

How Same Day Registration Became Law in North Carolina



On July 20, 2007, North Carolina became the ninth state in the nation, and the first in the South, to offer Same Day Registration (SDR).¹ Under the terms of the new law, which went into effect in October 2007, eligible citizens may register to vote and cast a ballot at any of the state's so-called "One-Stop" absentee voting sites. These sites are in operation from 19 to three days before each election—an additional 16 days after the close of North Carolina's regular voter registration period, which ends 25 days before an election.

Dēmos conducted a telephone survey of 16 individuals who were involved in the successful effort to pass SDR legislation in 2007. Interviewees included legislators, public policy advocates, community organizers and election officials. Those individuals collectively identified three primary reasons for Same Day Registration's success in 2007:

- » New political leadership in the North Carolina General Assembly
- » The support of influential election officials; and,
- » A strong, unified coalition of advocates and organizers.

The enactment of SDR in North Carolina was the result of a multifaceted, strategic legislative and advocacy campaign, lead by North Carolina Fair Share, the Same Day Registration Coalition and state Representative Deborah Ross. The diverse Same Day Registration Coalition's membership included Democracy North Carolina, labor unions, the faith community, the League of Women Voters, the NAACP and a host of other progressive organizations.² The Coalition and lead bill sponsor Rep. Ross worked closely with state legislative leaders and Gary Bartlett, the state's chief elections official, to craft the resultant legislative proposal. It promises to increase access to the vote and preserve the efficient administration of elections.

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INTRODUCTION

2007 was the first year that the North Carolina General Assembly seriously considered Same Day Registration. SDR bills had been introduced in prior years and attracted legislative support, but never gained sufficient traction. This report recounts North Carolina's road to Same Day Registration from three different perspectives: legislative supporters, elections officials and the advocacy community.

NORTH CAROLINA GENERAL ASSEMBLY ENACTS SAME DAY REGISTRATION

The legislative campaign for Same Day Registration was initiated by state Rep. Deborah Ross in 2003, after a request from Lynice Williams, Executive Director of North Carolina Fair Share and the subsequent chair of the SDR coalition. Advocates' hope for Election Day Registration (EDR), which would have allowed registration and voting at polling places on Election Day, gained no traction in the legislature. As discussed below, Rep. Ross subsequently worked with officials at the North Carolina State Board of Elections to craft an alternative Same Day Registration proposal. Citizens would be permitted to register and cast ballots after the state's voter registration deadline at North Carolina's so-called "One-Stop" absentee voting sites. These locations are in operation from 19 to three days before an election.³ North Carolina's regular voter registration period closes 25 days before each election. Rep. Ross succeeded in having her SDR bill reported out of committee in the 2005-2006 legislative session.

The success of SDR legislation in 2007 was in large part a function of new political leadership in the North Carolina General Assembly. The leadership of the House of Representatives was previously controlled by a much more conservative Democratic faction for whom expanding the franchise was not a priority. Democratic leaders had blocked passage of Rep. Ross' SDR bill for several years.

The political landscape changed in 2007 after conservative Democrats were defeated in the 2006 primary election and the leadership of the state House of Representatives passed to more progressive party members. One of the sponsors of Rep. Ross' Same Day Registration legislation was elevated to a top position in the Democratic majority. And a new class of progressive freshman legislators was seated in the House of Representatives. Rep. Ross' SDR bill finally got a fair hearing in the 2007 legislative session.

Same Day Registration proponents were also able to overcome incumbents' fears about primary challengers and electoral gains by the opposition party. With SDR, the electorate is not fixed when the voter registration deadline passes. New voters can be mobilized to participate in North Carolina elections almost until the last moment, potentially opening up the process to new constituencies whose political preferences might differ from those voters who had returned incumbent legislators to office. Some feared that SDR would be a political wild card that might disrupt the re-election of senior lawmakers, or tip the balance of political power away from the majority party.

Concerns about the partisan impact of Same Day Registration were particularly pronounced in the Senate. Party chiefs worried that an expanded and unpredictable electorate might help the GOP gain control of the chamber. For several years, political consultants had advised Senate Democrats that SDR could hurt the party in future elections—just as Republican political operatives have at times predicted in other states. North Carolina’s advisors feared that North Carolina’s blue-collar workers, who in recent years have trended towards the GOP, might take greater advantage of SDR than others. And while the political calculus of North Carolina Republicans may have differed, party members also shared Democrats’ concerns about the unpredictability of the SDR electorate.

