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Voting-By-Mail: A Look at Modernizing the Electoral System

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With the steady decline in turnout at the polls over the last 30 years, state legislatures across the United States have been working to develop innovative ways to make it easier to vote. One such alternative is the vote-by-mail system (VBM) or all-mail-balloting, which essentially eliminates the use of the polling place, conducting entire elections by mail. This paper looks at vote-by-mail, and its advantages and disadvantages and some of the implications that the use of this system could have for California's electorate.

The most significant experiment with vote-by-mail has been in Oregon. First used there for non-partisan ballot measures, the state now uses it for all types of elections. At least six other states, including California, have used vote-by-mail for some types of elections in some locations. The experience has seemed to suggest that voter turnout is increased. However, groups that do not typically vote in large numbers do not seem to take advantage of voting-by-mail. Entities also report a significant savings in election costs. Nevertheless, there remains a concern about fraud and the loss of secrecy in casting ballots. Despite the concern, there have not been reported instances of major abuse, although there have been minor incidents. There is also a concern that it can increase campaign costs, by lengthening the period that candidates need to reach voters.

INTRODUCTION

All-mail-ballot elections have been used in the United States since 1977.¹ Currently 17 states, including California, allow some form of voting-by-mail.² The most common form is liberal absentee voting laws, like those in California. Less common is all-mail-balloting, or the vote-by-mail system, in which mailing ballots to voters replaces or largely reduces the use of election-day poll sites. Voters then return their ballots by mail or take them to designated collection sites. In most states, this system is generally used in local, non-partisan or ballot measure elections. However, four states have conducted larger, statewide elections by mail (Oregon, Washington, Nevada, and North Dakota).

This paper will begin by looking at Oregon's use of all-mail-balloting as an example. It will then look at some of the different methods used by other states in conducting a statewide vote-by-mail election, and then how California has utilized mail balloting. Lastly, it will examine some of the advantages and disadvantages of this electoral system.

OREGON'S VOTE-BY-MAIL SYSTEM

Oregon's vote-by-mail system provides a good example of how vote-by-mail works. It has been in use for nearly two decades for a broad spectrum of elections.³ In November 1998, Oregon passed an initiative making it the first state to expand its vote-by-mail system, to allow its use in any election, including primary and general partisan elections.

HISTORY

Oregon began using a vote-by-mail system in 1981 for non-partisan and ballot measure elections.⁴ Many elections in Oregon are done by mail. In January of 1996, Oregon became the first state to conduct a statewide vote-by-mail election for a federal office.⁵ In a special election to choose a successor to the recently resigned Republican Senator, Bob Packwood.

Since then, Oregon has had two major elections conducted by mail ballots, bringing more attention to vote-by-mail. In March 1996, Oregon was the first state to conduct an all vote-by-mail presidential primary election, determining delegates for the party conventions.⁶ In 1997, Oregon conducted an all vote-by-mail ballot measure election to decide on the assisted suicide initiative. With the attention that these elections gained, interest in vote-by-mail increased correspondingly.

Up to November 1998, the only elections that required polling places were primary and general elections held in May and November of even-numbered years.⁷ In 1995, the Oregon legislature approved a bill to allow the Secretary of State to conduct any election by mail.⁸ The Governor vetoed the bill, stating the issue needed further study. However, in November of 1998, 70 percent of the electorate voted to approve Proposition 60 which expanded mail balloting to any election in Oregon, including primary and general elections.⁹

OREGON'S VOTE-BY-MAIL POLICY

In vote-by-mail elections there are no (or very few) polling places open on Election Day. The procedure is as follows:¹⁰

- The County Clerks' offices mail non-forwardable ballots with a return identification envelope and secrecy envelope to registered voters.
- The ballots are mailed 14 to 20 days before the date of the election, on a date designated by the Secretary of State.
- Once cast, the voter places the ballot in the secrecy envelope. The secrecy envelope is placed inside the identification envelope which the voter signs.
- The ballots are then mailed back to county election offices or dropped off at designated drop sites by the official Election Day.
- Once received at the county election office, the signatures on the identification envelopes are checked against the signatures on the registration cards. If a

signature is missing, the voter is contacted to come sign their envelope, or sent another ballot. The ballots are then locked up until Election Day.

