Gus J. Solomon
Inn of Court
October 2021
Election Reform:
Making Democracy Secure and Accessible

Peter Glazer

- Question:
  - Was Oregon the first state to introduce vote by mail?
- Introduction:
  - Meet Peter Glazer, a personal injury and family law attorney from Lake Oswego. Peter enjoys travel and is an expert on 1960s pop music.

CJ Graves

- Question: How did Oregon first begin voting by mail?

- Introduction: C.J. Graves who practices family law and represents survivors of sexual assault at Graves & Swanson.

History of Vote by Mail in Oregon

Timeline of Vote by Mail

- 1981 – Approved as test run in special elections only.
  - Primary reason for the legislature to consider this: cost cutting.
- 1987 – The legislature made the temporary test for local and special elections permanent.
- 1989 – Bill to extend vote by mail was defeated 33 - 27 in a non-party line vote.
  - Divided the parties.
- 1993 - First statewide special election using vote by mail.

Timeline

- 1995 – Special election saw increase in voters to 44%. Republican majorities in the Oregon legislature approved bill to extend vote by mail to primary and general elections. Vetoed by Governor Kitzhaber.
- 1995 – First state to conduct primary elections using mail-in voting for former Sen. Bob Packwood's seat.
- 1996 – Oregon became the first state to conduct a general election using only vote by mail. Sen. Ron Wyden elected with 66% turnout.
  - Republicans in the legislature became more cautious about vote by mail

Support for Measure 60

- Measure was widely supported.
  - Political figures included Secretary of State Phil Keisling, Governor John Kitzhaber, retired Senator Mark Hatfield.
  - Organizations supporting it included Oregon NARAL, Salem Area Chamber of Commerce, PGE, Oregon Women's Rights Coalition, SEIU, and the AARP of Oregon.
- Arguments in Favor:
  - Money remained first and foremost argument
  - Convenience for voters
  - Increasing voter turnout

Opposition of Measure 60

- Opposition
  - Main opponents **included Rep. Lynn Snodgrass, Bill Sizemore, Fred Decker (Oregon Citizens for Choice of Voting) and Neale Hyatt.**
- Arguments in Opposition
  - Largely on two (stated) grounds:
    - (1) distrust of whether elections would be secure,
    - (2) that there would be additional hidden costs.
    - (lurking in the background was the fears both parties shared that this would hurt their party more in elections).
    - Rep. Snodgrass also opposed because there was no central registration database. (We ultimately did create a database in 2005).

Opposition of One

Official 1998 General Election Voters' Pamphlet—Statewide Measures

Measure No. 60

ARGUMENT IN OPPOSITION

STATEMENT PART 1

When in 1994 I began learning the details of a plan to conduct all elections by mail it soon became clear that the lunatics are in charge of the asylum.

We have been told by Mr. Keisling that millions of dollars will be saved by his system but no cost/benefit analysis has been provided to prove his claim, and every citizen who has ever paid taxes knows that not a single elections office in Oregon will reduce their annual budget request if this measure passes. While advancing unproved claims of cost savings, Keisling has also been proposing a statewide computerized registration system that will cost several million dollars to install and who-knows-how-much to operate every year.

But the overriding concern about mail voting is not cost or convenience, it is vote FRAUD.

Under the current system, anyone may register by mail any name to vote in Oregon. Elections officials never verify that the person actually exists, that they are a U.S. citizen, that they are over 18 or that they actually live at the address claimed. Elections officials also allow a registered voter to specify an address other than their residence to have their ballot sent to, even if that address is in another state or country.

When people are allowed to vote through the mail as well as register through the mail, all control over elections is lost. It will be possible for a person to register and to vote from anywhere in the world without ever having been to Oregon. Just as an example: In the 1996 special election for U.S. Senator a person with a Chinese name registered to vote in Lane County, but had their mail ballot sent to a province in the People's Republic of China. That ballot was returned and counted. Indeed, printouts of registered voters in Lane County show hundreds of registered voters with addresses in other states and countries.

It will also be possible for non-existent persons to be registered and voted. While Mr. Keisling has pooh-poohed this argument by saying that there have never been any instances of vote fraud in Oregon, the fact is that he has no idea if vote fraud is being committed because none of his elections officials are looking for it.

Cont'd Statement Part 2.

(This information furnished by Neale Hyatt.)

(The space purchased for $300 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN OPPOSITION

STATEMENT PART 2

Continued from Statement part 1.

Further proof of the corruption inherent in voting by mail was given by the mayoral election in Miami, Florida in 1998. The election was challenged and the courts found the mail-in absentee ballots so filled with illegal and non-existent voters that they threw out ALL absentee ballots, stating that eligible persons have a constitutional right to vote but do not have a constitutional right to vote by mail.

Other states have also found fraud in mail voting. For example, in California recently it was discovered that dead people had voted by mail in a ballot measure for a new sports stadium.

None of these fraudulent activities were detected by elections officials, they had to be caught by disappointed candidates and/or the press.

Oregon voters need to know that Secretary Keisling has been less than truthful about his efforts to get this initiative on the ballot. Contrary to his statements that signatures were gathered by a "grass roots" effort, most of the signatures were obtained through an expensive mailing effort. Over $110,000 were spent, or more than $1.00/signature. It is disturbing to see where all that money came from: Less than 10% came from small contributions of under $50, 20.2% came from unions, 29.7% from business interests, 7.4% from lawyers and 4.6% ($5,041) from elections employees.

We need to know from Mr. Keisling why businesses, unions and lawyers are trying to take away our right to vote at the polls. Keisling should also try explaining who "The New Democrat Network" is and why that Washington DC PAC sent $1,000 to this campaign. Why did a union PAC in Kalispell, MT send $1,000? Why did the postal workers union send $1,000 from Wash. DC? Why did a nursing home send $500 from Vancouver, WA? Why did two individuals send hundreds of dollars from Rhode Island and New York?

Obviously, Keisling is amassing money from special interests inside and outside Oregon to try to force us into a voting system without any controls and which will be wide open to corruption (as proven in other states). If you like to vote by a mail (or absentee) system in which you can't even be sure your ballot was received and counted by the election office that is your choice, but please don't force the rest of us to give up our right to the secure voting system that is the foundation of our democracy.

VOTE "NO" ON MEASURE 60.

(This information furnished by Neale Hyatt.)

(The space purchased for $300 in accordance with ORS 251.255.)

