

## League of Women Voters of Texas

### *Voting Procedures to Increase Voting Participation*

#### **Vote by Mail (VBM)**

##### *Facts and Issues*

Researched and written by Charlotte Foulkes

Vote by mail (VBM) is not a new idea, and all states allow it to some extent. Oregon, which requires all voting by mail, provides a model for how an all-VBM system could work. There are arguments for and against VBM and practical examples of how concerns are addressed. There are also options that expand current practice short of an all-VBM system.

Vote by mail refers to ballots delivered by postal service to voters, who return them by mail to the election administrator. In 1977, an all-mail-ballot election occurred in Monterey, California, in a flood control district encompassing some 45,000 eligible voters. County election officials reported more than double the voter participation in that election as well as a savings of nearly \$10,000 compared to previous elections held in that district using polling places.<sup>i</sup>

At the time of the 2008 Presidential Election, 50 states plus the District of Columbia offered some form of VBM:

- 28 states allowed no-excuse voting by mail
- 22 states (including Texas) and the District of Columbia required an excuse or imposed other conditions on voting by mail
- 4 states (California, Colorado, Montana, and Washington) allowed voters to place themselves on a “permanent absentee list,” thereafter permitting all votes to be cast by mail
- 1 state (Oregon ) has required all vote by mail since 1998

As of 2008, in addition to Oregon, states including Colorado, Florida, Kansas, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, and Washington allow all vote by mail elections at one level or another. Some limit the type of elections that may be conducted totally through VBM. In Washington State, 38 of 39 counties conduct all elections by mail.

VBM is often promoted as a way to increase voter turnout. According to the U.S. Census, 16 million people were registered to vote but did not cast a ballot in the 2004 election.

They cited the following reasons:

19.9%	too busy or had conflicting schedules
15.4%	illness or disability
10.9%	other reasons
10.7%	not interested or felt their vote would not count
9.9%	did not like the candidates or issues
9.0%	were out of town
8.5 %	refused to vote
6.8%	registration problems
3.4%	forgot to vote
3.0%	inconvenient polling place
2.1%	transportation problems
0.5%	bad weather conditions

### Concerns and How They Are Addressed

**Opportunities for error.** Having all paper ballots assures count and recount accuracy. Based upon the Oregon Vote by Mail (VBM) model, analyses of VBM by two separate academic teams concluded that VBM (and absentee balloting systems more generally) result in a more accurate count than traditional models.<sup>ii</sup> Despite having moved to an all-VBM voting system in 1998 and having been a battleground state in the last two Presidential elections, Oregon has been relatively free from the controversies that have dogged absentee ballot systems.<sup>iii</sup> In 2004, one group claimed to have a list of six individuals who had voted twice. On further investigation it turned out that, in five of these cases, the claim was false. Election officials had already caught the sixth allegation before this list was released and were in the middle of an investigation.<sup>iv</sup> The centralized voter roll assures attempts to vote more than once are flagged almost immediately.

**Ballot secrecy.** When voting by mail, the ballot is placed in a secrecy envelope, which is then inserted into a ballot return envelope to be mailed by the voter. The ballot return envelope contains the voter's signature, which is checked and determined to be that of the voter. The secrecy envelope is then removed and separated from the ballot return envelope. The ballot is taken out of the secrecy envelope to be counted with no identifying information attached. There is no way to track who cast the ballot after it is separated from the ballot return envelope.

**Opportunities for fraud.** Oregon's model of VBM helps eliminate fraud in several ways:

- ***Voter signatures are verified before the ballot is counted*** One of the primary VBM security measures in Oregon is the signature verification process. Election workers compare the signature on every ballot return envelope with the signature scanned from the voter's registration card. While the state does not consider these election workers to be handwriting experts, they are required to complete a

signature identification course. Benton County Clerk James Morales expressed his opinion that fewer and fewer poll workers seemed to know the names and faces of the voters who were showing up at their precincts. This growing level of anonymity of persons who make a physical appearance at the polls meant that familiarity was no longer as significant a check against voter fraud as it once was. He added that, “While voters did have to sign a poll book, these signatures were never checked until after the election, and then it was impossible to link the signature and person with a particular ballot and throw out a ballot that may have been wrongfully cast.”