- On Election Day, the ballot is removed from its identification envelope, but kept in its secrecy envelope and placed in a bin for counting. When the ballots are counted they are taken out of the secrecy envelopes, tallied and then reported by precinct. Each county is responsible for providing for the security of the ballots and accounting for unused ballots.

OTHER STATES AND STATEWIDE VOTE-BY-MAIL

Several other states have successfully experimented with all-mail-balloting, although, they have not used vote-by-mail nearly to the extent that Oregon has. The procedures are mostly similar. However, there are some policy differences concerning when the use of vote-by-mail is allowed and who uses it.

- *Washington* has historically only allowed special elections to be conducted by all-mail-balloting and when all jurisdictions with issues on the ballot agree to hold the election by mail.¹¹ However, they did have a two-year trial period from 1994-1996 that allowed counties to conduct any primary or general election by all-mail-balloting at the county auditor's discretion. They conducted a statewide special election by mail in 1996 on whether or not to build a new stadium.¹² In this election county auditors were also allowed the discretion to choose to use pollsites or all-mail-balloting; 27 out of 39 counties used all-mail-balloting.
- *Minnesota* allows municipalities with fewer than 400 registered voters to conduct vote-by-mail elections for state primary and general elections.¹³ However, they restrict all-mail-ballot elections in county, municipality, or school district elections to special elections and there can be no more than two measures on the ballot.
- *Missouri* allows all-mail-ballot elections for nonpartisan elections and permission must be given in writing by the election authorities.¹⁴ No election to elect, retain, or recall a candidate can be held by mail.
- *North Dakota* only allows vote-by-mail elections for statewide primary elections.¹⁵ However, the Secretary of State leaves the decision to hold those elections by mail to the discretion of the local election authority.
- *Nevada* state law authorizes vote-by-mail elections only in precincts with less than 200 registered voters or precincts that had less than 200 people vote in the last general election.¹⁶ However, the state legislature, in 1995, voted to allow a statewide vote-by-mail election for the presidential primary. Nevada held its 1996 primary by mail.

CALIFORNIA AND VOTE-BY-MAIL

Absentee voting can be seen as a limited form of voting-by-mail.¹⁷ California has very liberal absentee ballot regulations, making registration and request for absentee ballots very accessible and allowing absentee voting without the voter needing to provide a reason.

California, like the rest of the country, has seen a steady decline in overall turnout since 1980.¹⁸ Yet, the number of people voting by absentee is distinctly increasing (see Table 1).¹⁹ In the 1994 gubernatorial primary election, 20 percent of all votes cast were absentee. The 1998 primary election, absentee ballots were 25 percent of the total and approximately the same percentage in the November 1998 election.

<i>Year</i>	<i>Total Votes Cast</i>	<i>% of Eligible Citizens Voting</i>	<i>Number of Absentee Ballots Cast</i>	<i>% of Total Votes Cast Absentee</i>
June 1998	6,200,000	30%	1,550,500	25%
June 1994	4,966,827	26%	1,011,563	20%
June 1990	5,386,537	29%	808,838	15%
June 1986	4,937,936	29%	426,133	9%
June 1982	5,846,026	37%	326,213	6%
June 1978	6,843,001	47%	325,518	5%

California was actually the first state to institute a limited, local level vote-by-mail system in the late 1970s.²⁰ It cannot be used in statewide elections or to elect local officials, and has generally been used for special district measure elections. It has been successful in increasing turnout on the local level.

In California, there are certain limited circumstances that a local, special, or consolidated election on issues or nonpartisan candidates may be by mail ballot just as long as it is not held on the same day as a statewide primary or general election.²¹ It must also be authorized by the governing body of the local agency; and fall into *one* of the following categories:

- There are no more than 1,000 eligible voters within the jurisdiction.
- It is an election on a measure imposing a special tax.
- It is on the issuance of a general obligation water bond.

- It is an election for one of four specified water districts boards.

Several California counties have conducted elections through all-mail-balloting. Monterey conducted the first vote-by-mail election ever held in the United States in 1977 on a flood control measure.²² Alpine County conducted its first all-mail election in November 1993 for a countywide special election.²³ San Diego used vote-by-mail in May 1981 for a measure proposing to build a \$224 million convention center. Stanislaus County conducted its first all-mail-ballot election in 1987 for the Modesto city charter.