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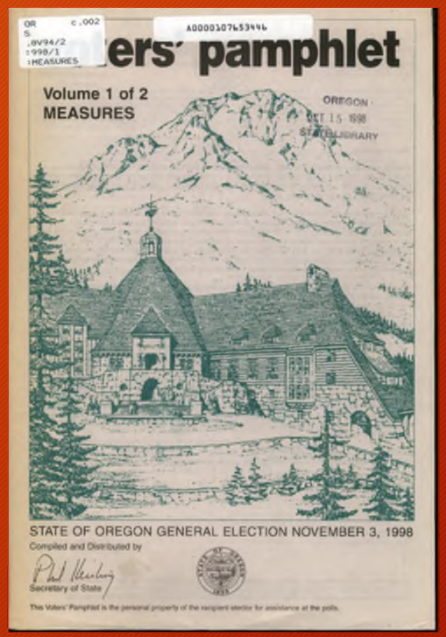
- One Outlier Opponent . . .
  - Neale Hyatt . . .

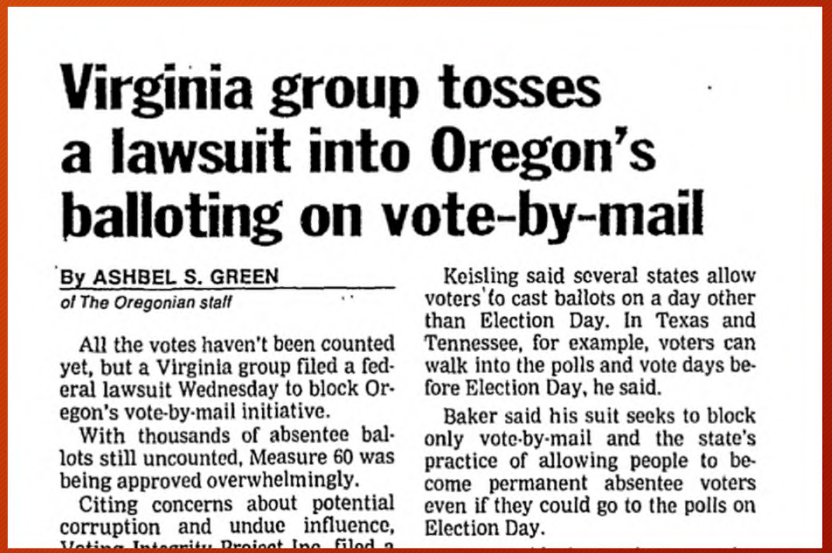
Measure 60

- 1998 – Ballot measure 60 was passed.
  - Vote was no close: 757,204 to 334,021.



Legal Opposition

- On Nov. 5, 1998 the Voting Integrity Project, Inc. filed a lawsuit challenging the bill on the legal grounds that holding elections on a specific day required voting on that specific day.



Virginia group tosses a lawsuit into Oregon's balloting on vote-by-mail

By ASHBEL S. GREEN
of The Oregonian staff

All the votes haven't been counted yet, but a Virginia group filed a federal lawsuit Wednesday to block Oregon's vote-by-mail initiative.

With thousands of absentee ballots still uncounted, Measure 60 was being approved overwhelmingly.

Citing concerns about potential corruption and undue influence, Voting Integrity Project Inc. filed a

Keisling said several states allow voters to cast ballots on a day other than Election Day. In Texas and Tennessee, for example, voters can walk into the polls and vote days before Election Day, he said.

Baker said his suit seeks to block only vote-by-mail and the state's practice of allowing people to become permanent absentee voters even if they could go to the polls on Election Day.

Five Years Out…

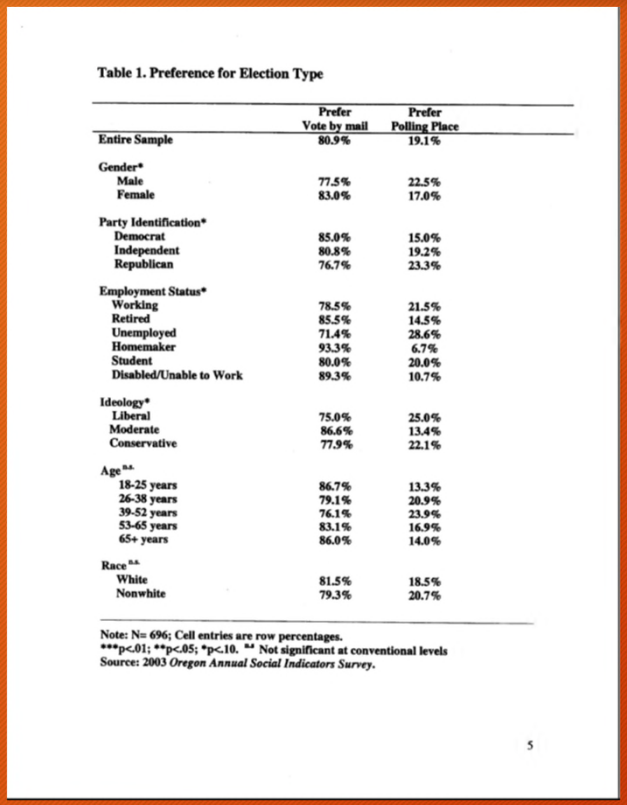


Table 1. Preference for Election Type

	Prefer Vote by mail	Prefer Polling Place
Entire Sample	**80.9%**	**19.1%**
Gender*		
Male	77.5%	22.5%
Female	83.0%	17.0%
Party Identification*		
Democrat	85.0%	15.0%
Independent	80.8%	19.2%
Republican	76.7%	23.3%
Employment Status*		
Working	78.5%	21.5%
Retired	85.5%	14.5%
Unemployed	71.4%	28.6%
Homemaker	93.3%	6.7%
Student	80.0%	20.0%
Disabled/Unable to Work	89.3%	10.7%
Ideology*		
Liberal	75.0%	25.0%
Moderate	86.6%	13.4%
Conservative	77.9%	22.1%
Age [n.s.]		
18-25 years	86.7%	13.3%
26-38 years	79.1%	20.9%
39-52 years	76.1%	23.9%
53-65 years	83.1%	16.9%
65+ years	86.0%	14.0%
Race [n.s.]		
White	81.5%	18.5%
Nonwhite	79.3%	20.7%

Note: N= 696; Cell entries are row percentages.
***p<.01; **p<.05; *p<.10. [n.s.] Not significant at conventional levels
Source: 2003 *Oregon Annual Social Indicators Survey*.

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- Study of support five years after passing.
  - Wide support
  - Support across political ideologies, ages, ethnicities and backgrounds.

Stephanie Engelsman

- Question:
  - Has Oregon always been such an easy place for everyone to vote? Answer, NO!
- Introduction:
  - Stephanie is a Staff Attorney and Trial Skills Coordinator for Youth, Rights & Justice, a non-profit organization. She focuses her work on juvenile 1008 cases, formerly known as Juvenile Measure 11 cases, and also represents children and parents in dependency cases.

Has Oregon always been so “progressive” in our access to voting?

Unfortunately, no. For a very long time, the majority of people in Oregon were denied the right to vote.

