

Secondly, the registrar (who is responsible for determining voter eligibility and the proper precinct for a given voter) is unaware a registration form is coming until it arrives in the election office. Often submitted in bulk, registration forms are unloaded on the registrars at deadline, and they must then attempt to process appropriately those that are not completed properly (perhaps due to poor instructions, negligence or even fraud). In some cases, problems arose because forms never arrived; some volunteers solicited registration applications and then failed to deliver them, disenfranchising potential voters who believed they were registered. In other cases, political organizations paid workers by the number of registrations they obtained, and workers simply filled in names and addresses from telephone books or used celebrity names with fictitious addresses. As a result of incidents like these, many registrars were unable to compile complete and accurate registration lists by Election Day. Congress sought to improve this situation, and protect voters' rights, by mandating provisional voting.


No election law was more confusing to the public or to state, local and precinct officials (or was the basis of more lawsuits) than the law concerning provisional voting. Voters who believed they had registered were permitted to cast provisional ballots that could be counted if the voters' registrations were confirmed. Many voters were only able to vote because of provisional voting. However, HAVA left it to the states to determine when provisional votes are counted. As a result, the application of provisional voting procedures varied among and within states. The U.S. Election Assistance Commission is currently gathering information on provisional voting and will offer guidance on this topic later in the year. As HAVA is currently written, uniform application of provisional voting among the states is not required. Uniform application within each state, however, is necessary.

State laws attempting to make voting more convenient by extending the registration and/or voting period also contributed to election problems. In the late twentieth century, there was a long-term trend towards allowing voters to register closer in time to Election Day. Currently, 30 days is the longest period any state requires, and six states allow Election-Day registration, the shortest period. In 2004, voting began on September 13, when North Carolina began mailing absentee ballots. Many states began the same process five days later. Each year more states permit early voting in person at designated locations in the county up to three weeks prior to the election. Counting both early voting and absentee ballots, as many as 20 percent of all votes are cast before Election Day. In many counties, this percentage is well over 50 percent, and in Oregon, which conducts an all-mail election, it is 100 percent.

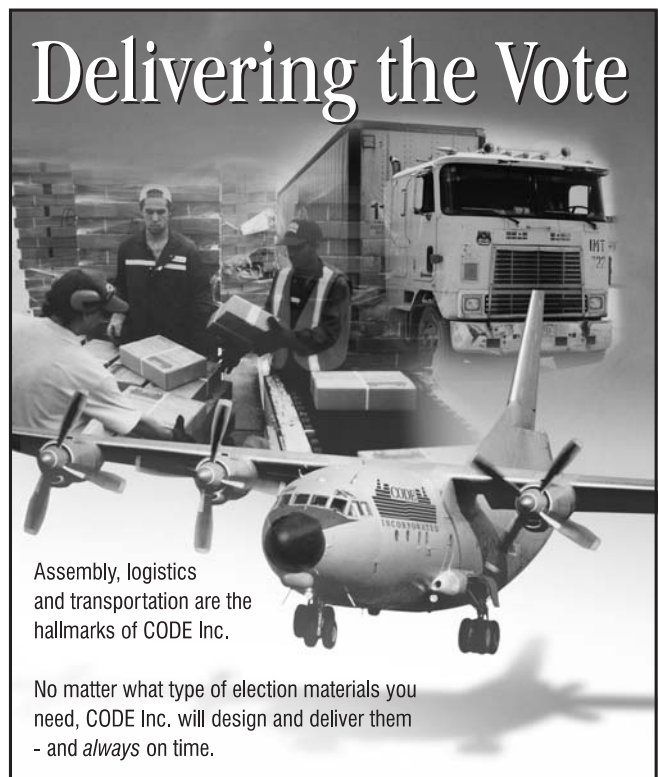
However, during this lengthy period of voting (50 days in 2004), ballots and election rules are subject to change. For example, courts ruled that presidential candidate Ralph Nader be put on the ballot in some states and taken off in others after absentee ballots were mailed. Some state and local candidates were similarly affected. Late lawsuits also challenged election procedures, ranging from the interpretation of federal law to relatively trivial administrative

regulations. The combined effect of these two trends is that voting may begin before the names of all candidates on the ballot are decided and before the complete list of eligible voters is compiled and election procedures are finalized.

Each late decision ordering a change had major negative administrative consequences and often imposed costly solutions on local jurisdictions. Whenever changes are made after voting has begun, whether these changes are by judicial fiat or by administrative response to a situation, ballots cast under one set of circumstances must be segregated from those cast under other circumstances, and the differences must somehow be accommodated.

The number of administrative problems with elections would be drastically reduced with a clearly defined provisional ballot law and procedure in each state, with individuals who solicit voter registration applications held accountable for their actions, and with judicial and legislative acceptance of the idea that ballots and election procedures should not be subject to change after voting has begun. These steps would go a long way towards making U.S. elections the most effective they can be. 

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