



CITIZENS UNION TESTIMONY
TO THE NEW YORK STATE SENATE STANDING COMMITTEE ON ELECTIONS
on
S.1616, S.3372, S.3996, S.3995, S.1266, and S.4035 relating to updating and reforming the
state's voter registration laws and regulations

Delivered by
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Good morning Chairperson Addabbo and committee members. My name is Dick Dadey, Executive Director of Citizens Union of the City of New York, an independent, nonpartisan civic organization of New Yorkers that promotes good government and advances political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. I am joined here today by my colleague, DeNora Getachew, CU's Legislative Counsel and Director of Public Policy. I would like to thank the New York State Senate Standing Committee on Elections for holding this important hearing regarding how to increase citizens' opportunities to register to vote and to be educated about elections. Citizens Union appreciates the opportunity to testify today on how New York State can explore innovative ways to modernize its electoral process and increase voter participation.

Citizens Union commends Senate Majority Leader Malcolm Smith and Elections Chair Addabbo for taking some important first steps towards addressing reform issues that for so long have been left unaddressed in Albany. We are encouraged by your first steps toward enacting some legislative rules reform and look forward to working with you and your colleagues to accomplish meaningful reform on elections, campaign finance, ethics and other reform issues during the rest of the session.

Citizens Union believes that the Committee's hearing on improving voter registration is important because of the institutional barriers that exist within New York that restrict voters' ability to cast easily their ballots. It is time for New York to take measurable steps to modernize and streamline the voting experience. Removing barriers will allow and in fact encourage voters to participate in greater numbers. With advances in technology, and a greater capacity to allow voters to participate through different processes, approaches aimed at boosting voter participation should be explored.

Instituting Election Day voter registration (EDR also known as same-day registration), reducing the deadline for receipt of new voter registrations, educating eligible voters with felony convictions regarding their right to vote and allowing voters to register online to vote will all accomplish the important goal of easing voters' access to the election system but will also increase New York's standing in comparison to other states that have instituted more voter-friendly measures. We believe that creating a system that allows people to more easily participate at the fundamental level of voting not only will increase voter turnout, but may also encourage their greater involvement in other areas of elections and government.

As discussed in greater detail in my testimony below, Citizens Union supports:

- Instituting EDR, by first amending the New York State Constitution to remove the ten-day voter registration requirement and then passing legislation to specifically provide for poll-site EDR;
- Granting voters additional time to register to vote prior to an election so long as they do so within ten-day limits set forth in the New York State Constitution;
- Creating a common-sense voter education plan for inmates pending sentencing and prior felons; and
- Easing voter registration by creating an electronic voter registration form.

ELECTION DAY REGISTRATION (S.1616/A.3734 and S.3372)

As you know, the constitutional and statutory deadlines for voter registration have a significant impact on the ability of eligible voters to participate in elections, especially using innovative methods like EDR. Section 5 of Article 2 of the New York State currently requires registration to be completed by ten days before each election. Moreover, section 5-210 of the State Election Law places an even more onerous requirement on voters that their voter registration form must be received by the local board of elections (Board) **twenty-five days** in advance of the election. The statutory requirement is not only prohibitively restrictive in allowing citizens to participate in elections, but also takes away fifteen registration days from the constitutional requirement.

In practice, these restrictive registration deadlines meant that in the 2008 general election a voter had to register by **October 10, 2008**. A registration deadline one month prior to the election presents a large and mostly unknown barrier for voters interested in registering and voting nearly a month later, especially for those potential voters who become interested in the election late in the process or are frequently mobile.

