Online Voter Registration: Coming to a State Near You?

Voter registration is going online, at least in some states. This trend has its proponents, and some skeptics.

One of the proponents is Delegate Jon Cardin of Maryland; he sponsored a bill this year to authorize online voter registration as one step in modernizing Maryland’s elections. “I look at it as very nonpartisan,” he says. “Online voter registration makes it more convenient for people to register to vote. Security measures are in place so that only the appropriate people are the ones who are registering. Applications from others are found, denied and purged.”

At least three of his “big four” reasons are similar to those of proponents in other states:

1 Makes it convenience for the voter.
2 Saves money.
3 Streamlines the process.
4 Ensures that all people who register to vote at motor vehicle offices get on the rolls.

The last reason is a particular concern in Maryland, where a recent Baltimore Sun investigation showed that 25 percent of voter registration applications completed at the Motor Vehicle Administration simply never made it to the voter rolls.

As for skeptics, they have a wait and see perspective based on concerns about keeping information private and maintaining security throughout the election process—both key issues to address before a state adopts online voter registration.

Wisconsin legislative aide Michael Pyritz, who works for Representative Jeff Stone, believes online registration is an intriguing idea, but that it “really needs to be vetted” before being applied. “In Wisconsin, I don’t think we’re even close.”

History From a historical perspective, voter registration began after the Civil War. Prior to that, the states got by on common knowledge of who was and wasn’t part of the community. Registration created a list of people who met each state’s suffrage requirements such as residency, age and citizenship. Since then, all states except North Dakota have maintained voter registration rolls. (In North Dakota, poll workers know the voters in their precincts, and are authorized to challenge voters they may not know.)

In the 1990s, the National Voter Registration Act required states to offer voter registration at driver’s license facilities and social services agencies as a “one stop shopping” convenience for prospective voters—often called “motor voter” registration.

The federal Help America Vote Act followed in 2002, and required states to create statewide voter registration data-

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can-vass (n.)
Compilation of election returns and validation of the outcome that forms the basis of the official results by a political subdivision.
—U.S. Election Assistance Commission: Glossary of Key Election Terminology

National Conference of State Legislatures
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bases. These databases are “populated” by counties that feed their voter registration data into the state system, and have proved helpful in finding duplicates and errors. Some states have now entered into interstate compacts to share information with neighbors.

**Early Adopters** “Online voter registration is picking up steam,” says David Becker, project director for the Pew Center on the States’ Election Initiatives. In 2000, no state offered it, and now nine do—Arizona, Colorado, Indiana, Kansas, Louisiana, Nevada, Oregon, Utah and Washington. California enacted legislation in 2008 to permit online voter registration, although it has not yet been implemented. Maryland and Hawaii enacted legislation this year to join those states. Bills are still pending in California, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, and Ohio.

**Legislative Perspective**

What do legislators need to know when considering online voter registration? The biggest concern is how does the state maintain security and privacy.

**Fraud** As Wisconsin’s Pyritz said “online registration could be almost a nightmare, as far as security goes. You’d almost be able to dump names in at will.” This is an understandable concern in an era when Internet-based fraud, identity theft and security breaches are frequent news items. Legislators must be absolutely confident that the systems are invincible when it comes to computer hackers and others who might seek to commit election fraud.

The real question, though, isn’t, “Are online registrations truly secure?” It is, “How secure are they compared with traditional registrations?” Looking at the paper-based model, John Tanner, author of An Informal Guide to Section 5 of the Voting Rights Act says, “Currently, voter registration systems are Rube Goldberg operations. They involve a series of steps involving bad handwriting, errors in transcription, lost and incomplete forms, and occasional bogus registrations. There are too many moving parts, too many ways for things to fall through the cracks, too much paper.”