California has experimented with vote-by-mail with some success with a two-year pilot project in Stanislaus County. The county was allowed to conduct statewide elections during this project.²⁴ The County saved almost half of its usual election expenditure when it used vote-by-mail and increased turnout. In Stanislaus County, where turnout is generally six to eight percentage points below the state's average, it was 6.8 percent higher than the statewide average in 1993's statewide special election. In analyzing why turnout increased by so much it is not possible to look at this increase in terms of the voters' party affiliation. Because the 1993 election was a special, non-candidate election those data were not tabulated. (A special provision of State law allowing other elections to be conducted by mail ballot in two counties, Placer and Stanislaus, had a sunset provision and was not renewed after January 1, 1995.)

The Legislature has attempted to pass several bills since the Placer and Stanislaus County experiments that would have allowed single counties to use mail balloting. Senate Bill 59 (1996), by Senator Kopp, would have allowed San Mateo to use vote-by-mail in one special election to elect a supervisor to the County Board. Governor Wilson returned the bill unsigned because the election occurred before the bill reached his desk. SB 2203 (1998), by Senator McPherson, would have allowed Monterey County to use vote-by-mail in any election. Governor Wilson vetoed it, stating that California's registration laws and election laws were not strict enough to deal with the issue of fraud.

ADVANTAGES AND DISADVANTAGES TO VOTE-BY-MAIL

ADVANTAGES TO VOTE-BY-MAIL

1) It is proven to increase voter turnout according to election officials.

All election officials who have conducted all-mail-ballot elections agree that vote-by-mail always increases voter turnout.²⁶ While the turnout still depends on the issues or candidates that are on the ballot, the increase is sometimes extraordinary.

- In Oregon, the vote-by-mail system has alleviated the decrease in voter turnout seen elsewhere in the United States over the last decade.²⁷ It is difficult to know exactly how much the vote-by-mail system has increased voter turnout because there are no two elections that can be compared exactly. However, a study done by Michael Traugott of the University of Michigan and Robert Mason of the University of Oregon in 1996 concluded that if the

same election took place in Oregon by mail and then at the polls, turnout would be six percent higher in the mail ballot election.²⁸

- The special election and its primary to fill Senator Packwood's seat, which were completely conducted by mail, brought a turnout of 57 percent in the primary.²⁹ The highest for any non-presidential primary in Oregon's history. The total was far higher than the 43 percent recorded for the 1994 primary. Turnout for the special election was 66 percent, much higher than any other special election in the state's history.
- In Minnesota's 1994 primary, statewide turnout was about 27 percent.³⁰ In those counties that elected to have at least one precinct voting-by-mail, turnout in the polling place precincts was approximately 28 percent and turnout in the vote-by-mail precincts was about 34 percent.
- In Fergus County, Montana, election officials reported that in polling place elections on issues that generally had turnouts of 8-18 percent, turnout increased to 54-93 percent in all-mail-ballot elections.³¹
- Washington State election officials report that without exception jurisdictions that conduct vote-by-mail elections have significantly increased their voter turnout.³² The turnout in the 1994 primary elections averaged 32 percent in counties that voted at pollsites and averaged 52 percent in the all-mail-ballot counties.
- In Washington's 1996 election on a ballot measure to build a new stadium, 27 out of 39 counties in Washington State opted to conduct an all vote-by-mail election. Even in the 12 counties that opted to not use vote-by-mail, 41 percent of the voters chose to vote-by-mail using absentee ballots.³³ Turnout was very high, six out of ten eligible voters participated.³⁴

2) Election costs are significantly decreased.

Vote-by-mail elections usually decrease election expenditure significantly through several cost reductions.³⁵

- Election offices experience the greatest savings from not having to hire election polling place workers, lease polling sites, acquire and prepare voting machines and provide extensive training and wages for pollsites workers.
- Officials also save on print costs because there is no need to print many extra ballots in anticipation of possible higher than normal turnout at the polls.

There is, however, some increase in costs.³⁶

- The largest increase is in the cost of postage for mailing the ballots to voters and the return postage, if the jurisdiction pays return postage. Oregon holds the voter responsible for paying the return postage on the ballot.
- Another cost is the printing of voter instructions and envelopes. Generally, the different envelopes must be specially printed in different colors and sizes.

Each voter requires three envelopes. One for mailing out to the voter all of the materials, one for the ballot to preserve the secrecy, and one to hold the ballot and its envelope until votes are counted.