* 5/2/1843: Oregon settlers meet to create a provisional government
* 7/5/1843: they meet again and pass temporary blueprint for gov’t, including prohibiting slavery

* 6/18/1844: first Black exclusion law passed. Blacks who try to settle in Oregon would be publicly whipped – 39 lashes, repeated every 6 months until they left

* 12/19/1844: Exclusion law changed. Blacks who tried to settle would not be whipped but instead be forced to do public labor.
* 9/21/1849: Oregon Territorial Legislature enacts exclusion law that prohibits “…negro or mulatto to enter into, or reside within the limits of this Territory.” However, those already living there, and their children, were not subject to this law.

* 9/18/1850: Congress passes the Donation Land Act, giving free land to white settlers (only “white settlers” and “American half-breed Indians”, but excluded non-US citizens, including Native American peoples, Blacks and Hawaiians)

*1854: Legislature bars testimony of “Negroes, mulattoes, and Indians, or persons one half or more of Indian blood” in proceedings involving a white person.
* 3/6/1857: US S Ct *Dred Scott v. Sandford*, rules that a “negro, whether enslaved or free,” could not be an American citizen

* 1857: Oregon State Constitutional Convention: declares that only white men can vote
* 11/9/1857: Oregon voters approve the OR constitution, which bans slavery and new Black residents in Oregon. Makes it illegal for Blacks to own real estate, make contracts, vote or use the legal system.

* 6/13/1866: Congress passes the 14th Amendment
* 9/19/1866: Oregon ratifies the 14th Amendment
* 10/16/1968: Oregon rescinds its ratification of the 14th Amendment

14th A: *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

* 2/26/1869: Congress passes the 15th Amendment
* Oregon is one of 6 states that refuses to ratify the 15th Amendment
*2/3/1870: despite Oregon's inaction, Oregon S Ct ruled that African Americans could vote because the 15th A was the law of the land

15th A: *The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.*

* 6/4/1919: Congress passes the 19th Amendment
* 1/1920: Oregon is the 25th state to ratify the 19th A

19th Amendment: *The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.*

*1959: Oregon ratifies the 15th Amendment
*1973: Oregon re-ratifies the 14th Amendment

*1998: Oregon becomes the first state to vote exclusively by mail

Pilar French

- Question:
- Lewis: So, Hallow In Square Contestants, what's one way to impact an election before the voter even turns out to vote?
- Pilar: Pilar raises here hand.
- Lewis Pilar French what is the answer?
- Pilar: Redistricting.
- Introduction:
    - Everyone meet Pilar French, she is a litigator at Lane Powell, loves long walks on the beach and a fine Chardonnay. Pilar tell us some more about redistricting and voter integrity.

Oregon Election Integrity: Redistricting During the Pandemic

American Inn of Court

Gus Solomon Chapter

October 26, 2021

What is Redistricting?

Oregon's six U.S. representatives and 90 state legislators are all elected from political divisions called "districts."

Redistricting is the process of enacting new congressional and state legislative boundaries.

District lines are redrawn every 10 years following completion of the United States census.

https://ballotpedia.org/Redistricting_in_Oregon_after_the_2020_census

U.S. Constitutional Authority for Redistricting

Article I, Section 4 provides that the States and their legislatures have primary authority in determining the “times, places, and manner” of congressional elections, although Congress can also pass laws regulating elections.

Congressional representatives are apportioned on the basis of population. Article I, Section 2.

Redistricting According to SCOTUS: *Reynolds v. Sims,* 377 US 533 (1964)

The Equal Protection Clause "requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis."

Although reapportionment every 10 years is not constitutionally mandated, any longer interval "would assuredly be constitutionally suspect."

Oregon Constitutional Authority for Redistricting

Article IV, Section 6(1) specifies that reapportionment shall occur in "the odd-numbered year regular session of the Legislative Assembly next following an enumeration [aka the census] of the inhabitants by the United States Government."

The Legislative Assembly must pass a plan by July 1 of the year following the census. *Id.* at (1) and (3).

Oregon Constitutional Authority for Redistricting.

- If the Legislative Assembly fails to make a plan for reapportionment by its deadline, the Secretary of State must make a plan by August 15 of the year following the census. *Id.* at (3).

When Do the States Receive the Census Data?

The United States Secretary of Commerce must deliver the census data to the states before April 1 of the year following the census. 13 USC 141(a), (c).

What happens when the federal government cannot deliver the census data until after August 15?

State ex rel Kotek v. Fagan,
367 Or. 803 (2021)

The Legislative Assembly and the Secretary of State sue to find out who gets to make the plan.

Oregon Legislative Assembly's Position

- The Oregon Supreme Court can extend the constitutional deadlines via writ of mandamus.

Oregon Secretary of State's Position

- The Oregon Supreme Court lacks authority; and
- The Secretary can prepare a plan by using sufficiently reliable data from Portland State University; and
- Any subsequent changes required in light of federal census data could be handled during any ensuing judicial review of an objection to the plan filed in this Court.

Oregon Supreme Court's Holding Regarding Mandamus Power

- Article VII, Section 2 empowers this Court to issue writs of mandamus.
- We have authority to compel both the Secretary of State and the Legislative Assembly to act.

Oregon Supreme Court's Holding

The paramount purpose of redistricting is not the arbitrary deadline to act by certain dates.

It is to make sure all voters have an equal opportunity to vote.

Oregon Supreme Court's Reasoning: History Tells Us This Is So

- Before 1952, the Legislative Assembly was required to reapportion every 10 years based on federal or state census. But despite that constitutional mandate, it did not make any changes to district boundaries between 1911 and 1952.
- In 1952, the voters amended Article V, Section 6 to require reapportionment after only the federal, as opposed to state, census data.

Oregon Supreme Court's Reasoning for Rejecting the Secretary of State's Plan

- The Secretary of State concedes that census data is the best evidence of the population.
- Article IV, Section 6 says to rely on the federal census data only.
- Electors have a right to object to the Legislative Assembly's proposed plan. If we skip that step, we deny the electors a right to object.
- It is not enough that this Court can review a plan that the Secretary presents.

Final Question: Can the Court fashion new deadlines?
Answer: Yes, we have time.

Candidates for state legislative office must declare their candidacy by March 8, 2022. (ORS 249.037(1).)

They must have resided in a district for one year before the election date.

The reapportionment plan must therefore be final by March 8, 2022.

And we are going to change the one-year residency deadline for candidates as set forth in Article IV, Section 8(1)(b) so they have time to move.

The Court's Revised Deadlines: REAPPORTIONMENT PLAN BY LEGISLATIVE ASSEMBLY

1. If the Legislative Assembly enacts a plan, the following revised deadlines apply:
   a. The Legislative Assembly will enact a plan on or **before Monday, September 27, 2021**, and may do so in an emergency session rather than its regular session.
   b. Objections by electors are due by Monday, October 25, 2021.
      i. Responses by the Legislative Assembly, Secretary of State, or others, as well as amicus briefs (discouraged) are due by Monday, November 8, 2021.
      ii. Any reply briefs, though discouraged, are due by Monday, November 15, 2021.