With online registration, the application is checked against existing data through the motor vehicle database. The on-file signature is transferred electronically to the voter rolls to be used for verification as needed. Tanner adds

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![States That Use Online Voter Registration](image)

*Notes:*
- California: passed legislation in 2008, to be implemented when a statewide voter registration database is operative.
- Hawaii: online voter registration is on the governor’s desk as of now.
- Maryland: enacted legislation this year.
- Nevada: only Clark County uses online registration, not the entire state.
that “online voter registration would resolve issues of voter list integrity; agencies verify the applicants’ information before the state gives out a driver’s license or public assistance checks.”

Before an online application is accepted into the voter rolls, it is also checked against the existing statewide voter database, and if duplications or questions turn up, staff are alerted and the problems are sorted out before applications are accepted.

Proponents also say that online voter registration is as secure as online banking because it uses the same secure online environment. (Others may think that standard is not secure enough; encryption is getting better, but so are hackers.)

Even if the system is as secure as online banking, “you don’t want to do something that’s right and have it perceived as wrong and have people lose confidence in the voting system,” says Maryland’s Delegate Cardin. “So our goal is transparency and confidence; we want actual security but also the perception of security.” That confidence can be built on close contact between legislators and state staff who know their data systems and what hurdles might be faced in sharing data across departments.

Privacy Is our personal information vulnerable in this kind of system? Yes and no. Virtually all of the information on voter rolls is public: name, address, party affiliation and which elections we have voted in. Hamlin says that in Washington, online voter registration “is transmitted to the

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**Third-Party Registration Drives**

Voter registration drives are as common as, well, fall foliage. When the leaves change color, volunteers and employees take to the shopping malls and grocery stores to ask passersby, “Are you registered to vote?” If they get a “no,” they’re likely to follow up with, “Are you over 18 and live in this state?” If they get a “yes” to that, they’ll ask the prospective voter to fill out a registration form. Whether the form is legible, correctly completed, and accompanied by a good signature or not, all the forms are delivered to the local elections office for processing. These registration drives are called “third-party voter registration drives” because the people doing the asking are neither the voter nor the government.

How will online registration affect third-party drives? Elisabeth MacNamara, national president of the League of Women Voters, a nationwide organization with a 90-year history of running registration drives, says “we want eligible voters to register, and we have always supported legislation that makes it easier for people to get registered,” including online registration. There is a caveat to the league’s support, though. She notes that a surprising number of eligible voters do not have a state-issued driver’s license or identification card, so online registration has limitations. She expects the league to continue registration drives and adds that the nation’s registrars are “perfectly capable and very adept at screening out those who aren’t eligible to vote.”

David Becker of the Pew Center on the States says that when online registration expands, “the need to rely upon paper forms collected by third-party groups could be reduced.” Professor Matt Barreto of the University of Washington believes that a well-organized campaign with iPads could be the next step in third-party drives. “There is an opportunity for voter mobilization, and this could be used by both parties,” he says. So far, drives of this sort have not taken off.

How do states regulate third-party registration drives? Third-party registration drives have caught the attention of legislators this year. In large part this is because the chain of custody for an application can get complicated. At least two people besides the voter may handle the application: the person doing the drive and the government employee who keys in the data. (This will be reduced if, as Barreto hypothesizes, third-party drives move online.)

The rules for third-party registration drives vary from state to state. Late in their 2011 session, [Florida](#) enacted legislation requiring third parties seeking to sign-up voters to register with the state in advance. Under Florida’s new law, groups can be fined if applications are not turned over to the state within 48 hours of being completed by the potential voter.

2011 voter registration bills in other states:

- Prohibiting pay-per-registration for workers (Texas H 239, New York S 1125 and North Carolina S 352, all of which died; and California S 205, pending)
- Limiting the number of blank applications that can be requested before requiring information on the requestor (Missouri H 240, died)
- Requiring organizations that conduct drives to register with the state (Mississippi S 2012, died)
- Prohibiting municipalities from requiring organizations who conduct drives from registering (New Jersey A 2106, pending)
- Setting penalties for not turning in voter registration applications (Texas H 2059, died)
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For this reason, no state is considering doing away with traditional in-person or mailed-in voter registration applications. Proponents say that instead of restricting access, online registration is intended to extend it. “Citizens already expect to do business online. People embrace it,” says Washington’s Hamlin.