However, these increases do not nearly offset the savings. Some examples are:

- In Oregon, the May 1994 election, held entirely at polling places, cost \$4.33 per ballot; the May 1995 election, held entirely by mail, cost \$1.24 (Oregon does not pay for the return postage on the ballot, which helps to reduce cost to the state).³⁷ Similar savings have occurred in every mail ballot election in Oregon. If the 1998 general election had been vote-by-mail in Oregon, the state would have saved approximately \$3 million in election costs.
- In Washington's 1996 stadium election mail ballots cost \$1.96 each while pollsite ballots cost \$8.10 each.³⁸ Those counties that participated in vote-by-mail saved considerable election expenditure.
- Thurston County, Washington reported that all-mail-ballot elections have saved the county approximately ten percent over polling place elections.³⁹ However, the county also states that this depends on the size and complexity of the election.
- In San Diego's 1981 election, the county reported the cost was 25-30 percent less than a comparable polling place election.⁴⁰
- Stanislaus County reported that the elections held completely by mail saved the county 50 percent in election costs in spite of the fact that the County pays the return postage.⁴¹

DISADVANTAGES TO VOTE-BY-MAIL

The broadened use of vote-by-mail has caused discussion over the effects it could have on the integrity of the electoral system and whether the benefits are worth that risk. There are two concerns threatening that integrity: the possibility of voter fraud, and the loss of secrecy in voting.

1) Fraud by Third Parties

Voter fraud is probably the largest concern in vote-by-mail elections across the country. However, most jurisdictions that use vote-by-mail contend that this system is safer from fraud than their polling place elections.⁴² Unlike polling place elections, voting-by-mail has both an identification check and a residential address check. Jurisdictions using vote-by-mail have very strict policies on checking every signature on the identification envelopes against the registration cards either by hand or preferably by digitized computer checking. There is no such safeguard in polling place elections. In vote-by-mail elections, ballots are sent without the ability to be forwarded and if another individual receives the ballot it cannot be cast easily because the signature would not match the signature on the registration card.

There have been several investigations into this issue in Oregon.⁴³ There have been a few cases of fraud that have come to the attention of election officials. However, because these cases have come to the forefront, the Oregon Secretary of State's office is confident that if there were a more extensive problem it would come to the attention of the office. For example, there was an individual who was strongly opposed to the vote-by-mail system in Oregon. He set out to prove that fraud was possible and signed someone else's ballot. He was promptly caught and prosecuted for a felony. There have also been several cases of innocent mistakes. For example, a man was dropping off his own and his wife's ballots. His wife forgot to sign her ballot and so he signed it for her. It was quickly caught and corrected. However, because the use of vote-by-mail in statewide elections is new, there have not been any in depth studies or investigations looking at fraud in all-mail-ballot elections that prove that fraud is not a problem.

Voter fraud should not be dismissed as a concern.⁴⁴ In a Miami mayoral election in 1997 the courts threw out all of the absentee ballots because of rampant absentee ballot fraud. Campaign supporters were found casting ballots of voters who were deceased and helping voters from outside of the district vote absentee within the district. This incident led to several convictions of campaign staff members and the unseating of the winner of that election.

These cases highlight the importance of putting in place strong safeguards against any possibility of fraud. In California, voting fraud is punishable as a felony.

2) Undue Influence and Secrecy

The second major concern is with the loss of secrecy. The polling place guarantees that the voter's ballot is cast privately by the voter, who cannot be influenced by third parties while voting. The ballot is protected and no one can see how that individual voted. By allowing the electorate to cast their ballots by mail, there it is more difficult to guard against undue influence and ensure the voters' privacy and secrecy.⁴⁵ Polling places were established specifically to provide a safeguard against such influence. However, the experience to date with both absentee ballots and vote-by-mail has not yielded much evidence of widespread problems.

There have been instances, however, of undue influence on absentee ballots during regular precinct elections.⁴⁶ People have secured lists of absentee voters and then gone to their homes to offer to help them vote. There is the fear that in all-mail-ballot elections that this could become an extensive problem, especially for vulnerable members of the electorate. For example, all registered voters in care facilities, in a vote-by-mail election, would automatically receive a ballot at the facility. It could be difficult to safeguard against undue influence from employees of the facility or family members and friends. In California, interference with the return of a completed absentee voter ballot is a misdemeanor.