The Court's Revised Deadlines: REAPPORTIONMENT PLAN BY LEGISLATIVE ASSEMBLY

c. If the Supreme Court determines that the initial plan complies with applicable law:

i. A Supreme Court opinion approving the plan will be filed by Monday, November 22, 2021; and

ii. The reapportionment plan will become effective January 1, 2022, for purposes of Or Const, Art IV, § 6(6)(b), only.

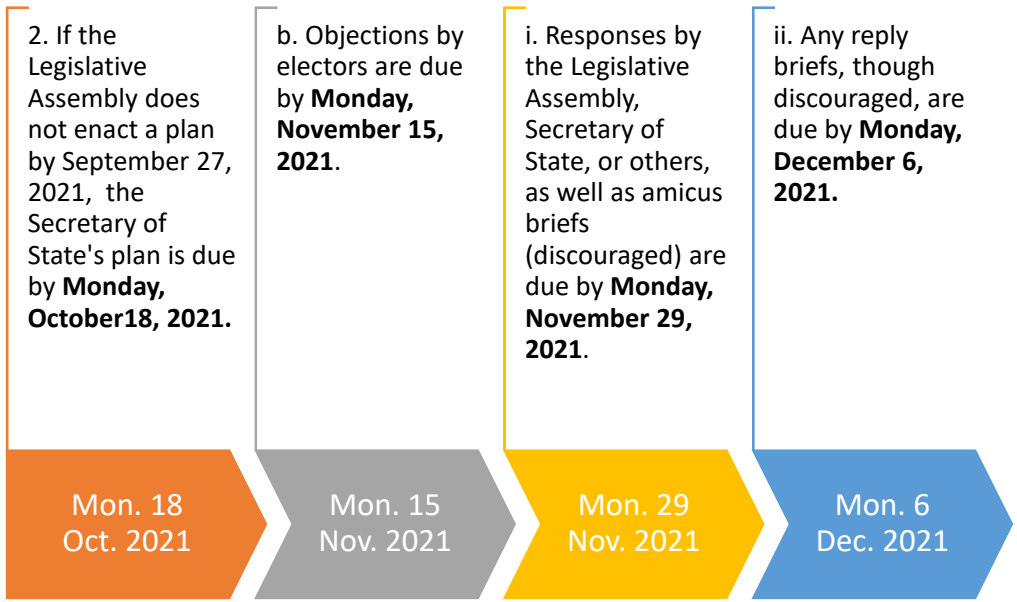
d. If the Supreme Court determines that the initial plan requires corrections, a Supreme Court opinion to that effect will be filed by Monday, December 6, 2021, and the plan will be sent to the Secretary of State for changes.

i. The revisions by the Secretary of State are due by Monday, January 17, 2022.

ii. The Supreme Court will approve the revisions or make any necessary additional corrections by Monday, January 31, 2022.

iii. The reapportionment plan will become effective Tuesday, February 1, 2022, for purposes of Or Const, Art IV, § 6(6)(b), only, and that will serve as the date for state legislators to establish residency under Or Const, Art IV, § 8(1)(b).

The Court's Revised Deadlines: Reapportionment Plan by Secretary of State



The Court's Revised Deadlines: Reapportionment Plan by Secretary of State

c. **If the Supreme Court determines that the initial plan complies with applicable law**:

i. A Supreme Court opinion approving the plan will be filed by Monday, December 13, 2021.

ii. The reapportionment plan will become effective January 1, 2022, for purposes of Or Const, Art IV, § 6(6)(b), only.

d. **If the Supreme Court determines that the initial plan requires corrections, a Supreme Court opinion to that effect will be filed by Monday, December 27, 2021, and the plan will be returned to the Secretary of State for changes.**

i. The revisions by the Secretary of State are due by Monday, January 24, 2022.

ii. The Supreme Court will approve the revisions or make any necessary additional corrections by Monday, February 7, 2022.

The Court's Revised Deadlines: Reapportionment Plan by Secretary of State

The reapportionment plan will become effective Tuesday, February 8, 2022, for purposes of Or Const, Art IV, § 6(6)(b), only, and that will serve as the date for state legislators to establish residency under Or Const, Art IV, § 8(1)(b).

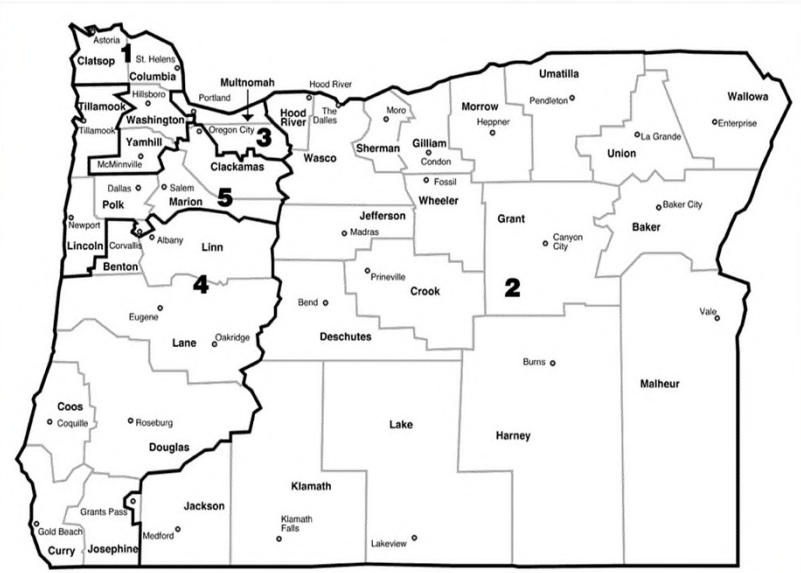
What has happened since this ruling?

GOVERNOR BROWN CONVENED AN EMERGENCY SESSION OF THE LEGISLATIVE ASSEMBLY.

THE LEGISLATIVE ASSEMBLY PREPARED A PLAN, WHICH THE GOVERNOR APPROVED, BY SEPTEMBER 27.

