registrations did not occur in 1850, but that the date was used as an indicator of registrations that were entered into the system with missing registration data.

A series of other problems with the CVR follows:

- 1,452 active registrants listed as **211 years old**
- 2,404 active registrants with **birth dates prior to 1900**
- 2,209 active registrants with **no street address**
- 294 active registrants, with the same name and address, but with **two separate voter ID numbers**. (*This could be the result of fathers and sons with the same name, but the CVR provides no further information to provide clarity. The Secretary of State’s office notes that prior to 2007, the number of multiple IDs was over 50,000.*)

Table 3			
More Registered Voters than Voting-Age			
Year	Estimated Voting Age Population	Registered Voters	Variance
1992	929,809	974,605	44,796
1996	943,797	1,001,292	57,495
2004	1,018,982	1,023,956	4,974
<i>Source: U. S. Census, Maine Secretary of State and The Maine Heritage Policy Center</i>			

State officials cite federal regulations and lack of resources as roadblocks to a stronger central database, and state definitively that the CVR is currently not meant to be an election-day tool. Discussions with the Secretary of State’s office have made it clear that efforts are being made to improve the CVR, and that it is very much a work in progress. Nevertheless, our research shows clearly that the integrity of the data in the CVR is questionable, and that the CVR is an inadequate tool for structural support of our election and registration process.

**Requiring Photo Identification**

One of the most productive steps Maine could take to verify the validity and eligibility of voter registration would be to require photo identification. Valid photo identification would create an immediate safeguard against possible non-citizen voting, and would also protect against voter impersonation.

The Maine Legislature will consider LD199, An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting, in the Second Session of the 125<sup>th</sup> Legislature, which begins in January 2012. If LD199 passes, Maine would join 15 other states that have passed similar measures, including a Democrat-sponsored measure that passed last year in Rhode Island.

Photo identification requirements have elicited controversy, but have been supported by both Republican and Democratic legislatures. In fact, David Farmer, the spokesman for the People’s Veto campaign to reinstate EDR in Maine, publicly endorsed photo ID requirements in a recent radio interview.<sup>[11]</sup>

Additionally, claims of disenfranchisement through onerous financial burdens due to the cost of photo identification have been dismissed by the courts on a number of occasions, most recently in Georgia and Indiana.<sup>[12]</sup> Claims of racial inequity in photo identification requirements, propagated through a study done by the Brennan Center for Justice, have also been discounted by further research.<sup>[13]</sup>

Adoption of photo identification requirements would not only shore up the integrity of Maine’s election system, it would also take us a step closer to a structure that would allow a safe and secure election day registration process, by ensuring those registering on election day are citizens and are in fact the person they claim to be.