CU is a strong proponent of EDR, especially because of its ability to ensure participation by late-interested or frequently mobile voters and because it is a forward thinking idea to address New York's notoriously low voter turnout, which continues to rank among the lowest in the nation. In the 2004 presidential election, New York ranked 46th in voter turnout across the nation. Since 1960, New York's turnout rate has fallen from over sixty percent to just over fifty percent in 2004 and has been below the national average since 1972.¹ In the last five presidential elections, New York State voter turnout failed to exceed fifty-one percent of the voting age population, while the state's population continued to increase.²

Currently nine states across the country have implemented EDR, including Maine, Minnesota, and Wisconsin. In these three states specifically, voter turnout has seen large increases over the national trend, and, at times, even when voter turnout across the country decreased. Only once has Wisconsin's voter turnout rate dropped below sixty percent since 1976 when EDR was implemented—and all three states exceeded seventy percent participation in the 2004 presidential election.³

¹ Israel, Doug and Ngai, Amy. "Making Votes Count: Election Day Registration: Simplifying the Voting Process and Increasing Voter Turnout in New York City." Citizens Union Foundation. November 2005, available at: http://www.citizensunion.org/www/cu/site/hosting/Reports/CUF_Election_Day_Registration_Report.pdf

² *Id.*

³ *Id.*

Citizens Union Foundation's (CUF), Citizens Union's affiliated nonprofit research and education organization, 2005 report titled "*Election Day Registration: Simplifying the Voting Process and Increasing Voter Turnout in New York City*," builds upon the research and experience in other states with EDR to outline not only why New York would substantially benefit from implementing EDR, but provides detailed alternatives for how to securely and efficiently institute the practice. CUF's report shows that amending the constitution to remove the ten day voter registration requirement as proposed by S.1616/A.3734, sponsored by Senator Valesky, and amending statute to implement EDR as contemplated by S.3372, sponsored by Chairperson Addabbo, would bring New York in line with other states that have this practice and allow first time voters to register and vote on Election Day. EDR can also help facilitate greater participation among late interest, recently mobile, i.e. voters who may have moved between counties who fail to timely transfer their registration, marginally interested, incorrectly registered. Based on research and analysis in our report, EDR in New York would:

- Streamline registration and voting into a single process, diminishing administrative burdens associated with registration procedures and affidavit ballots;
- Allow eligible voters with uncertain registration status to re-register, therefore decreasing the number of provisional ballots cast;
- Eliminate confusion and uncertainty over voter registration status; and
- Generally enfranchise and turn out more citizens to vote.

While some of the typical concerns that opponents of EDR highlight such as voter fraud and increased errors, administrative burdens on Board staff, and the financial costs associated with its implementation, other states that have instituted EDR, however, have shown that precautionary measures can be implemented to safeguard the ballot. Citizens Union supports the approach taken in S.3372 to prevent against alleged Election Day fraud. Namely, the bill would require voters registering on Election Day to present "acceptable forms" of identification containing proof of address, as well as execute an affidavit attesting to their eligibility as a qualified voter in such district because of their residency in the district for thirty days prior to such election and that have not been legally disqualified from voting in the election. To the extent that the voter cannot meet these requirements, we believe it is appropriate to have the voter complete an affidavit ballot.

Citizens Union recommends, however, that the bill be amended to provide that if a person cannot meet the statutory requirements to register and vote on Election Day and is therefore given an affidavit ballot, said affidavit ballot should serve as the person's voter registration so that the person does not need to re-register in the future. A.4015/S.1057 sponsored in the Senate by Chair Addabbo would allow for affidavit ballots to serve as a voter registration form. We also recommend that the bill include stiff penalties voters who violate the law as a strong deterrent to any possible fraud.

With respect to concerns regarding EDR's potential to overburden Board staff, CU recommends that one look to the experience of some states that have introduced "greeters" inside the polling place to direct voters and those wishing to register to the appropriate locations. Placing one or more poll workers at each site solely assigned to Election Day registrants, may also be another option. With an increased number of poll workers, voters can submit their registration forms under the supervision of election officials, reducing mistakes and in turn decreasing the resources needed to follow up and correct erred forms.

