

Study of the Feasibility of Implementing Automatic Voter Registration in the District of Columbia

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Submitted by

The District of Columbia Board of Elections and Ethics

I. Introduction

Section 302 of the Omnibus Election Reform Act of 2009 (“OERA”) requires the District of Columbia Board of Elections and Ethics (“the Board” or “BOEE”) to submit a report indicating the feasibility of implementing automatic voter registration in the District.

The goal of an automatic voter registration system is for an election jurisdiction to automatically register eligible citizens upon electronically receiving pertinent data from other government agency databases. The intent is to improve the quality of the voter registration list and eliminate costly inefficiencies: 1) shifting the primary burden for information to be collected from the prospective or registered voter to the District, and 2) moving from a paper-based registration system to an automated process.

Fundamentally, voter registration consists of collecting and processing data that enables election officials to uniquely identify individuals and determine their eligibility to vote. The major premises behind automatic voter registration are that: 1) in most instances, individuals have already provided that data to one government agency or another; and 2) technology is available that can enable election officials to electronically collect that data directly from those government entities and register these citizens eliminating unnecessary bureaucracy. The potential advantages of such a proposal over the current voter registration system for the District are:

- Ensuring that eligible voters appear on the rolls;
- Improving the accuracy of information on the voter rolls;
- Improving convenience for the voter by eliminating the need to update their information with multiple agencies;

- Improving the ability to plan for an election and deploy an appropriate number of ballots and poll workers for each precinct;
- Improving the ability to conduct outreach to eligible voters who may not otherwise register prior to Election Day;
- Improving efficiency by reducing the need for duplicative data entry and spikes in activity just prior to and after Election Day; and
- Reducing variable costs over the long term.

The current paper-based, voter-initiated voter registration system in the District and elsewhere in the nation is cumbersome, inefficient and rife with opportunities for error. It is estimated that as many as 10 percent of voter registration records throughout the nation contain an erroneous name, address or birth date. Registering a voter typically requires Board personnel to accurately interpret the handwriting on a paper form. Until recently, registering most voters relied on data entry of handwritten information from the third page of a carbon copy received from the Department of Motor Vehicles. Reading this carbon copy form is very difficult and commonly leads to errors that cannot be blamed solely on the Board.

Furthermore, unless a voter dies, is convicted of a felony, or provides their previous address in the District to election officials upon moving and registering in another jurisdiction, outdated voter records generally remain active for many years and are not removed from the list unless the board is able to ascertain that the voter moved via undeliverable mail. This process is not immediate, however. If the Board does not receive updated information from the voter, this process can take several years. A recent survey indicates that one in four voters assume election officials or the U.S. Postal Service will automatically update their voter registration if they move. These errors in thinking cause voters to fail to immediately notify their former jurisdiction of

their move. Even if the Board receives information of a voters move to another jurisdiction through a secondary source it is not generally possible to remove them under the laws of the District or most other states. The Board is able to obtain information from the National Change of Address System (“NCOA”) of the U.S. Postal Service, but only for the purpose of mailing a notice to the voter. The Board is unable to update the address on file unless the voter completes and submits a new voter registration form or executes a change of address on Election Day. If a person executes a voter registration in another state and the District never receives that information, the voter will remain on the rolls for several years.

It is the opinion of Board personnel that an automatic voter registration system is technologically feasible and would improve the accuracy, efficiency and cost-effectiveness of voter registration. This report outlines the steps that must be taken by the Board and other agencies of the District government, as well as the kinds of policy decisions that must be made by the Council, in order to take steps toward automatic voter registration.

However, despite our enthusiasm for moving toward automatic voter registration, the Board believes that it is most prudent to devote its attention and resources in the current year to the successful implementation of new voting equipment and procedures for the 2010 primary and general elections. In addition, the effort will require resources and attention from other agencies of District government that are otherwise committed in the current and upcoming budget year. Accordingly, the Board requests that the Council defer hearings or the consideration of legislation to implement automatic registration until next year.

II. Approach

Developing a system for automatic registration requires the following:

1. Developing an interface to allow data sharing;
2. Identifying databases that contain all or most of the necessary data elements;
3. Determining what information must be required in order to add individuals appearing in these databases to the voter registration list;
4. Developing procedures to allow voters to opt out of the voter registration list and/or provide any missing information prior to casting a ballot; and
5. Instituting the necessary legal and technical framework to put a system of automatic registration into effect.