**Disenfranchisement Questions**

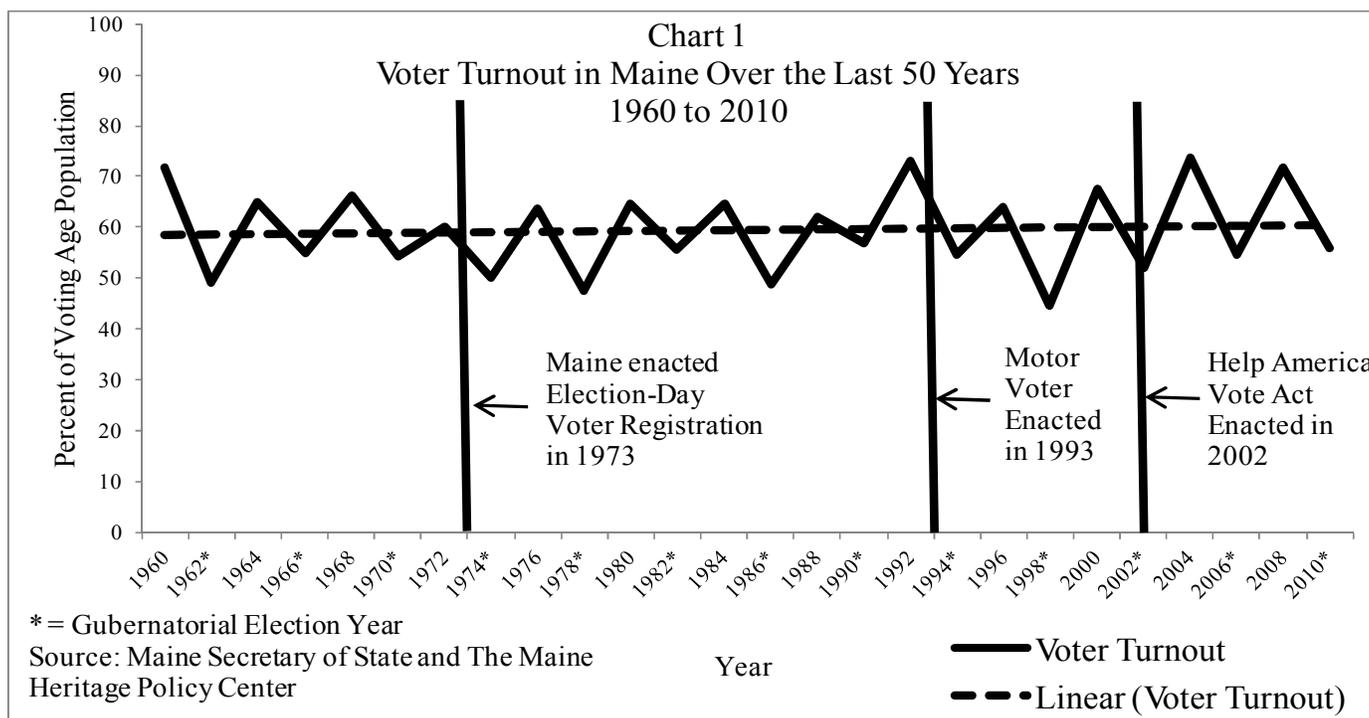
The elimination of EDR through LD1376 has met claims of potential voter disenfranchisement from opponents. While eliminating EDR will remove a convenience that many Maine voters have enjoyed, claims of disenfranchisement are unfounded.

The most prominent disenfranchisement claim is that physically disabled, elderly, or poor citizens will be prevented from voting because of their inability to make two trips to the polls, one to register and one to vote. This is not a valid claim. LD 1376 eliminated Election-Day Registration, but does not eliminate Same-Day Registration. Voters can register to vote and place their vote through an absentee ballot at the same time, as long as they do it more than two days prior to election day. This allows voters who may be able to make only one trip to the polls the chance to register and vote at the same time.

Another claim is that voters who are inadvertently purged from voter lists will not be able to re-register on election-day. This is also an invalid claim. LD 1376 allows for these voters to cast provisional ballots, which will be counted once the legitimacy of the registration is verified.

Some have made the assertion that the elimination of EDR is a tool used by Republicans to suppress Democrat turnout. This claim can be easily refuted by looking at actual turnout numbers. As shown in Table 4, in Maine’s 2010 election, Republican and Democrat EDR utilization was basically equal.

Finally, opponents of LD1376 have claimed that the implementation of EDR has resulted in increased voter participation. This is inaccurate. As shown in Chart 1, EDR has had no recognizable impact on voter turnout in Maine since its implementation in 1973. In fact, the three lowest turnout years since 1960 occurred after EDR was implemented.



As part of our research, MHPC conducted a public opinion poll to measure the sentiment of Maine voters on the issue of EDR. As shown in Table 5 the poll shows that Maine voters reject the notion that EDR repeal disenfranchises voters. In fact, a majority of those polled support the repeal of EDR, as well as the implementation of a photo identification requirement.

Interestingly, the highest utilizers of EDR – those in the youngest voting age range – were the most dismissive of the concept of disenfranchisement relative to the elimination of EDR.

**Conclusion**

Election Day Registration provides a convenience that is worthwhile to many Maine voters. However, Maine’s system simply lacks adequate safeguards to make its practice congruent with a sound voting system.

In the absence of key structural components – photo identification and a functioning and accurate Central Voter Registry – municipal clerks need time to manually verify the validity of new voter registrations. Managing the integrity of 972,000 registrations through the Honor System is simply not a reasonable approach to our voting system.

Upholding the elimination of EDR is a good first step, but it is not a comprehensive solution to potential electoral problems. There are significant steps that still need to be taken in order to protect the integrity of our voting system.

Maine’s CVR needs a thorough audit to eliminate erroneous records, fix voids of data, and verify the eligibility of current registrants. One possible solution that should be looked into is a check of the CVR against the E-Verify system, used by employers to verify the citizenship of potential employees.