- ***Election administrators are conducting only one election as opposed to two elections***, one by mail and one by polling place. No poll workers are needed. As a result of the need for fewer election workers, those used may be more highly trained and will usually work in a controlled setting with less pressure to make instant decisions. A record is kept of each ballot that is received and tallied. Ambiguous ballots or signatures may be isolated for additional review.
- ***Voter rolls are easier to maintain***. Misdirected ballots, undeliverable by the postal service as addressed, are not forwarded but are instead returned to election officials. Voters with returned ballots are then sent cards that can be forwarded asking the voter for new residence information. This may result in the voter being purged from the voter roll if the voter no longer lives in the jurisdiction. It also encourages voter participation by reminding the voter to maintain address and name information or register in a new jurisdiction. Up-to-date voter rolls provide a more accurate profile of the electorate.

The U.S. Department of Justice began a nationwide crackdown on alleged voter fraud in 2002, but despite its massive efforts, the department found virtually no evidence of organized efforts of voter fraud or of voter registration fraud, according to court records and interviews. "If they found a single case of a conspiracy to affect the outcome of a Congressional election or a state-wide election, that would be significant," said Richard L. Hasen, an expert in election law at the Loyola Law School, "But what we see is isolated, small-scale activities that often have not shown any kind of criminal intent."<sup>vi</sup>

**Suppression of voter participation.** Rather than suppress voter participation, every analysis shows voter participation increases with VBM. VBM may increase turnout by four to five percentage points in general elections, and significantly more in local or off-year elections. Rather than sparking participation among citizens who never vote, it appears that the added convenience of voting by mail mainly attains higher participation among those voters who tend to vote in general elections by making it easier for them to vote in traditionally lower-interest local, special, or nonpartisan elections.<sup>vii</sup>

**Opportunities for vote buying or intimidation.** It is alleged that individuals such as spouses or employers could coerce voters to vote a certain way with little fear of being reported. The evidence from Oregon indicates that neither coercion nor vote-buying has been a problem in their VBM elections. One study from Oregon in 1996 found that less than 1/10th of one percent of respondents felt pressure to vote a certain way by anyone in their presence while filling out a ballot. Conducting a vote-buying scheme of sufficient scale to alter an election result would run high chances of being caught and facing prosecution.<sup>viii</sup>

**Making choices early.** Voters might send in their ballots early, before facts become known that would have caused them to change their vote. This is an issue with any form of early voting. Any voter who fears that additional information may cause them to change a vote may wait until the last minute to vote early in person, or if they are in a VBM-only state, may place the ballot at a ballot drop station on the last day. Heavy early voting in person or by mail is changing the way political campaigns are run. The 2008 Presidential Election is causing campaign methodology to be studied and rewritten.

**Increased costs.** The cost of printing two envelopes per vote and increasingly expensive postage to and from the election office must be considered. However these costs may be weighed against the cost of paying poll workers, workers compensation insurance, renting polling places, and buying and servicing voting equipment.

**Lack of address.** If a person has no mailing address, Oregon allows the voter to use the county address, and vote in person.

### **Benefits of Vote by Mail**

While there are issues to address in a VBM system, states using the system find it beneficial in several ways.

**Low tech and secure, with a recountable paper trail.** There is no cost for the purchase or maintenance of electronic voting machines. Relatively few optical scanners are required to record vote-by-mail ballots.

In 2002, Congress passed the Help America Vote Act (HAVA), which required states to buy new voting equipment and to keep centralized databases of registered voters. Some experts say the law's unintended consequences have made things worse. Computer scientists have found that nearly every voting machine now in use has security or reliability flaws, or both. In one example, complaints from early voters in West Virginia that an iVotronic model made by Election Software & Systems "flipped" votes from Democrat Barack Obama to Republican John McCain have fueled voters' distrust. The Brennan Center for Justice, a nonpartisan public policy and law institute that focuses on

issues of democracy and justice, sent letters advising 16 other states using the iVotronic to "recalibrate" the machines periodically.<sup>ix</sup>

There are potential problems with all forms for voting, be it in person early or on election day, by mail if a ballot is requested, or all vote by mail. Proponents find all-VBM an easy system to secure and provide original documents for recount. Just using simple optical scanners, with no connection to the Internet--always kept at the election administration's office in a locked, secure location--to record votes appears to be a good way to use technology safely. Mistrust of technology and voter apathy are two major problems in today's elections that all-VBM appears to solve.