The parties’ reticence was in part mollified by Minnesota State Representative John Lesch, whom Dēmos had recruited to speak in House and Senate committee meetings on Same Day Registration. Rep. Lesch persuasively reported that legislators on both sides of the aisle in his Election Day Registration state liked and wanted to maintain EDR.⁴ Neither party in Minnesota saw a distinct partisan advantage in it. North Carolina Democrats’ concerns were also allayed in conversation they initiated with party colleagues in EDR states.

The House SDR bill ultimately moved through the lower chamber with relative ease. Same Day Registration was embraced as an effective means to reach many of North Carolina’s 1 million unregistered, eligible voters. The participation of young people was a particular concern. A report by two distinguished political scientists commissioned by Dēmos projected a near-11 percent increase in voter turnout among 18-to-25-year olds—gains greater than for any other demographic group.⁵ Opposition arguments about increased voter fraud never took hold and the SDR bill was passed by the North Carolina House of Representatives on March 29, 2007.

Senate consideration of Same Day Registration legislation was more difficult. Fears of GOP gains at the polls led Democratic Senate leaders to slow consideration of the bill, without explicitly opposing the measure. It would take concerted grassroots pressure to get the bill to the Senate floor for a vote.

OVERCOMING VOTER FRAUD CONCERNS

North Carolina Republicans generally opposed the Same Day Registration legislation in both the state House and Senate. As in other states, they argued that the relaxed voter registration procedures allowed with Same Day Registration would open up the system to voter fraud.

These arguments never really took hold. Support for the SDR legislation by the State Board of Elections and several large North Carolina counties diminished voter fraud fears. Minnesota Rep. John Lesch attested to the security of his state’s elections with EDR and the absence of voter fraud prosecutions before House and Senate committees. The fact that he also served as an Assistant District Attorney in St. Paul, Minnesota added heft to his remarks. And North Carolina’s SDR proponents could plausibly argue that Same Day Registration actually increased the integrity of elections. Rath-

er than registering anonymously through the mail, same-day registrants would have to appear in person before trained election workers at North Carolina's One-Stop voting sites and substantiate their eligibility to register *before* they would be added to the rolls. This perception of enhanced security helped shore-up committee and floor votes of several moderate Republicans.

Same Day Registration opponents did nevertheless succeed in leveraging voter fraud concerns to amend the Senate bill and delay final passage of the bill. An English-only amendment was adopted by the Senate, prohibiting voter registration forms and ballots from being printed in any language other than English. (Spanish language registration forms and ballot instructions are available in North Carolina.) GOP leaders argued that non-English speakers were more likely to be ineligible to vote and would use translated materials to illegally get on the voter rolls.⁶ The provision was later stripped from the legislation by a House-Senate conference committee.

Voter fraud concerns were raised by Republican State Auditor Les Merritt minutes before the Senate SDR bill was first scheduled for a floor vote in early June 2007. In an e-mail to the Senate bill sponsor, Merritt claimed that his office had uncovered unspecified "sensitive information" pointing to gross irregularities on the voter lists. The inference was that North Carolina's voter registration system was not ready to accommodate Same Day Registration. Merritt asked that the legislation be tabled until he could share his findings with the legislature.

The State Auditor's gambit to stop further consideration of the Same Day Registration bill failed. Upon inspection, it was clear that a preliminary report drafted by the State Auditor's office was rife with errors. State Board of Elections Executive Director Gary Bartlett refuted each irregularity raised by Merritt in a special hearing convened by the Senate Select Committee on Government and Elections. Allegations of bloated voter registration rolls and voting by the deceased or 17-year olds were shown to be either without merit or reflecting a fundamental misunderstanding of North Carolina's voter registration system and relevant federal and state law. Commentators questioned whether Merritt's late intervention was a blatantly partisan political maneuver.⁷ The Senate passed the SDR bill in a rescheduled floor vote in late June 2007. A conference committee was convened to reconcile differences in House and Senate legislation, and compromise Same Day Registration legislation was adopted on July 11, 2007. Governor Mike Easley signed the bill into law on July 20, 2007.