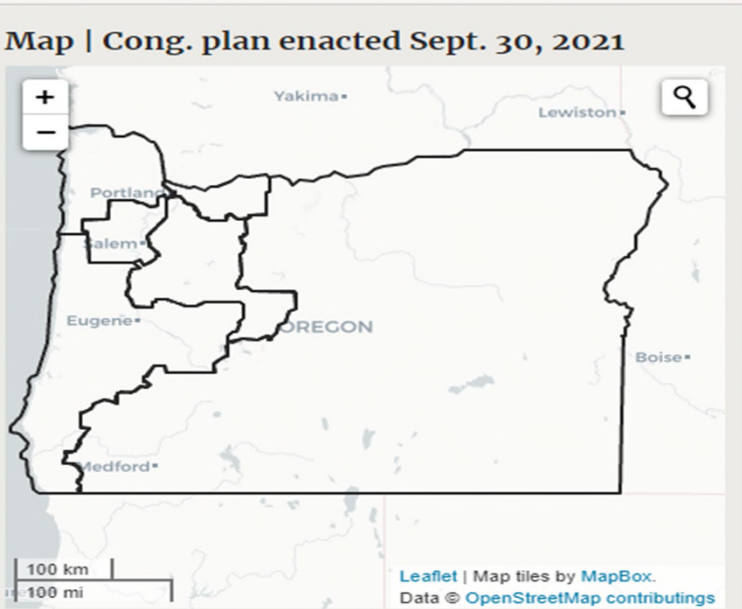
2011 Map v. 2021 Map

Before . . .



Oregon's Congressional map at present, as drawn after the 2010 Census. The Census in 2020 gave Oregon a sixth Congressional district, ensuring that this new redistricting session would be more complex and politically high-stakes.

After . . .



Some are not happy with the new map.

"The congressional map divides the city of Portland between three districts that stretch like tentacles west, east and south, giving those districts major infusions of Democratic voters. Two of those Portland-based districts cross the Cascade Mountains, in one case connecting voters in Portland with those in Bend, a growing liberal enclave in the heart of the ruby-red high desert."

https://thehill.com/homenews/campaign/576330-oregon-republicans-sue-to-block-democrats-redistricting-plan

Clarno, et al. v. Fagan,
Marion County Circuit Court Case No. 21CV40180 (October 11, 2021)

Former Secretary of State Beveral Clarno and others claim that the new map is "an unconstitutional partisan gerrymandered redistricting map, as the Democrats drew the map with impermissible partisan intent to favor the Democratic Party, and [the map] will have impermissible partisan effects and requested the court declare the congressional map invalid and draw a different congressional map."

What can we do in the meantime? Stay tuned for the January Group's update!

Campbell Boucher

- Question:
  - How does voter registration work in Oregon and how does it compare to other states?
- Introduction:
  - Cambell is a family law attorney at Posey Legal. She enjoys weird beers, competing in sports, and outdoor adventures.

Automatic Voter Registration and Vote by Mail

A HISTORY

Unique but Increasingly Common

Vote by Mail

Oregon votes *entirely* by mail with same day drop-off available.

Oregon was the first to go this direction.

7 other states have mail-in ballot by default but also offer same day voting to some degree

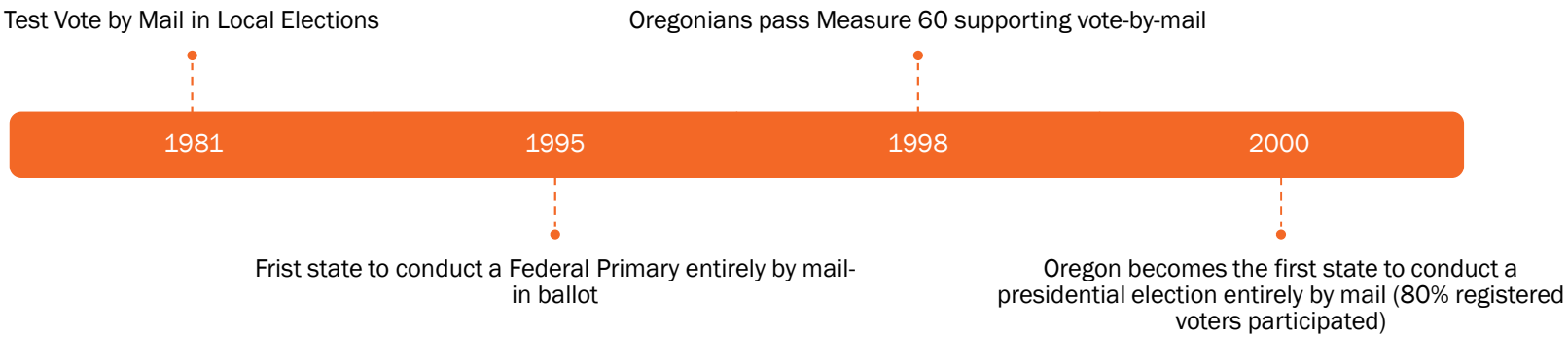
Automatic Voter Registration (AVR)

All DMV's are required to participate in voter registration of *eligible* citizens

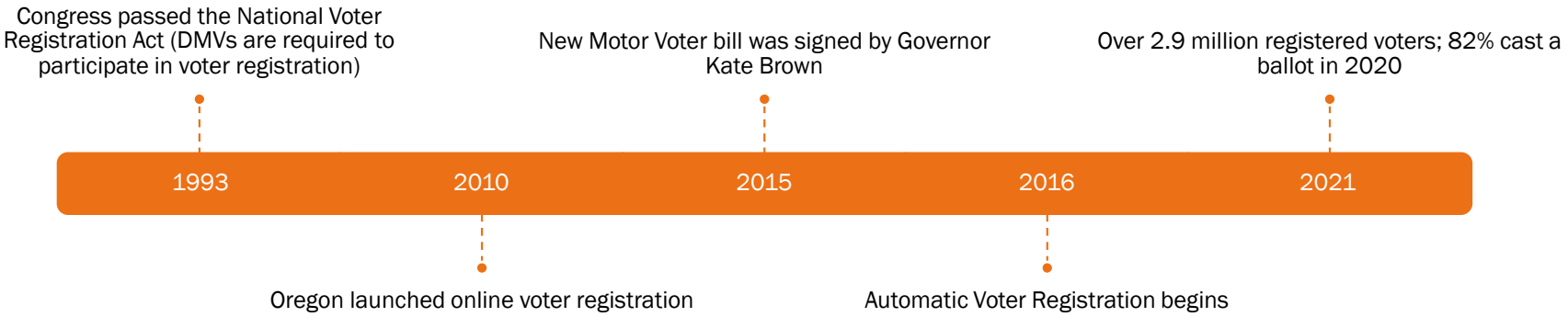
AVR automatically register eligible citizens whenever they first interact with a government agency