There are concerns that New York City, in particular, would have a difficult time implementing EDR because of the size of our electorate. In order of preference, CUF has identified available approaches the City can utilize to implement EDR, as well as the advantages and disadvantages of each approach:

- Election Office EDR and Voting—Voters can register and vote at their local election office instead of their assigned polling place. New York City allows voters to vote by absentee ballot in advance by visiting their Board borough office within a specified time period before the election. Voters would only have to go to one place to register and vote; however, the borough office may not be convenient for all voters wishing to register on Election Day.
- Precinct-level EDR (utilized in Idaho, Minnesota, New Hampshire, Wisconsin and Wyoming) —Voters can register to vote in an election at their local polling site. This would require one to two additional poll workers per poll site to assist in voter registration, but would provide the most convenient method for voters to register on Election Day.
- Election Office EDR (utilized in Maine) —Voters can register at their local borough office, and would travel to their local polling location to cast a ballot after registration. While this system would allow registration to take place in centralized locations and minimize the need to hire additional poll workers, it would also require voters to register and vote in separate locations, which is not ideal, but an acceptable alternative to start the practice.

EDR can also be beneficial in eliminating affidavit ballot errors and administrative burdens associated with voter registration. The implementation of the statewide voter database, which is intended to make verifying voters easier, and a process to address ballot security concerns, coupled with EDR may reduce some of the administrative errors that prevent people from voting and remove onerous steps for various voting groups. EDR also has the potential to reduce the number of uncounted affidavit ballots, which demand increased time and effort to verify, and may indicate inefficiencies in election administration. According to the EAC Election Day Survey, provisional ballots in New York in 2004 accounted for four percent of ballots cast and one percent of ballots counted. Over half of the provisional ballots cast, 144,457 votes, were not counted. Yet, in Wisconsin, a state with EDR, the percentage of provisional ballots cast was 0.01%.

By eliminating this extra step of registering before Election Day, New York State can provide all citizens with the opportunity to participate in elections, no matter when they become engaged in the process. EDR, however, cannot be implemented in New York without a constitutional change that eliminates the requirement that registration be completed at least ten days before each election.

As has been done in previous sessions, when the Assembly under the leadership of Speaker Sheldon Silver sponsored and passed EDR legislation, which unfortunately never passed the Senate, we urge the Legislature to act promptly to pass the constitutional amendment permitting EDR contained in S.1616/A.3734 to ensure that in the near future EDR can be a reality in New York. We would also recommend that S.3372 be amended to ensure that first time registrants, as well as recently mobile and incorrectly registered voters benefit from EDR.

DEADLINE FOR RECEIPT OF VOTER REGISTRATION FORMS (S.3996)

Citizens Union also supports S.3996 sponsored by Chairperson Addabbo because, in lieu of taking the constitutional steps necessary to implement EDR, it would reduce the deadline for mailing voter registration forms to fifteen days before the election and receipt by the Board by the tenth day before the election – bringing the law in line with the constitutional minimum requirement. This is a very positive and encouraging step to reforming New York’s arcane voter registration requirement contained in our election law, which does not conform to our state constitution. Giving those voters who may become aware of the election later in the process or are frequently mobile ten extra days to submit their voter registration is an important step which we hope will increase voters’ ability to participate in the electoral process. As mentioned in our earlier testimony on EDR, ultimately Citizens Union encourages the Legislature to completely eliminate the Constitution’s ten-day requirement, but this interim step is a positive one towards meaningful election reform.

PARTY ENROLLMENT STATUS FOR NEW REGISTRANTS (S.3995)

Citizens Union does not yet have a position on S.3995 sponsored by Chair Addabbo. We believe that an appealing aspect of this bill is that it attempts to address New York’s burdensome practice that requires a voter to change their party enrollment thirty days prior to the general election preceding the primary they wish to vote in – meaning that in order to vote in the upcoming September 2009 primary election, the person would have had to change their party enrollment thirty days prior to the 2008 general election. That standard is not only unreasonable, but unrealistic in that it assumes that voters are truly aware of that deadline or their desire to change their party status almost a year in advance of the primary they wish to vote in. The genesis of this onerous requirement is to prevent party raiding – whereby voters seek to vote in the other party’s primary to ensure that party selects a weaker candidate than their true party does that can be easily defeated in the general election. While party raiding may be a valid concern, the current practice certainly limits voter choice. We urge the Senate solicit further public input on this bill before passage.