**Elections that are cost effective and easier to conduct.** Margaret Rosenfield, in her article on "Innovation in Election Administration," notes additional advantages to all-VBM elections. "No poll workers includes no recruitment; no notices to be sent; no classes to conduct; no distribution and retrieval of election day supplies; no last-minute cancellations from workers who had agreed to serve; no paychecks to cut and mail; no W-2's to send; no pre-dawn election day hours to line up replacement workers. No polling places includes no polling place leases, telephones, utilities; no searching for or preparation of accessible locations; no frantic phone calls about locked doors; no preparation, set-up, tear-down, or emergency repairs of voting machines or devices; no confusion about where people must go to vote."<sup>x</sup>

**Convenience and increased turnout.** Barriers that keep people from getting to the polls are removed. The following is a comparison of voting statistics. Oregon is an all-VBM state. Texas allows early voting in person with no excuse, but only voters over 65 or those with permissible excuses may vote by mail. The difference in percentage of voter turnout is significant.

	Oregon			Texas		
	Registered Voters	Ballots Voted	% Voted	Registered Voters	Ballots Voted	% Voted
2008-General	2,153,914	1,845,251	85.70	13,575,062	8,053,036	59.32
2007-Special	1,930,382	1,163,210	60.30	12,587,501	1,057,239	8.39
2006-General	1,976,669	1,399,650	70.80	13,074,279	4,399,116	33.64
2004-General	2,141,249	1,851,671	86.48	13,098,329	7,410,765	56.57
2003-Special	1,851,107	655,344	35.40	12,041,793	1,384,623	11.49
2002-General	1,872,615	1,293,756	69.10	12,563,459	4,553,987	36.24
2000-General	1,954,006	1,559,215	79.80	12,365,235	6,407,637	51.81

The following table is one example where adopting a VBM format significantly increased participation of Latino and African American voters in the process.<sup>xi</sup>

### Ethnic Turnout in Denver's In-Person and VBM Elections

	2004 Turnout In-Person	Difference from citywide	2005 Turnout In-Person	Difference from citywide	2007 Turnout All-Mail	Difference from citywide
Citywide	79.06%	--	25.11%	--	42.63%	--
Latino	42.38%	-36.68%	11.07%	-14.04%	40.10%	-2.53%
African American	40.23%	-38.83%	10.58%	-14.53%	39.81%	-2.82%

**More time for voters to study the ballot and find answers to questions.** In Texas, many voters do not see the ballot for their specific precinct until they step into the voting booth. The State of Texas requires only certain legal notices but no information to assist voters. Any candidate information in Texas is supplied by sources other than the State of Texas or local governments. In contrast, as part of the VBM system, Oregon's Secretary of State assists with voter education by providing two Voters Pamphlets to each household in Oregon (and has since 1903). One volume outlines ballot measures and a second volume contains a list of candidates with statements submitted by candidates and political parties. Copies are also available at the Oregon Secretary of State's office, post offices, courthouses, and county election offices and online.

**More thoughtful voting.** There are three benefits to the Oregon system that create a more informed voter: 1) when a voter receives a ballot in the mail two weeks before an election, it is a tangible reminder that an election is imminent; 2) voters have an opportunity to sit with spouses, friends, co-workers, or children to discuss the issues and contests on the ballot; 3) voters have a chance to consult the Voters Pamphlet while marking a ballot. Many voters find contests and measures on the ballot that they were not expecting. At the polls, this circumstance may force voters to make uninformed choices.<sup>xii</sup>

### Options for Vote by Mail

In addition to an all-VBM system, such as Oregon's, there are options that could expand current vote by mail in Texas. All require legislative action. Options for less than an all-VBM system include the following:

- Remove the limitations on who may vote by mail. (Authorize no-excuse VBM voting.)
- Allow voters to be placed on a permanent vote-by-mail ("permanent absentee") list and thereafter vote by mail with no requirement to send in a request for a ballot.
- Establish state guidelines for all-VBM elections and allow jurisdictions to conduct them if they so desire.