Oregon has a back-end opt-out system

Oregon Vote by Mail



Oregon Automatic Voter Registration

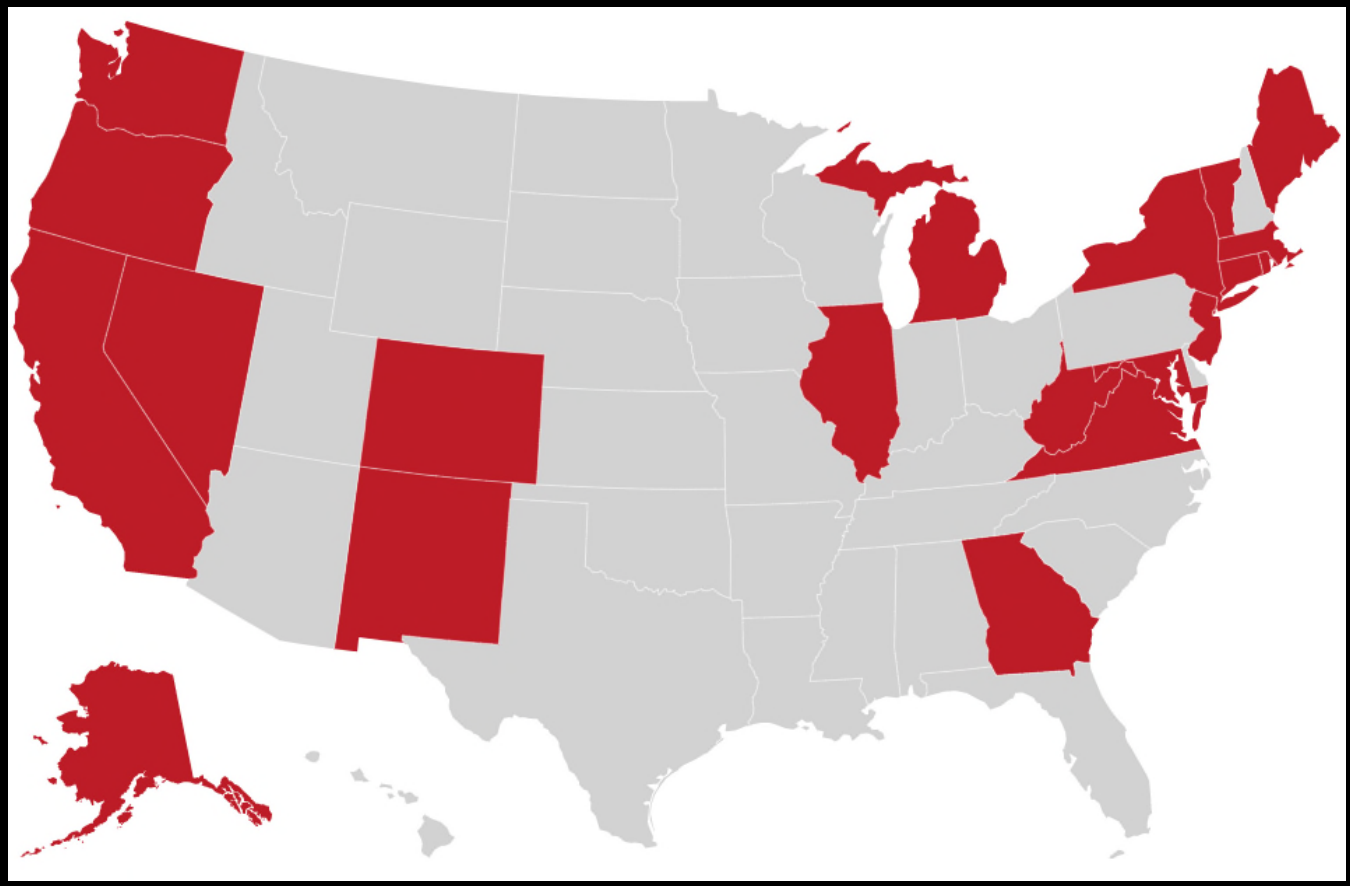


How AVR Works Here

An eligible voter who interacts with the DMV is not asked whether they would like to register to vote, but instead is automatically opted into registering. The voter has to be eligible, meaning a citizen of appropriate age. The voter is later sent a notification informing them that they were registered and that they can opt-out by returning the notification.

First but not Last

As of December 23, 2020, 20 states and the District of Columbia had enacted automatic voter registration policies



How it Works Elsewhere

Postcard provided at the agency: The DMV applicant for a license is given a postcard at the agency that says the information they provided to the DMV will be used to register them to vote or to update their voter registration record, unless they sign and return the card to opt out. A signed opt-out card can be left with the DMV or the applicant can return it by mail. We know of no states that use this system so far.

Registration "opt-out" at the agency: As part of their DMV transaction, customers provide information needed to register to vote. Voters see a screen that tells them their information will be used for voter registration unless they choose to decline. Assuming they do not decline, they will be given the opportunity to choose a political party, if appropriate in that state.

Christine Tracey

- Question:
  - How does Oregon make sure that a voter is properly registered and that it is the registered voter returning the ballot through the mail?
- Introduction:
  - Answering this question is Christine Tracey, an attorney at Northwest Lawfirm. Christine enjoys watching baseball with an icy cold brew and dreaming about retirement.

Voter ID and Security
Oregon

- Help America Vote Act (HAVA) of 2002 establishes requirements for newly registering Oregon voters to provide identifying information to be eligible to vote on federal offices
  - Provide current, valid Oregon DMV Driver's License or ID Card – may be suspended but not revoked
  - If no License or ID Card, provide last four digits of social security number
  - If no License or ID Card and no social security number, provide:
    - Current and valid photo id that shows name, OR
    - Utility bill, bank statement, government check, paycheck or other government document that shows name and address, OR
    - Proof of eligibility under Uniformed and Oversees Citizens Absentee Voting Act (UOCAVA) or Voting and Accessibility for the Elderly and Handicapped Act (VAEH)

Voter ID and Security
Oregon

- How Does Oregon Make Sure that Registered Voter Is Returning Ballot?
  - YouTube Clip - https://youtu.be/T7u3zRbnPUU , 0:00 to 2:15

Oregon Centralized Voter Registration System (OCVR)

- In Oregon, ballot can be returned to any county election office, any official ballot drop box, or mailed to county elections office
  - If returned to different county, ballots collected and mailed to voter's county
- All ballots received are scanned before opening, check bar code to make sure ballot is valid and if yes, receipt is recorded in OCVR
  - Larger counties use machine scanning, smaller counties scan bar codes by hand
  - If replacement ballot, new 9-digit code assigned and prior ballot cancelled – so only LAST ballot issued to voter will be recognized and accepted by OCVR
  - If voter tries to get replacement ballot after voting, OCVR will show ballot already returned and no replacement ballot would be issued
    - Could get provisional ballot
- OCVR currently 15 years old and runs on old version of Windows, project underway to update OCVR software by 2023