VOTING RIGHTS AND NOTIFICATION FOR ELIGIBLE INMATES AND PRIOR FELONS (S.1266/A.2266)

Citizens Union applauds the Senate for considering important legislation that would more greatly enfranchise an often neglected group of citizens – inmates pending sentencing and ex-felons. As we support all reasonable efforts to increase voters understanding of their rights and how to vote, we support S.1266/A.2266 for taking common-sense and reasonable steps to create a state voter education program to ensure inmates are aware of their rights while awaiting sentencing and ex-felons are aware of their rights after completing their maximum sentence or completing parole. Citizens Union believes that voter education is a key component of ensuring an informed and engaged electorate and encourages the Legislature to pass this legislation.

ELECTRONIC VOTER REGISTRATION FORMS (S.4035)

Citizens Union supports S.4035 also sponsored by Chairperson Addabbo which would amend section 5-210 of the election law to require the State Board to place electronic voter registration forms on its website that allow applicants to complete such forms electronically for easier completion and mailing to the local Board.

To register to vote in New York State, citizens must complete a form in-person at a State agency or local Board office, or mail in the completed form. As mentioned before, registration is a major obstacle for many potential voters, and increasing their ability to become registered more quickly and easily can not only increase registration rates, but also voter turnout. This bill will implement an important first step towards shifting towards a completely online registration system, which Citizens Union encourages the Legislature to study further.

Online registration is convenient, and would accommodate an increasingly mobile and virtual population. According to a study by the Center for Technology in Government at the University of Albany, the second most common request by citizens for electronic government services is online voter registration.⁴ Additionally, online registration may encourage younger citizens, whose registration rates are consistently lower than those of older age groups, to become involved in the electoral process. A Pew Research report found that 88 percent of 18- to 29-year-olds are online and nearly two-thirds check their e-mail daily.⁵ Three states currently permit online voter registration—Arizona, California and Washington. While California only recently implemented online registration in the fall of 2008, Arizona and Washington both have experienced significant increases in voter registration which can be directly correlated with higher voter turnout.⁶ On a related note, California also allows voters to request an absentee ballot online, which we would encourage the Legislature to study the practicalities of implementing such an effort in New York where our antiquated process requires voters to first submit an application to receive an absentee ballot at their home through the mail, or appear in person to their county Board office. Finally, we would encourage the Legislature to further study how to increase voter information available on the State and City Boards' websites.

We believe that New York State has a responsibility to its citizens to make voting as accessible as possible and encourage their participation by removing all barriers to voting. Holding this hearing and the Committee's favorable vote on these election modernization and reform bills is a down payment on accomplishing meaningful election reform in time for the 2010 elections. If implemented correctly with the proper precautionary measures in place, Election Day registration, reducing the deadline for submitting registration forms, electronic voter registration, and voter education for inmates and ex-felons can ensure that all eligible voters have the opportunity to cast a ballot, which hopefully will lead to an increase in voter participation and civic engagement. Citizens Union remains committed to working with the Legislature to implement sensible solutions that will modernize New York's elections and make us a leader on this issue instead of an arcane and non-voter friendly state. We encouraged that increased voter participation can become a reality in the near future thanks to your leadership.

Again, thank you for the opportunity to testify today, and we look forward to working with you and our colleagues to make progress on these important reforms.

⁴ Pardo, Theresa A. "Realizing the Promise of Digital Government: It's More Than Building a Web Site." Center of Technology in Government (CTG), October 2000.

http://www.ctg.albany.edu/publications/journals/realizing_the_promise/realizing_the_promise.pdf

⁵ Ari Hoffnung, *Point of view: Getting young people to the polls*. The Riverdale Press, February 21, 2008, available at: http://www.riverdalepress.com/full.php?sid=3180¤t_edition=2008-02-21

⁶ Marcelo, Karlo Barrios. "Voter Registration Among Young People." The Center for Information and Research on Civic Learning & Engagement (CIRCLE), June 2008.

http://www.civicyouth.org/PopUps/FactSheets/FS07_Registration.pdf