Who uses it  People from higher socio-economic groups have been the first to embrace online voter registration. Allowing online registrations in Arizona and Washington did not “bring in people who have no interest in the political process; those people don’t care how easy or hard registration is,” says Professor Matt Barreto of the University of Washington. “You're generally bringing in people who are on the cusp of voting anyway, so they’re somewhat politically interested. Many of them would have registered anyway.”

It is too early to tell how online voter registration may affect election results. Barreto says, “I’m looking forward to studying whether this changes the way campaigns unfold,” Barreto says, “and finding out if it brings more people into the electorate.”

That may be the bottom line for policymakers, too. For now, though, there seems to be a trend toward the adoption of new technology for online registration, but only as it is commensurate with common sense.

Additional Concerns

Statutory language  Laws may need to be revised to authorize online registration. For example, a state may need to allow the use of electronic signatures. David Becker from Pew adds that even in states that could proceed on a purely administrative path toward online registration, “it’s always better to have the state legislature know what you’re doing and publicly approve of it through legislative action.”

Access  Does online voter registration cause a problem for those who don’t have a computer or don’t feel comfortable with one? Tanner says that “Simply adding an electronic registration option has the potential of increasing racial and income disparities in registration due to the ‘digital divide.’ It tends to give another option to affluent persons, among whom there are relatively few registration problems, and neglects those who actually need help.”

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Field Tripping—
to Your Local Elections Office

For all the legislators who serve on committees that handle election policy, here’s an invitation: “Please come visit.” That’s what Doug Lewis, director of the Elections Center, offers on behalf of all the elections officials he represents around the country.

The folks who actually run our elections are willing, indeed thrilled, to give tours of their operations—especially for state legislators who set the parameters under which they do their work. Visitors can see the machinery that gets used; learn about the how absentee balloting, early voting and Election Day work; delve into how identity verification is managed in your state; take notes on the incredible detail and double-checking and fail-safe systems that are built into procedures; and experience the commitment to detail that is the heart of the job.

On just such a trip to Larimer County, Colo., NCSL learned that equipment used in 1997 is still being used now. County Clerk Scott Doyle says that “I’ve been saving money for 11 years to buy new equipment, but I can’t do it.” Doyle cites a scarcity of certified systems as the main hurdle. The next big issue for him, other elections officials, and state legislatures may well be equipment certification. On another trip to Jefferson County, Colo., we learned from County Clerk Pam Anderson that “clerks are generally a fiscally conservative bunch. We’re saying, ‘let’s find ways to deliver the same services for less money.’”
Federal Update

On May 25, 2011, the U.S. House Committee on House Administration held a markup of H.R. 672, the “Election Support Consolidation and Efficiency Act,” which would terminate the Election Assistance Commission (EAC). The EAC was established by the Help America Vote Act of 2002 (HAVA) as the agency responsible for assisting states with complying with HAVA and distributing HAVA grants to states. This bill was introduced by U.S. Rep. Gregg Harper from Mississippi and passed out of committee on a party-line vote. It is now headed for the House floor.

Harper and the bill’s other supporters stated several reasons for terminating the EAC.

- First, the cost—the EAC costs taxpayers $14 million a year to operate and has one of the highest overheads (greater than 50 percent) of any federal agency.

- Second, the EAC core functions of supporting implementation of HAVA and disbursing HAVA grant money to states have been largely completed. Any remaining functions of the EAC can be readily turned over to the Federal Election Commission (FEC).

- Third, the EAC has been the subject of two lawsuits alleging discrimination in employment practices. Harper stated that it is “irresponsible to keep an agency that is done with its job.”