Signature Verification for Oregon Ballots

- Signature on return envelope scanned and compared to voter's most current registration record, latest driver's license or registration card
- Larger counties use software for first pass at 100% match of signatures, same software used in banking industry
  - Success rate about 50% with software
- If no match to most current registration record, trained personnel review all signatures in the OCVR registration record to determine validity of signature
  - Counties train personnel using training developed by OSP forensics handwriting expert
  - Compare to all signatures from voter registration cards, driver's licenses
- No Power of Attorney signature accepted
- If signature matches a registration record in OCVR, accept the ballot
- Vote by Mail Procedures Manual, issued by Secretary of State, Elections Division and adopted by OAR 165-007-0030, details how to evaluate signatures

Evaluating Signatures

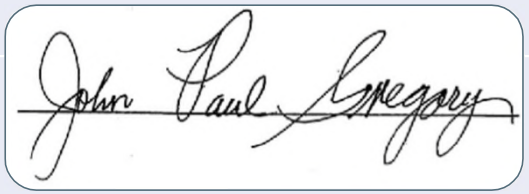
- **Evaluating Signatures**
- The following characteristics and procedures shall be utilized by a county or state elections official to evaluate signatures to determine whether the signature matches or does not match the signatures contained in the state voter registration record.
  - Agreement in:
    - Style and general appearance, including:
      - Basic construction
      - Skill
      - Alignment
      - Fluency
      - General uniformity and consistency between signatures
    - Proportions of individual letters
      - Height to width
      - Heights of the upper to lower case letters
  - Irregular spacing, slants, or sizes of letters are duplicated in both signatures.
  - General traits and agreement of the most distinctive, unusual traits of the signatures.

Signature Verification for Oregon Ballots

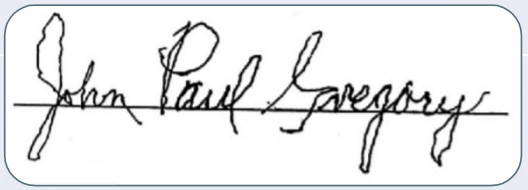
- Only a signature possessing obvious and predominantly matching characteristics with the signatures in the voter registration record may be reviewed and determined to be a match by a single county elections official.
- A signature possessing one or more distinctive dissimilarities from the signatures in the voter registration record shall be reviewed by at least two different county elections officials before it is accepted as a matching signature or rejected as a non-matching signature.
- A single distinctive trait is insufficient to conclude that the signatures are by the same writer. There must be a combination or cluster of shared characteristics. Likewise, there must be a combination or cluster of dissimilarities to conclude that the signatures may be by different writers.
- When evaluating signatures elections officials may review broad characteristics used to evaluate an entire signature as a unit or they may narrow the scope of their examination to that of specific letters within a signature.

Signature Verification for Oregon Ballots

Signature change has taken place because of age or other factors. If the change is too great recommendthat the voter re-register.



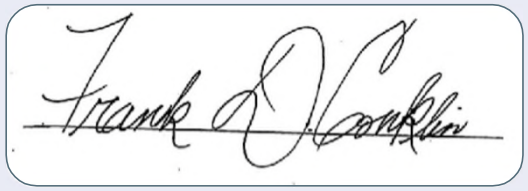
Signature 1



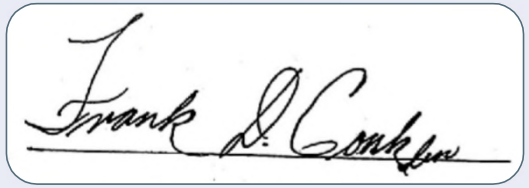
Signature 2

Signature Verification for Oregon Ballots

Signature 2 should be challenged as a possible forgery. Check the registrations of other registered voters inthe household with signature 2.



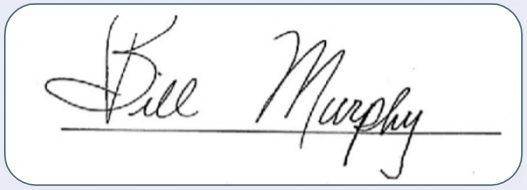
Signature 1



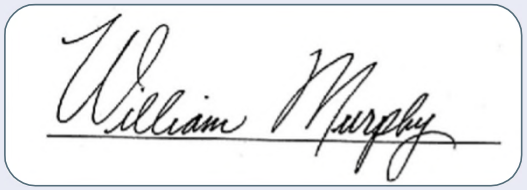
Signature 2

Signature Verification for Oregon Ballots

The signatures show differences, but the differences could be attributed to when the signature was made and the age of the writer at the time. Recommend that the subject re-register.



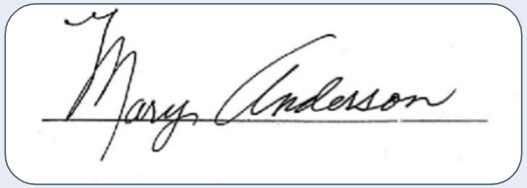
Signature 1



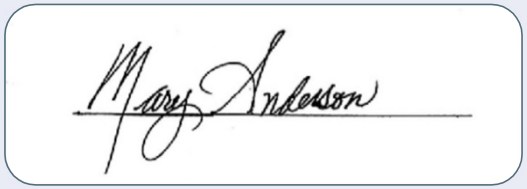
Signature 2

Signature Verification for Oregon Ballots

Signature 1 displays different capital letters and pre-strokes of lower case letters than signature 2. Take into account the time factor (e.g. signature 1 was written in 1967 and signature 2 was written in 1984).



Signature 1

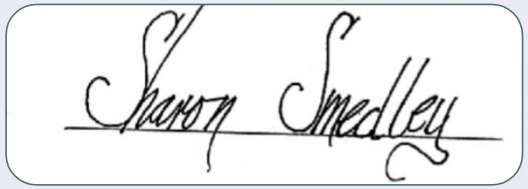


Signature 2

Signature Verification for Oregon Ballots

Signature 2 shows a great difference and change from signature 1. Registered subject might have been influenced by calligraphy, etc. or other subject is responsible. Recommend that the subject re-register.

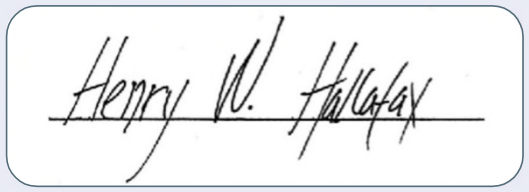
Signature 1



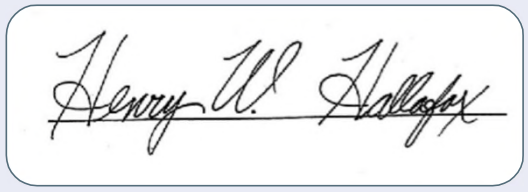
Signature 2

Signature Verification for Oregon Ballots

Signatures cannot be compared. Signature 1 is printed and signature 2 is handwritten. Recommend that thesubject re-register and use the signature that he wants recognized as his official voting signature.