Some jurisdictions have instituted a very successful solution to this problem.⁴⁷ For those voters in care facilities, the election office sends two election monitors of different parties

to deliver the ballots, assist the voters, and return the voted ballots. This system has worked well in protecting these members of the electorate.

There have not been any solutions suggested for dealing with the issue of undue influence on a larger scale, among the general public. However, some election officials contend that it will not become a larger problem than it already is in regular elections with absentee ballots.⁴⁸ They argue that, in a vote-by-mail election, the sheer number of ballots makes any such attempt to influence a portion of the electorate unrewarding. They also argue that in an all-mail-ballot election the high turnout would dilute any such efforts much more than in low turnout regular precinct elections, when the absentee voters may have much greater influence on the outcome. Further, in looking at previous elections that have been conducted completely by mail, there is no evidence that there have been any such attempts to influence voters.

In a University of Oregon Study done in 1996, Priscilla Southwell interviewed members of the electorate to determine their sentiment on the issue of undue influence.⁴⁹ Less than one percent of the respondents believed that intimidation was or could be a problem.

Both the issues of fraud by third parties and the loss of secrecy have been addressed by the Kansas State Supreme Court. In 1986, in *Sawyer v. Chapman*, the Court ruled that, “the compelling state interest in increased voter participation outweighs the added potential for fraud and loss of secrecy presented by mail ballot elections.”⁵⁰

3) Other Criticisms

In Oregon a small opposition argues that since the state does not pay for the return postage, the return postage is a poll tax.⁵¹ The Secretary of State’s office argues however, that because the ballot can be dropped off at designated sights, the postage is not required and therefore cannot be considered a tax, and not a significant tax in any case.

Vote-by-mail has also been criticized because it has the potential to raise campaign costs. Because Election Day is extended in all-mail-ballot elections to up to 20 days, campaigns can no longer focus on the singular day, but rather must be extended for up to three weeks. This could cause candidates to spend more money on mail pieces and media coverage. However, election officials in states that have conducted all-mail-ballot elections report no noticeable increase in campaign expenditure.

While no significant proof has been presented, critics postulate that vote-by-mail is not as successful as publicized.⁵² One criticism is that the vote-by-mail system does not actually improve voter turnout, but rather just secures those who are already inclined to vote. A second criticism is that the vote-by-mail system actually can decrease voter turnout by diminishing the voters’ focus on and mobilization around a particular point in the process, (e.g. the Election Day.) It has also been stated that vote-by-mail may raise voter turnout initially, but once the novelty wears off the participation levels will drop again. As this electoral system is new, there has been no significant research done to back any of these claims.

PUBLIC SENTIMENT

Regardless of the research for or against vote-by-mail, studies interviewing members of the voting public overwhelmingly concluded that the public supports and prefers voting-by-mail. A Washington poll from June 1997 reported that: 72 percent of those polled in Washington favored mail ballots for special elections; 71 percent for September primaries; and 64 percent for November general elections.⁵³

Several studies done in Oregon have shown support for vote-by-mail. The University of Oregon study mentioned earlier by Priscilla Southwell, concluded that an overwhelming majority (76.5 percent) of the 1225 respondents interviewed in Oregon favored vote-by-mail elections over polling place elections.⁵⁴

In another study done by DRC Research of Oregon, 66 percent of registered Oregon voters favored having May primary elections conducted by mail.⁵⁵ Fifty-two percent of registered voters favor having November general elections conducted by mail. An overwhelming 75 percent of registered voters favored having May Primary Elections and November general elections conducted by mail, if election costs would be reduced by approximately \$2 million for each election.

According to the Oregon Secretary of State's office, Oregon has a small but vocal opposition to the vote-by-mail system.⁵⁶ The office stated that most opposition seems to be party driven because of the possible advantage gained by one party or the other in instituting the vote-by-mail system. Because of the Democratic victory gaining a Republican held seat in the U.S. Senate, there is concern that vote-by-mail may favor the Democrats. However, in the University of Michigan/ Oregon State University study by Michael Traugott and Robert Mason, they concluded that no advantage is given to one party or another in a vote-by-mail election in Oregon. This same study also determined that the demographic make-up of the electorate that vote in vote-by-mail elections is the same as those who vote at polling places.

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