Developing an Interface to Allow Data Sharing

Until January 2010, the Board processed all voter registration data by hand. Beginning in January, the Board began importing electronic data from the DC Department of Motor Vehicles (“DMV”) into the Board’s voter registration database. Each day, the DMV uploads applicant data files to a secured file transfer protocol (“FTP”) site that it maintains. The driver’s licensing data is edited to include only those elements required by Integrity, the District’s voter registration database, and it is formatted for integration with the same.

Next, the Board accesses the FTP site and imports the data files into Integrity. The Board’s staff then determines whether each integrated file constitutes a new voter file or a duplicate voter file.¹ If the voter file is new, Board staff either creates a new voter record in Integrity, or updates the appropriate existing record to reflect changes in registration. If the voter file is a duplicate, it is flagged as such in Integrity. (The Board is also able at this juncture to determine whether an existing voter record contains errors that require correction.) The staff then verifies the newly-created or updated records against the hard copies of the Voter

¹ A new voter file represents an applicant who is either registering or updating their registration, while a duplicate file represents an applicant who is submitting the exact information he or she has already submitted.

Registration Applications (“VRA”) that have been forwarded from the DMV. Those records that are supported by complete VRAs² are granted “active” status in Integrity, and the voter registration/update process is complete. Records that are missing information remain in a pending status while the Board follows up with those individuals to obtain the missing information.

This interface is also used for processing voter registration applications that are completed using the Board’s web site. When an individual completes their application online, the information on that application is held in a pending status until the voter prints, signs and returns their application. The individual is registered upon receipt of the signed form.

There is an additional step that the Council could take that would increase efficiencies for the BOEE. Eliminating the “wet signature” requirement and allowing the Board to accept electronic signatures from the DMV and online would significantly streamline the registration process. The DMV currently collects an electronic version of a voter’s signature to place on their driver’s license. If the DMV were required to send that digital image to the Board the paper registration process could be eliminated with that agency. Data would be sent electronically reducing the need for staff to review and interpret any paper records. This has the potential to save both agencies thousands of dollars. A similar system has been used in Delaware to great success. The Delaware Office of Elections has been able to reduce five staff positions because of this efficiency. The Board wishes to discuss this option further with both Council and the DMV

III. Data Elements Required to Determine Voter Eligibility in the District

² Complete VRAs are those where applicants have: 1) indicated that they wish to either register or update their registration information; 2) provided all required data elements, and; 3) executed the Voter Declaration.

In order to register or preregister to vote in the District of Columbia, a person must: 1) be a United States citizen; 2) be a resident of the District; 3) not claim voting residence or the right to vote in another state or territory; 4) be at least 16 years of age; 5) not be incarcerated for a felony, and; 6) not have been adjudged legally incompetent to vote.³ Consequently, the District's VRA's solicit data elements that enable the Board to not only uniquely identify individuals, but also to ascertain whether they meet the District's voter eligibility requirements. The relevant data elements requested are as follows: 1) citizenship status; 2) full name; 3) residential address; 4) date of birth; 5) DMV-issued identification ("ID") number or the last four digits of the Social Security number ("SSN")⁴; and 6) signature.⁵ The Board began its inquiry into the feasibility of automatic registration by examining three District databases maintained by the Department of Motor Vehicles, the Department of Human Services, and the Department of Human Resources that contain all or most of the necessary information. The DMV is already equipped to share most of the necessary information with the Board in an electronic format. The Income Maintenance Administration at the DC Department of Human Services ("IMA") and the Department of Human Resources may also be capable of yielding the requisite data for prospective voters.

IV. District Government Databases

A. Department of Motor Vehicles

All state department of motor vehicles databases contain the following relevant data elements: 1) full name; 2) residential address; 3) date of birth; 4) a Department of Motor

³ See D.C. Official Code § 1-1001.02(2).

⁴ If an applicant has not been issued either a DMV-issued ID number or a Social Security Number, the Board assigns that applicant a unique identifier.

⁵ Voter registration applicants are asked to execute a Voter Declaration wherein they swear or affirm that they meet each eligibility requirement necessary to vote in the District.

