



Vermont Municipal Clerks' and Treasurers' Association

Vermont Municipal Clerks' and Treasurers' Association Legislative Committee
Comments on Secretary of State final report on S.29
January 28, 2016

The Association would like to provide comments to the report submitted Vermont Secretary of State's (SOS) office regarding S.29. We would also like to acknowledge the efforts of the SOS and staff to address some of the concerns of the VMCTA. We do, however, feel strongly that our concerns were not fully acknowledged therefore we are providing an outline and explanation for those issues.

The SOS report fails to address one of VMCTA's larger concerns, the process of implementing EDR during a floor vote, although it was discussed in detail at the December 16, 2015 meeting with SOS. Many towns still hold traditional town meetings. Some do all their voting from the floor, while others have a mixture of floor and Australian ballot voting. Some actually hold these two types of voting at the same time but in different locations. There has been concern expressed from the towns with floor meetings.

The discussion with the SOS at the December meeting included that during a floor meeting in conjunction with Australian ballot voting, clerks can assign a person to register voters while the clerk is occupied with the floor meeting. This will require an effort on the part of the SOS to publish procedures and training to the clerks that have this situation.

Additional comments on specific sections:

(1) Permitting a town clerk to deposit in a vote tabulator on the day before an election any early voter absentee ballots he or she has received, while still complying with other provisions of election law

VMCTA is pleased the SOS is supportive – in concept – with the idea of early processing of absentee ballots. VMCTA would like to point out that this process is currently implemented in Maine with legislation that addresses the skeptics. Maine Revised Statutes Title 21-A: Elections, Chapter 9: Conduct of Elections, Subchapter 4: Absentee Voting, Article 1: Absentee Voting Sec. 760-/B. Procedures when clerk processes absentee ballots prior to Election Day.

The statute addresses the time prescribed, the notification process, the inspection of the ballots before processing and the processing procedures, as well as the security of processed ballots and tabulating equipment.

Vermont should consider using Maine's statute as a model for this legislation. The statutory process should be enabling language and not a mandate for all towns. (See Attachment 1 & 2).

VMCTA requests that early voting stop at the end of the day on Friday prior to an election to allow for the processing of ballots. And there should be provisions in the law for persons that cannot vote at the election to allow them to cast their ballot on Monday.

The SOS report suggests an implementation date during the 2018 election cycle, due to the substantial changes to the election law with Same Day. VMCTA requests that this change be included in the 2017 election cycle as part of the substantial changes.

(2) Ensuring that all towns have internet access at each polling place on the day of an election

The report says internet at the polls won't prevent fraud as clerks won't be able to track voter participation. Town Clerks should be afforded the tools to ensure whether a voter seeking to register in our town is valid or whether they registered in another town yesterday. We can question them on their voting or reject their application.

The VMCTA acknowledges the difficulty of internet access at each polling place without statewide broadband service, but there are options through cable, satellite and Wi-Fi hot spots, for example.

The SOS report talks about e-poll books as the future of elections. Such technology would allow clerks to have instant and continuous access to the VEM system and the statewide voter checklist, not only to confirm voter registrations, but to track voter participation, thereby greatly reducing the risk of voter fraud. The report says the SOS expects to have this system available for the 2020 general election season. VMCTA suggests waiting for the implementation of EDR until 2020 when the e-polling system comes on line, thus resolving many of the issues around premature implementation without adequate safeguards.

(3) Permitting automatic voter registration through the Department of Motor Vehicles; and

The VMCTA supports this proposal and concurs with the SOS that it is more efficient for the voter. Applying for or a driver's license requires proof of identification and proof of residency, which the VMCTA supports.

The report says automatic DMV registration will reduce the burden of EDR, and it likely will, with the huge exception of college towns, where students with out-of-state driver's licenses will turn up in droves to register at the polls. To that end the VMCTA requests that the SOS office consider offering additional education, training and resources for those clerks who serve college towns so they can be prepared for the volume.

(4) Public service announcements that encourage people to register to voter prior to the day of an election

The VMCTA agrees with the necessity of public service announcements that encourage voter registration; however, it remains to be seen if PSAs will reduce the number of residents that register on the day of the election.

Standard advertising practices is, you have to hear it ten times before it is understood. "No excuse" voting for absentee voters was passed in 1999. It took many years for the voters to realize that they could vote early without an excuse. Over time it has become a very popular trend, to the point that most offices become a

polling location for weeks before an election. With different rules for different elections - declare your party for the presidential primary; receive all ballots and vote your choice for the state primary - it can be confusing to the voters.

The SOS report states that their outreach efforts will be limited based on available staff time, resources and budget. These are exactly the same concerns clerks have been voicing since the beginning of the EDR discussions – how to implement EDR while living within our staffing and budget constraints.

VMCTA supports enhanced public outreach, and hopes the SOS office is able to find room in its budget to accommodate this need.

(5) Any improvements in the registration of voters through the Department of Motor Vehicles;

The report suggests improvements associated with the new DMV voter registration system and says they do away with the need for affidavits. The improvements are working well; however, they won't eliminate the need for the affidavits which are used for any voter who claims to have registered before the election, be it at DMV, Dept. of Labor, DCF, DOC, or a voter registration drive. These people will still come to the polls.