Committee supporters of the EAC pointed out that some of the problems were not actually the EAC’s fault. For example, two commissioners’ posts are currently vacant and have been for some time, hampering the agency’s ability to make decisions. EAC supporters also voiced concerns that the FEC would not be able to handle the new responsibilities if the EAC were to be terminated. Texas U.S. Rep. Charles Gonzalez introduced an amendment at the markup that would have directed the General Accountability Office to conduct a study on H.R. 672 and report findings to Congress. This amendment failed on a party-line vote.

Recounts are uncommon, but costly. According to the report, Washington spent $1.1 million on its 2004 gubernatorial recount, and Minnesota spent $513,000 on its 2008 senatorial recount.

Conny McCormack, the report’s author, says that states can reduce the risk of a recount by lowering the threshold that triggers an automatic recount. NCCL data show that at least 18 states have provisions for automatic recounts in other states, candidates must contest an election in court. Minnesota and Missouri have legislation this year to reduce their thresholds.

McCormack recommends that states plan ahead for potential recounts by creating dispute resolution guidelines, predetermining the funding split between counties and states for recounts, and requiring that mail-in and provisional ballots are handled at the county level instead of at the precinct level.

An even more recent report on recounts, Statewide Election Recounts, 2000-2009, comes from FairVote, an advocacy group focused on improving the fundamentals of voting systems in the states. Its analysis shows that recounts rarely change the outcome of a race. FairVote recommends that:

- States without automatic recount provisions adopt them;
- States with recount provisions drop the threshold to 0.1 percent, or 0.2 percent at most; and
- States beef up their “post-election audit procedures designed to identify outcomes that may be questionable due to fraud or error no matter what the initial margin.”

Bookmark This: The Thicket

NCSL’s blog, The Thicket, offers news, commentary and occasional challenges and quizzes, all relating to state legislatures and legislative process. Elections-related news or perspective that can’t fit in The Canvass sometimes shows up there. Recent posts touched on state legislation on the federal Military and Overseas Voter Empowerment Act and a brief history of primaries.
Worth Noting

- States really do respond legislatively to their most recent elections issues. In Alaska, where the write-in campaign for Senator Lisa Murkowski was contentious in 2010, the state has a new *voter intent law* that allows state election officials to use discretion in counting write-in ballots. And in Connecticut, where Bridgeport experienced a shortage of paper ballots in 2010, an *Act Concerning the Integrity of Elections* would establish regulations for the number of ballots to be on hand for Election Day, has passed the Senate.

- England just held a referendum and opted not to replace its “first past the post” voting system with an *alternative vote* system. If that makes no sense, check out these two explanatory videos, one with animals and one with cartoon characters.

- Check out NCSL’s 5-minute video interviews with leading proponents, opponents and analysts of voter ID: Maryland Delegate Kathy Afzali; Vishal Agraharkar from the Brennan Center for Justice; Texas Representative Dan Flynn; and Sean Greene of the Pew Center on the States.

- England just held a referendum and opted not to replace its “first past the post” voting system with an *alternative vote* system. If that makes no sense, check out these two explanatory videos, one with animals and one with cartoon characters.

- "When you get into elections, you either love it, or you run screaming from the room." —Susan Miller, an elections training specialist in Jefferson County, Colo.

- According to Rick Hasen, whose *Election Law Blog* is essential for elections wonks, election law litigation remains at double its pre-2000, Bush v. Gore rate. Hasen has written about this litigiousness in the National Law Journal. The average number of cases post-2000 has been 239; the pre-2000 average was 94.

- Click through to NCSL’s [May 19 LAB](#), with the latest from states on voter ID, legislation signed and vetoed, and legislative adjournments.

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From NCSL’s Election Team

Summer is here, and that means we’ll each be taking a few days off. It also means we’ll be looking at longer-term research projects, some of which have been inspired by your comments and questions. Please stay in touch so we can guide our work to meet your needs.

Better yet, meet us in San Antonio for NCSL’s Legislative Summit, August 8–11.

*From Jennie Bowser, Tim Storey, Wendy Underhill and Susan Frederick*