Vehicles issued ID number, and; 5) SSN. The DC Driver License or Identification Application & Voter Registration Form (“License Application”) also asks applicants to indicate their citizenship status, and their responses are entered into the DMV database. While the DMV does not require applicants to present proof of citizenship, it does require citizen-applicants to provide proof of identity and birth date documents, most of which are available only to citizens.⁶

The DMV database also contains voters’ party affiliations if they have been indicated. Finally, license applicants who wish to register to vote are required to certify that the information contained on their License Application is correct, and to execute the Voter Declaration on a separate page of the License Application that pertains solely to voter registration.

B. Department of Human Services (“DHS”)

The DHS Income Maintenance Administration (“IMA”) determines eligibility for benefits under several public assistance programs. These programs include Medical Assistance (including Medicaid), Supplemental Nutrition Assistance Program (“SNAP”) (also known as Food Stamps), Temporary Assistance for Needy Families/General Assistance for Children (“TANF/GC”), and Interim Disability Assistance (“IDA”). IMA manages eligibility for each of these programs in a single unified database known as the Automated Client Eligibility Determination System (“ACEDS”). Consequently, information on applicants for each of these programs is located in the same database.

ACEDS includes the following relevant data elements: 1) full name; 2) address; 3) date of birth; 4) SSN; and 5) citizenship status. The IMA’s Combined Application for DC Medical Assistance, Food Stamps, and Cash Assistance (“IMA Application”) asks each applicant to

⁶ The following primary sources are accepted by the DMV as proof of identity and birth date: 1) state-issued U.S. birth certificate; 2) DC license, learner’s permit, or ID card; 3) Valid U.S. passport; 4) valid U.S. Military ID card; 5) Certificate of Naturalization; 6) Certificate of Citizenship; 7) Letter/Card from Court Services & Offender Supervision Agency (CSOSA), DC Department of Corrections (DC DOC), or U.S. Probation Office (USPO).

indicate not only their citizenship status, but also that of each individual who lives in their household. Applicants who complete the IMA Application sign a certification in which they indicate that they believe that all of the information they have provided therein is correct.

The IMA does not currently share information with the Board but instead provides applicants with a paper copy of the Board's voter registration application, which it collects for submission to the Board. However, ACEDS can, and does, electronically share information with other government databases. For example, IMA shares the information in ACEDS with other government databases through the Public Assistance Reporting Information System ("PARIS"). PARIS is a computer matching process by which the Social Security numbers of public assistance recipients are matched against various federal and state databases in order to maintain the integrity of the covered programs and detect and deter improper payments. In light of ACEDS' ability to share data, there is no reason to believe that it could not share information with the Board to facilitate AVR.

As noted above, IMA does not currently share the information in its database with the Board. Therefore, it would be necessary for a system to be instituted whereby the Board could obtain the relevant data elements from ACEDS in the same manner that it presently obtains data elements from the DMV database. Importing data from ACEDS would require assessing the interoperability between ACEDS and Integrity and then taking the steps required to construct a data transfer infrastructure suitable for AVR through the IMA.

ACEDS does not contain a number of data elements that are obtainable from the DMV in electronic form, such as party affiliation. We would need to determine whether ACEDS could be easily modified to include these fields for transmission along with the other data elements

pertinent to voter registration. The ability to capture a signature electronically would also need to be installed at this agency.

C. Department of Human Resources (“DHR”)

The DHR database includes the following relevant data elements: 1) full name; 2) address; 3) date of birth; 4) SSN; and 5) citizenship status. The DHR Employment Application, the DC2000, solicits applicants’ citizenship status, and requires that applicants certify that the statements contained in their DC2000 forms are true, correct, and complete to the best of their knowledge and belief. Similar systems would have to be developed for the Board to import data from the Department of Human Resources as for DHS and the DMV.

D. Other Agencies

The agencies above are highlighted due to the fact that they collect information on the citizenship of applicants, an important requirement for ascertaining voter eligibility. However, a number of additional District agencies maintain databases that contain name, address, date of birth, address and SSN information for potentially eligible voters in the District of Columbia. An automatic registration system could provide for the transmission of partial information on potential voters with the requirement that the Board obtain an affirmation of citizenship or other information on eligibility prior to fully registering the voter or allowing them to cast a ballot. The framework for such a system already exists in the pending status that is granted to incomplete applications received by the Board.

For example, District tax forms do not require citizenship information; neither does the DC One Card database maintained by the Office of the Chief Technology Officer, which

includes information from participating agencies such as Parks and Recreation, public libraries, employment services including the summer youth program and the DC Public Schools.