SUPPORT FROM ELECTION OFFICIALS

State and local election officials have in recent years often determined the fate of Same Day Registration proposals. Their opposition can doom SDR legislation; the support or at least acquiescence of election authorities substantially improves the prospects of Same Day Registration bills.

The endorsement of Same Day Registration by the Executive Director of the North Carolina State Board of Elections, North Carolina's largest counties, and the trade organizations that represent county elections administrators were essential elements of

SDR's success in 2007. The State Board's role was pivotal. Gary Bartlett, the Board's Executive Director, and his staff helped craft an SDR proposal that in their opinion could be implemented without undue hardship for election administrators and without risking the integrity of the ballot. Rep. Deborah Ross's decision to engage Bartlett and the State Board of Elections in the process of crafting her bill proved critical.

Gary Bartlett had been a longstanding proponent of expanding voter participation in North Carolina. Rep. Ross approached him with her proposal to allow Election Day Registration at polling places when she first floated the idea in the 2003-2004 legislative session. Bartlett responded unfavorably because, in his opinion, the state could not support EDR without threatening the integrity of election. He believed that local election administrators would not be able to discern whether an individual was registering and voting at multiple polling places on Election Day. Bartlett also predicted little political support for the EDR proposal from either major political party.

Rep. Ross invited Gary Bartlett and his staff to craft a counter-proposal that he would find workable and worthy of support. Her challenge gave rise to the Same Day Registration model that the North Carolina General Assembly adopted several years later. It also vested the State Board of Elections with some measure of ownership over Rep. Ross' legislation. Gary Bartlett would later voice support for the SDR bill as it wended its way through the North Carolina House and Senate.

North Carolina's largest counties also allied themselves with the SDR bill. Officials in Mecklenberg, Wake and Guilford Counties endorsed the legislation. John Gilbert, Chair of the Wake County Board of Elections, and an officer of the statewide Election Boards Association of North Carolina, testified in favor of the bill before House and Senate committees. The Election Boards Association also endorsed the legislation.

Elections directors in most other North Carolina counties were less engaged in the legislative debate. According to one SDR proponent, most county boards of elections did not particularly like Same Day Registration, but would administer it if so directed.

Same Day Registration was palatable to elections officials in North Carolina for several reasons. First, by restricting SDR to in-person absentee voting sites, elections administrators could apply the same voter registration verification procedures to same-day registrants as they applied to early registrants. Ballots cast by individuals with deficient registrations at in-person absentee voting sites could be pulled before the official vote canvass. Under North Carolina law, elections officials send a non-forwardable notice to every registrant at the address provided for on the voter registration application. A second mailing goes out if the initial correspondence is returned as undeliverable. Return of that second mailing will cause the voter registration application to be denied.

North Carolina also individually encodes every absentee ballot cast in the state, including those cast via Same Day Registration at One-Stop sites. With that encoding, election officials can identify and then pull any SDR ballot cast by an individual who provided a faulty home address. North Carolina's extended period for vote canvassing

(the official vote canvass does not occur until at least 10 business days after an election) affords ample time for the return of two non-forwardable mailings before election results are certified.

Same Day Registration also reduces much of the demand for provisional voting. Federal law requires that all states offer a provisional ballot to individuals whose names cannot be found on the voter roll on Election Day but who believe themselves to be registered to vote. Election workers must thereafter search registration records for evidence of that registration and determine whether the provisional vote should be counted—all in the compressed period after an election and before the official vote canvass. Most election officials bristle at the challenges and burdens imposed by provisional balloting.

With Same Day Registration, a North Carolina voter whose name had been omitted from the voting rolls—and who would ordinarily be issued a provisional ballot—can register anew at a One-Stop site and cast an absentee ballot. A provisional ballot would be unnecessary. And with registration and voting taking place during the early voting period, the administrative work entailed in processing that registration and vote is shifted to the front end of the election cycle. Election officials are thereby relieved of much of the anxiety they experience in validating or rejecting each provisional ballot in the harried period that follows each election.

A STRONG COALITION WITH APPROPRIATE STAFF SUPPORT

The passage of Same Day Registration legislation in 2007 would not have been possible without a dogged, multi-year campaign for SDR wage by North Carolina Fair Share, Democracy North Carolina, and other community organizers and public policy advocates. North Carolina Fair Share, a state organization representing low-income communities, took the lead in organizing the local SDR coalition. Comprised of just five organizations when founded several years ago (North Carolina ACLU, Democracy North Carolina, the Institute for Southern Studies, Southerners for Economic Justice and North Carolina Fair Share), by 2007 the coalition had grown to include over 30 organizations representing the African American community, good government groups, the faith community, progressive activists and trade unions.