## NOTES

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For in-depth information on Vote by Mail elections, reference the following web sites:

- o Vote by Mail, State of Oregon  
[http://www.dos.state.pa.us/election\\_reform/lib/election\\_reform/Oregon\\_Vote\\_by\\_Mail\\_Pamphlet.pdf](http://www.dos.state.pa.us/election_reform/lib/election_reform/Oregon_Vote_by_Mail_Pamphlet.pdf)
- o Common Cause, Getting it Straight in 2008, What We Know About Vote by Mail Elections and How to Conduct them well  
<http://www.commoncause.org/site/pp.asp?c=dkLNK1MQlwG&b=3790039>
- o Washington State's Vote-by-Mail Experience, 2007  
<http://secstate.wa.gov/documentvault/WashingtonStatesVotebyMailExperienceOctober2007-2066.pdf>
- o Washington State's Voters Pamphlets  
2005 [http://www.secstate.wa.gov/Elections/pdf/pamphlets/2005\\_general\\_election\\_voters\\_pamphlet.pdf](http://www.secstate.wa.gov/Elections/pdf/pamphlets/2005_general_election_voters_pamphlet.pdf)  
2008 <http://wei.secstate.wa.gov/osos/en/Pages/OnlineVoterGuideGeneral2008.aspx>
- o Innovations in Election Administration Volume 11, Federal Election Commission  
<http://www.eac.gov/election/quick-start-management-guides/fec-publications>
- o The No Vote By Mail Project  
<http://novbm.wordpress.com/2008/02/20/whats-wrong-with-voting-by-mail-or-absentee-ballot/>
- o Why 'Vote-by-Mail' Elections are a Terrible idea for Democracy  
<http://www.bradblog.com/?p=6003>

<sup>i</sup> Innovation in Election Administration 11: All-Mail-Ballot Elections, Federal Election Commission, Margaret Rosenfield, page 1.

<sup>ii</sup> Caltech/MIT Voting Technology Project. 2001. *Voting: What is, What Could Be*. California Institute of Technology and Massachusetts Institute of Technology; Michael J. Hamner and Michael W. Traugott, 2004, "The Impact of Voting By Mail on Voter Behavior," *American Politics Research*. See also "Report of the Oregon Elections Task Force", February 6, 2001, pg. 3.

<sup>iii</sup> For a discussion of some of the questions that did arise prior to the election see "Activists revive fears about Oregon voting," *The Oregonian*, September 22, 2004.

<sup>iv</sup> "Election Anxiety Extends to Voting by Mail," *The Oregonian*, November 1, 2004.

<sup>v</sup> Ballot Integrity and Voting by Mail: The Oregon Experience, By Dr. Paul Gronke, Director, EVIC at Reed College, A Report for the Commission on Federal Election Reform, Co-Chairs: President Jimmy Carter Honorable James A. Baker, III, page 4.

<sup>vi</sup> In 5-year Effort, Scant Evidence of Voter Fraud, By ERIC LIPTON and IAN URBINA, The New York Times, Published: April 12, 2007.

<sup>vii</sup> Getting it Straight for 2008 What We Know About Vote by Mail Elections and How to Conduct them Well; Common Cause Election Reform Brief, January, 2008. page 1.

<sup>viii</sup> Coercion of Voters is Alleged," Potomac News, November 10, 2007.

<sup>ix</sup> Voter-rights activists hope that this year they've won. Greg Gordon, McClatchy Newspapers, November 13, 2008.

<sup>x</sup> Innovation in Election Administration 11: All-Mail-Ballot Elections, Federal Election Commission, Margaret Rosenfield, page 45.

<sup>xi</sup> Getting it Straight for 2008 What We Know About Vote by Mail Elections and How to Conduct them Well; Common Cause Election Reform Brief, January, 2008. page 9.

<sup>xii</sup> Vote by Mail, State of Oregon, Bill Bradley, Secretary of State, page 6.