However, these databases capture name, date of birth and address information, as well as other critical fields for voter registration purposes such as the last-four digits of the SSN. Information on District residents in these databases could be transferred to the Board where applications would remain in a pending status until all necessary eligibility information was confirmed by the Board. Since DC One Cards are issued to students in the DC Public Schools, the database could be used to track pre-registrants as early as age 16.

The Board is also engaged in discussions facilitated by the Pew Center on the States to explore the feasibility of obtaining information from sources outside of District government. That process would both allow for better removal of individuals who have registered in or moved to another state and allow for information from federal government databases, including federal military and employee systems and private sector databases such as college enrollment records, that would allow the Board to better identify individuals who could be registered to vote. Such individuals could be fully registered if deemed eligible or have their information recorded with the Board in a pending status pending confirmation of eligibility.

V. Establishing Procedures Confirmation of Eligibility

The Board currently has procedures for contacting individuals who appear to be ineligible or whose application was received incomplete. In the event that the Board receives information from the DMV or the Social Security Administration that the license number or last four digits of an SSN received from a new applicant does not match their records, the individual is required to show identification at the polls. In the event that a mailing to a voter is returned undeliverable,

the applicant is required to execute an affirmation of residence in order to cast a ballot. The Board also receives lists of deceased individuals and of those incarcerated on a felony offense that prompt the Board to initiate contact with the voter. Beginning in September 2010, the Board is also instituting procedures for confirming the eligibility of new voters at the polls on Election Day.

These procedures could be expanded to allow the Board to register potential voters subject to confirmation of their eligibility. The Board could compare records from multiple agencies and develop profiles of potential voters who would either be fully registered or listed in a pending status until their information was verified. A voter who was deemed potentially eligible but whose record was missing critical information, such as an affirmation of citizenship, could be provided with an opportunity to complete the necessary information either prior to or on Election Day.

A voter with multiple addresses on file with different agencies, such as a college student or an individual who has recently moved, could be similarly provided with the opportunity to verify the address to be used for voter registration purposes.

An individual registered in this fashion who did not execute an affirmation prior to casting a ballot would not be held responsible for the Board's determination that the voter was potentially eligible. There is the possibility that the Board could place non-citizens on the roll. The Board will make every effort to affirm the citizenship of the voter but some may "fall through the cracks." Non-citizens that are inadvertently registered by the Board should face no legal penalty for their registration. Depending on the preferences of the Council, an individual who did not complete an affirmation until Election Day could be permitted to cast a provisional or regular ballot.

VI. Legal and Technical Framework

A. Legislation

In order to institute automatic voter registration in the District of Columbia, the Council must develop legislation on the following:

1. Online voter registration. By eliminating the current requirement for a ‘wet’ signature for voters who provide their driver license number, the Council would enable the District to join a number of other states in instituting true online voter registration. This would allow voters who already have a signature on file with the Department of Motor Vehicles to complete the entire voter registration process online.

Currently, the Board crops the applicant signatures contained on the form that it receives from the DMV and scans these signatures into its own voter registration database. However, the DMV is potentially capable of transmitting electronic signatures from its database to the Board in the same manner that the other requisite data elements are transmitted.

Ideally, the cooperation and coordination between the Board and the DMV will ultimately culminate in a program similar to Delaware’s electronic voter registration system, eSignature. Launched in 2009, eSignature allows individuals who interact with the Delaware DMV to affirm their citizenship, choose their political party, and sign an electronic pad that automatically transfers that information, along with the requisite data elements, to Delaware election officials. eSignature has resulted in huge savings for Delaware, and it has led to a dramatic reduction in errors and incomplete applications. There is no reason why the same outcomes could not be realized in the District. Both the Delaware DMV and Office of Elections deem this project an unqualified success.

2. Mandate that other government agencies regularly electronically transmit applicant information relevant for voter registration purposes to the Board. The Board is prepared to work with the Council and with other agencies of District government to identify the records that would be most useful for voter registration purposes. Even records that do not contain all of the information necessary to register a voter can be listed as ‘pending’ in the Board’s database and would improve the Board’s ability to anticipate the number of potential same-day registrants on Election Day.