Signature 1



Signature 2

Signature Verification for Oregon Ballots

- Unsigned envelope: Notify voter that ballot cannot be accepted unless voter signs envelope at elections office or provides signature on attestation form no later than 14 days after election
- Two signatures on envelope:
  - If more than one ballot in envelope and both voters from same household signed, verify signature and count both ballots
    - If signatures do not match, follow No Match Process
  - If two ballots and one signature only, reject both ballots

Signature Verification for Oregon Ballots
No Match Process

- Experienced deputized elections staff member reviews all initially rejected signatures using following criteria:
  - Capital letters match
  - Letters tail off alike
  - Letter spacing is the same
  - Space between signature and line is the same
  - Beginning and end of signature
- If signature does not match the voter registration record, send a challenge notice and registration form to the voter. Challenge must be resolved no later than 14 days after election.
- If signature does not match and it appears that someone not from same household signed a different name, challenge ballot and contact voter as soon as possible to determine appropriate resolution. Must be resolved no later than 8pm on Election Day.
- If signature does not match and it appears that someone from same household may have signed wrong envelope:
  - Contact voter for envelope and ask if they want a replacement ballot. Must be returned no later than 8pm on Election Day.
  - Place correct voter's information on envelope and verify signature.
- If signature does not match and/or it appears that someone else signed a different name on the envelope and the situation cannot be resolved, refer to Secretary of State as potential election law violation.

Katie Mantoan

- Question:
  - What is the latest going on with voting rights legislation at the federal level?

- Introduction:
  - Answering this question is Katie Mantoan, an employment counselor & litigator at Orrick. Katie's work life includes a commitment to pro bono civil rights cases, and her non-work life includes a commitment to listening to her twin seven-year-olds endlessly discuss dinosaurs.

The Background for Proposed Federal Legislation

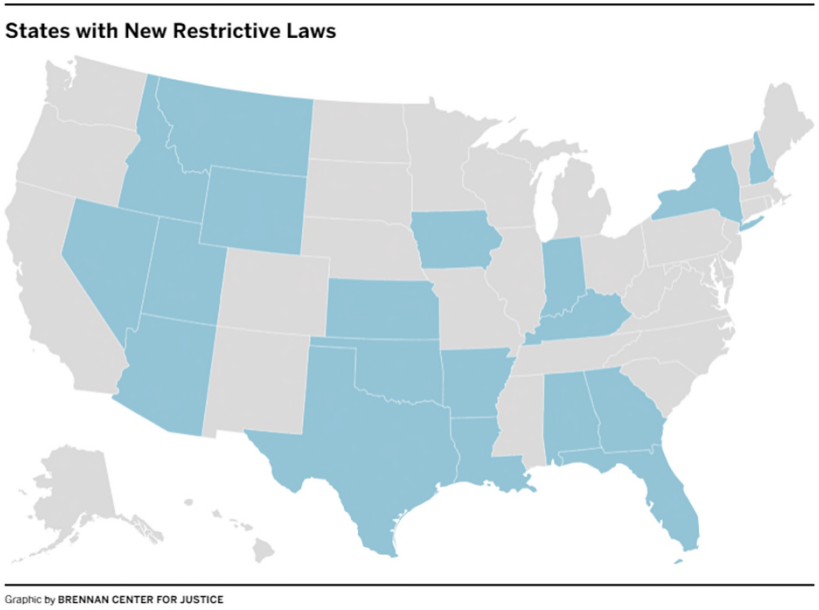
https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-october-2021

RESOURCE

Voting Laws Roundup: October 2021

In an unprecedented year so far for voting legislation, 19 states have enacted 33 laws that will make it harder for Americans to vote.

PUBLISHED: October 4, 2021



John Lewis Voting Rights Advancement Act (H.R. 4)

- Amend Voting Rights Act of 1965 & reverse *Shelby County v. Holder,* 570 U.S. 529 (2013), by reinstating preclearance requirement before covered jurisdictions change voting laws or districts
- Updated coverage formula
  - 25-year "look back" period
  - 15 or more "voting rights violations" in a State or 10 or more "voting rights violations" if at least one was committed by the State itself
- **Status: Passed House 219-212 on 8/24/2021 – introduced in Senate 10/5/2021 (S.4)**

For the People Act of 2021 (H.R. 1)

- Automatic voter registration for every eligible citizen
- Same-day voter registration in every state
- Guaranteed option to vote by mail and early voting in every state
- Bipartisan independent commissions charged with redistricting
  - Process cannot favor either Republicans or Democrats
- Public campaign funding ($1 small-dollar donation = $6 public match)
- Overrule *Citizens United v. Fed. Elec. Comm'n,* 558 U.S. 310 (2010), by requiring identification of campaign donors

A Possible Compromise on H.R. 1?

- Passed House 220-210 on 3/3/2021 – received in Senate (S. 1)
- Sen. Joe Manchin (D-WV):

> "I believe that partisan voting legislation will destroy the already weakening binds of our democracy and, for that reason, **I will vote against the For the People Act."**
> - *Charleston Gazette-Mail* (June 6, 2021), *available at* *https://www.wvgazettemail.com/opinion/op_ed_commentaries/joe-manchin-why-im-voting-against-the-for-the-people-act/article_c7eb2551-a500-5f77-aa37-2e42d0af870f.html*

- **Status: Failed to advance in Senate on procedural grounds on 6/22/2021**

The Freedom to Vote Act (S. 2747)

- Introduced by group of 14 Democratic Senators

- Added to For the People Act (as introduced in the Senate)
  - Restrictions on removing election officials without cause
  - Bans states from prohibiting offers of food & water to those in voting lines
  - Election Day designated a legal public holiday

The Freedom to Vote Act (S. 2747)

- Deleted or modified from the For the People Act
  - Allows for voter ID laws if forms accepted in West Virginia are accepted
  - More flexibility for states on what triggers automatic voter registration
  - No requirement to distribute mail ballots to all registered voters
  - No mandate that voters can have others return ballot ("ballot harvesting")
  - Does not require independent redistricting commission (though partisan gerrymandering still banned)
  - More limited small donor matching program (and only for states that opt in)

- **Status: Failed to advance in Senate on procedural grounds on 10/20/2021**

So, What Now?

Democrats' biggest push for voting rights fails with no Republicans on board

By Juana Summers (NPR)
Oct. 20, 2021 3:09 p.m.

Senate Majority Leader Chuck Schumer, D-N.Y., said a vote on the narrower John Lewis bill, meant to restore the Voting Rights Act, will come to the floor **as soon as next week.**

So, What Now?

POLITICS

Democrats weigh changes in filibuster to pass voting rights legislation after GOP opposition

Matthew Brown USA TODAY

Published 11:35 a.m. ET Oct. 24, 2021 | Updated 1:40 p.m. ET Oct. 24, 2021