Maine’s registration process also needs substantial overhaul. Requiring photo identification, and on-site use of E-Verify to ensure citizenship, are two steps that could be taken in the short-term to substantially improve the integrity of our voting system. Additionally, municipal clerks need a more structured system for verifying the eligibility of new registrants, and more guidance should be provided by the Secretary of State’s office to create protocols that can be clearly implemented.

The *Denver Post*, referring to the Colorado legislature’s discussion of EDR, said it best: “We’re not convinced the system is capable of handling same-day registration while also maintaining the integrity of the election (though that day is likely coming, given the advancements in technology).”<sup>[15]</sup>

Election-Day Registration, while not practical now, is a laudable goal for Maine. We should use this goal as a motivation to swiftly implement a stronger and safer voting structure, so the people of Maine can have the faith that every eligible vote is counted, and that the legitimacy of our election results is protected.

Notes and Sources:

- [1] Maine Secretary of State.
- [2] Maine Secretary of State.
- [3] John Fund, “Stealing Elections,” 2008, p. 200.
- [4] <http://articles.latimes.com/2002/oct/20/opinion/ed-ballot20>
- [5] [http://articles.sfgate.com/2002-10-20/opinion/17567970\\_1\\_election-day-election-day-provisional-ballots](http://articles.sfgate.com/2002-10-20/opinion/17567970_1_election-day-election-day-provisional-ballots)

Party	People	Percent
Republican	4,405	24%
Democrat	4,468	24%
Green	1,732	9%
Unenrolled	7,759	42%
<b>TOTAL</b>	<b>18,364</b>	<b>100%</b>

*Source: Maine Secretary of State and The Maine Heritage Policy Center*

Poll Question 1	
Favor/Oppose Elimination of Same Day Voter Registration?	
Favor	53%
Oppose	47%
Not sure	0%
Poll Question 3	
Favor/Oppose Requiring Voters to Show Photo ID?	
Favor	56%
Oppose	41%
Not sure	3%
Poll Question 2	
Which Is More Important . . .	
Protecting against voter fraud	55%
Increasing voter turnout	36%
Not sure	9%
<i>Source: The Maine Heritage Policy Center</i>	

- [6] “Report of the Investigation into the November 2, 2004 General Election in the City of Milwaukee,” Milwaukee Police Department, p. 26: [http://media2.620wtmj.com/breakingnews/ElectionResults\\_2004\\_VoterFraudInvestigation\\_MPD-SIU-A2474926.pdf](http://media2.620wtmj.com/breakingnews/ElectionResults_2004_VoterFraudInvestigation_MPD-SIU-A2474926.pdf)
- [7] Maine Secretary of State Press Conference Remarks on September 21, 2011. <http://www.maine.gov/sos/news/2011/Secretary%20of%20StatePressConferenceRemarks09-21-11.pdf>
- [8] “Message from the Secretary of State,” The HAVA Bulletin: An Update on the Help America Vote Act, Issue #1, March, 2005.
- [9] Maine Bureau of Corporations, Elections & Commissions CVR Webpage: <http://www.maine.gov/sos/news/2011/Secretary%20of%20StatePressConferenceRemarks09-21-11.pdf>
- [10] Maine Secretary of State Press Conference Remarks on September 21, 2011. <http://www.maine.gov/sos/news/2011/Secretary%20of%20StatePressConferenceRemarks09-21-11.pdf>
- [11] Interview Remarks from David Farmer, WGAN, September 29, 2011. [http://560wgan.com/play\\_window.php?audioType=Episode&audioId=5493005](http://560wgan.com/play_window.php?audioType=Episode&audioId=5493005)
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- [13] Hans A. von Spakovsky and Alex Ingram, “Without Proof: The Unpersuasive Case Against Voter Identification,” The Heritage Foundation, August, 2011. <http://www.heritage.org/research/reports/2011/08/without-proof-the-unpersuasive-case-against-voter-identification>
- [14] The telephone survey of 500 Likely Voters in Maine was conducted by Pulse Opinion Research on September 7, 2011. Pulse Opinion Research, LLC is an independent public opinion research firm using automated polling methodology and procedures licensed from Rasmussen Reports, LLC.
- [15] [http://www.denverpost.com/opinion/ci\\_14832168](http://www.denverpost.com/opinion/ci_14832168)

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