3. Mandate that selected agencies transmit only that information required to ascertain voter eligibility. It is not necessary for the Board nor does the Board desire to obtain any data that would not be used for voter registration purposes.
4. Mandate that selected agencies that are currently incapable of electronically sharing data with the Board do so. By implementing an electronic data-sharing protocol similar to that the Department of Motor Vehicles, other agencies that are also required to offer voter registration under the National Voter Registration Act can ensure that applications are received and can be accurately processed. Individuals who provide all of the information necessary to be registered to vote can be processed completely; other individuals' data can be maintained in a pending file by the Board until complete information is obtained.
5. Determine a legal threshold for when the Board shall register eligible individuals whose names have been so transmitted unless the voter chooses to opt out, and when such information must be withheld from the voter registration list or maintained in a pending status. Under the existing eligibility rules of the District, many individuals whose information appears in other databases can be automatically registered to vote subject only to their affirmation of information that is not readily obtainable by the Board, such as that they do not claim residence in another state and have not been adjudged legally incompetent to vote. Similarly, the Board could update the addresses of individuals who submit a change-of-address to the U.S. Postal Service, subject only to their affirmation at the polls on Election Day.
6. Mandate that the Board prescribe a procedure pursuant to which individuals who have been automatically registered may opt out of registration. While there is consensus among supporters of automatic voter registration that such a system must include a mechanism by which applicants may opt-out, there is disagreement as to preferred forms of opting out. This divergence in opinion relates to the point at which individuals may opt-out. There is a school of thought that holds that applicants should be allowed to opt-out of voter registration at the time that they interact with the government agency. Pursuant to this approach, it would be wholly consistent with automatic voter registration for application forms to include language that notifies individuals that they will be automatically registered to vote *unless* they affirmatively indicate that they do not wish to be so registered. The following phrase is an example of language that could be incorporated under this opt-out method:

“BY SUBMITTING THIS APPLICATION, YOU ARE INDICATING THAT YOU WISH TO EITHER REGISTER TO VOTE OR UPDATE YOUR VOTER REGISTRATION INFORMATION IN THE DISTRICT

7. Mandate that the Board provide all individuals who have been automatically registered with an opportunity to timely affiliate with a party. While party affiliation is optional in the District (and is, hence, not a required data element for voter registration), advance affiliation is required if voters wish to participate in primary elections. Moreover, voters must be registered in the party holding the primary election for at least 30 days prior to the election. For these reasons, Integrity obviously tracks party affiliation. However, with the exception of the DMV, the databases discussed herein do not. Presuming that there will be no changes in the District's closed primary system, a mechanism would need to be implemented whereby automatically registered are able to timely affiliate with a political party. One way this can be effectively accomplished is through the timely mailing of a postage prepaid return postcard that would give notice and opportunity to affiliate. Another way would be to direct voters to a web portal where they could submit the information online.

Same-day voter registration creates the potential for the Board to experience unplanned-for spikes in voter registration, potentially resulting in insufficient ballots and poll workers on Election Day and creating inefficiencies in voter registration processing. Identifying potential registrants and adding them to the polls before Election Day through a system of automatic voter registration would greatly improve the efficiency of voter registration, the accuracy of voter registration lists and, as a result, the experience that

voters have on Election Day. Other states are also considering a move toward automatic registration and the Board is engaged in discussions among state election officials about how best to move in that direction. In addition, the Board is participating in discussions that have been convened by the Pew Center on the States on implementing a multistate electronic registration information clearinghouse that would improve the quality of this data.

Now that voters can register on Election Day, there is no reason for the Board or candidates in an election to plan events based on a voter registration list that excludes potential voters. Instead, the laws and procedures that made sense when voters were required to register at least 30 days prior to the election should be updated to allow the Board to identify and maintain a list of potential voters before they appear at the polls.

There are issues that develop with automatic voter registration. One major fear with this type of data collection is that of “Big Brother.” Many citizens just do not want to register to vote. Although an opt-out provision is absolutely necessary, a citizen may feel great unease with governmental agencies signing them up for something they did not choose. It may be felt to be intrusive and an invasion of privacy. While we do not believe that to be the case, these concerns must be honestly addressed in a discussion of automatic voter registration.

The Board anticipates that this report will serve as the basis for a discussion with members of the Council on the promise and potential design of an automatic voter registration system. We look forward to working with the Council to further explore the feasibility of automatic registration and determine the laws and processes that will best work to serve the voters of the District of Columbia.