(6) other states that require identification for Election Day voter registration and whether Vermont should also require such identification

The SOS is strongly opposed to any type of ID requirements for those voters wishing to register on Election Day. VMCTA is adamant in their request for some type of proof of residency. This is probably where we disagree the most.

The National Conference of State Legislators, Issue 40, May 2013, published a list of FAQ related to Election Day Registration (see attachment 3) which states:

“How do EDR states ensure that no one votes who shouldn't?”

First, EDR registrants are required to show more proof of eligibility than registrants who act before Election Day. Not only do they need to establish who they are by showing an ID of some form, they also must prove where they live. Requiring both is intended to prevent ineligible people from slipping through the cracks.”

The report goes on to list other processes which allow a provisional ballot to be used by those that are not able to present the proper documentation, which isn't counted until eligibility is verified; and addresses that voter fraud is a crime. (See attachment 4)

Another article published by the National Conference of State Legislators, Same Day Voter Registration, dated June 2, 2015, Page 2, (see attachment) states:

How SDR Works

- **Proof of residency** is a key requirement in all states that offer same-day registration
- **Voter ID:** All of the SDR states also require that voters who register and vote on Election Day present documentation to verify their identity.

VMCTA would like to have the same tools in place as all other states that register voters on the same day as the election. VMCTA maintains that by not having to show any ID at the polling location it would be impossible to prove fraud. A person could put false information on the voter registration form, which may surface days later when we mail a copy of the registration and it is returned. At that point we would not be able to identify the person that filed the form, thus committing fraud.

When we register a voter in advance of the election we are required to collect a driver's license number, non-driver ID number or the last 4 digits of a SSN, and these numbers are verified by SOS. Because it is included on the Vermont Voter Registration Form, it is clear that the Secretary of State's office has placed a high level of importance on having such verification. And again, the DMV voter registration is more stringent as it is coupled with the driver's license and its ID and proof of residency requirements.

The VMCTA is not requesting a specific ID card; **we are requesting proof of residency**. The proof of residency does not preclude or create hardship from registering or voting. In the rare situations where a person cannot provide any proof they should be given a provisional ballot, coupled with an affidavit which states where they intend to reside.

(7) any other recommendations regarding the administration of Election Day registration

Gap Time

Pre-Registration

The VMCTA *strongly recommends* reviewing the timelines associated with election processes and building in a “gap time” between the close of pre-voter registration and Election Day registration. We recommend that pre-election registration be closed at the end of business on the Friday before an election. Nearly all the states that currently have EDR stop voter registration in advance of the election; many of them several days or even weeks in advance of Election Day. By creating a three-day gap between the end of pre-registration and EDR, it would allow clerks the ability to work the weekend to input data, print reports and generally prepare for the election. Such a “gap” would allow clerks to feel confident in the veracity of their checklists before the polls open.

Current law stops pre-registration on the Wednesday before an election. Because the Act 29 has not yet gone into effect, changing the pre-registration deadline to Friday would provide the voters with a net *increase* of two additional pre-registration days while providing clerks with the time necessary to assure that their records are complete and correct before Election Day.

Early Voting

The SOS report acknowledges that the VMCTA request for a “gap time” would be beneficial to the successful operations of an election; however, their recommendation to stop both pre-registration and early voting at noon on the Monday before Election Day is unacceptable to VMCTA.

Maine and New Hampshire have Same Day Voter in place, as we did our research it was apparent that we are more closely aligned with Maine's election processes and practices, and so we look to them as a guide.

New Hampshire can vote absentee only with an excuse, so there is a low percentage of voters that vote absentee. Maine is similar to Vermont, where absentee voting is without an excuse, and very popular. Maine cuts off early/absentee voting on Wednesday prior to an election; they have the ability to process the absentee ballots on Monday, the day before the election, and they have processes in place that allow voters who are not able to be at the election to vote after the Wednesday deadline.

Cutting off early voting mid-day on Monday as suggested by in the SOS report would confuse voters. If you come in at 11:45 am you may cast a ballot, but if you come in at 12:05 pm you may not. And all of those ballots need to be entered into the system. Ending early voting at the end of the day on Friday is a cleaner solution, and would allow clerks the opportunity to process the absentee ballots on Monday, provided the Legislature does approve the process. The Maine process of verifying the ballots, opening the envelopes and feeding the ballots into a machine is a full day of work, according to the Kennebunk clerk who testified before the House Government Operations Committee last year.

We believe it is important to take a holistic approach when reviewing election processes, and not be making changes in a vacuum. Creating a gap time for pre-registration and early voting, along with allowing early ballots to be processed the day before the election, will help with the integration of the EDR process. We realize that moving the deadline for early voting will be a major change to our voters, but we believe Friday is a compromise that would work for everybody.

We look forward to having an opportunity to discuss our concerns with the committees in more detail, and we are committed to working with the SOS on best practices for implementation of Election Day Registration (EDR).

For the Vermont Municipal Clerks' and Treasurers' Association Legislative Committee
Karen Richard, chair, Colchester
Deb Beckett, Williston
George Colburn, Sutton
Dawn Custer, Hubbardton
Carol Dawes, Barre City