The Same Day Registration coalition was especially active in 2007, when the path had cleared for moving SDR through the General Assembly. The coalition staged public events to heighten awareness of Same Day Registration and signal public support for legislative action; called, emailed and met with state House and Senate members; testified in legislative committee meetings and hearings; organized press conferences; published op-eds; and participated in radio programs. One hundred thousand flyers calling for legislative action on SDR were sent to churches and colleges and distributed at public events.

Organized community pressure was brought to bear when SDR legislation appeared to stall at various times in 2007. African-American and youth constituencies (e.g.,

NAACP, Young Democrats, North Carolina's Student Government Associations) were influential. Community organizers canvassed the Senate Majority Leader's home district over three days that summer in a bid to move the bill through the upper chamber, while SDR advocates called on the Senate President Pro Tempore to drop his hold on the bill.

One particularly visible and effective public event was organized near the state capitol by the so-called "HK on J" (Historic Thousands on Jones Street) coalition of 70 civil rights groups. Five thousand individuals gathered on February 10, 2007, to demand legislative action on a 14-point "values-based" agenda. Same Day Registration was identified as the one election reform that would lower barriers to voting. Many of those assembled on February 10 signed a resolution calling for SDR and the other agenda items. The HK on J rally not only drew public attention, but evidenced actual community support behind SDR lobby efforts—"street heat," in the words of a NAACP political activist.

2007 also marked the first year when the SDR coalition was able to field a paid lobbyist in the General Assembly. She played a significant role in assessing where additional pressure needed to be applied in the legislature, arranged meetings between legislators and coalition members and constituents, and kept tabs on the bill's progress. She could readily access coalition members where further efforts were needed to sway target legislators.

Passage of Same Day Registration into law in North Carolina required highly-organized community engagement and pressure applied from the streets and to the state capitol. This effort, organized by seasoned advocates, organizers and lobbyists, and underpinned by research and expert testimony, ensured that Same Day Registration would be considered and then adopted by the General Assembly in 2007.

ENDNOTES

1. The terms “Same Day Registration” and “Election Day Registration” are sometimes used interchangeably, but there may be differences between the policies. “Same Day Registration” is the broader term because it encompasses systems that allow voters to register and vote on the same day, even if—as in the case of North Carolina—that opportunity is provided only at early voting sites, and not on Election Day itself. Idaho, Iowa, Maine, Minnesota, Montana, Wisconsin and Wyoming allow voters to register and vote on Election Day itself, and can more accurately be referred to as EDR states.
2. Participating organizations included: A. Philip Randolph Institute, ACLU of NC, ACORN, African American Caucus/NC Democratic Party, Apartment Association of North Carolina, Black Workers For Justice, Common Cause/NC, Common Sense Foundation, Conservation Council of NC, Democracy North Carolina, Election Boards Association, Equity NC, Generation Engage, Institute of Southern Studies, League of Women Voters/NC, NC AFL-CIO, NC Association of CDCs, NC Association of Educators, NC Academy of Trial Lawyers, NC Black Leadership Caucus, NC Conservation Network, NC Council of Churches, NC Fair Share, NC Justice Center, NC Lutheran Synod, NC NAACP, NC PIRG, NC Women United, NC Young Democrats, Planned Parenthood of Central NC, Southeast Raleigh Assembly, Southerners of Economic Justice, SURGE/NC., UNC Association of Student Governments, and the United Holy Church of America.
3. See N.C. Gen. Stat. § 163-82.6A
4. See *supra* n.1.
5. R. Michael Alvarez and Jonathan Nagler, *Same Day Voter Registration in North Carolina*, Dēmos: A Network for Ideas & Action (2007), <http://www.demos.org/pubs/%20updated%20NC.pdf>.
6. North Carolina Republicans offered a series of anti-immigrant amendments to legislation favored by Democrats in an attempt to paint Democrats as soft on immigration in the run-up to the 2008 elections.
7. See, e.g., “The Right to Vote: Auditor Merritt has ‘Sensitive Information’ to Explain,” *Charlotte Observer*, June 17, 2007.

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