

CRS Report for Congress

Received through the CRS Web

Elections in States Affected by Hurricanes Katrina and Rita

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Summary

The aftermath of Hurricanes Katrina and Rita created staggering problems and challenging conditions for the people of Alabama, Louisiana, Mississippi, and Texas, as well as for the state and local governments there. Many problems were immediately apparent, whereas others that involved ongoing government functions, such as elections, were less obvious at first. As 2006 approached, the challenge of running elections in the many affected communities became clearer. The Governor of Louisiana rescheduled a February city council and mayoral election in New Orleans for April 22; a runoff election for mayor will be held on May 20. Questions about voter eligibility for displaced hurricane victims, particularly those from New Orleans, were raised, along with concerns about damaged and destroyed voting equipment, the availability of election workers and polling places, and numerous other logistical considerations. More broadly, a diminished electorate has altered the political landscape. Several bills have been introduced with respect to the impact of Katrina and Rita on the 2006 elections. S. 2166, passed by the Senate in February, would provide \$50 million in disaster relief for elections.

Impact of the Hurricanes on the Election Process

More than 600,000 displaced Louisiana residents, nearly half of them from the city of New Orleans, are currently scattered across the country. In Mississippi, an estimated 66,000 persons are unable to return to their Gulf Coast communities at present.¹ Although some of those displaced by Hurricane Katrina are living elsewhere in Louisiana or nearby in Texas, Mississippi, and Alabama, many are living hundreds or thousands of miles from

¹ See CRS Report RL33141, *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*, by Thomas Gabe, Gene Falk, Maggie McCarty, and Virginia W. Mason.

home. With the 2006 election cycle underway, the challenge of protecting the voting rights of displaced citizens has moved to the forefront. The first test took place in New Orleans on April 22, when a city-wide primary election was held, and a runoff mayoral primary election is scheduled for May 20. More than half the city's electorate, an estimated 250,000 voters, were displaced by Katrina.² By one estimate, more than 45,000 of those voters are living in Houston at present.³ In Alabama and Mississippi, primary elections are scheduled for June 6 and June 27 (if a runoff is necessary). Texas held its primary on March 7, but experienced no difficulties other than needing to consolidate a number of polling places because some buildings were unavailable as a result of Hurricane Rita. The general election is scheduled for November 7 in all four states. New Orleans' experience on April 22 will likely presage the kinds of challenges and pitfalls other jurisdictions may experience in conducting elections later in 2006 under conditions created by Hurricanes Katrina and Rita. Other issues have also arisen, including loss of equipment, polling places, and pollworkers in affected local jurisdictions. In some cases, state funds originally intended to meet Help America Vote Act (HAVA) requirements have had to be used instead for recovery efforts. However, early concerns about potential loss of voter registration records have not been realized.

New Orleans

Mayoral and city council elections scheduled for February 4, 2006 (primary), and March 4 (runoff) were postponed indefinitely last December by Governor Kathleen Blanco because of the effects of Hurricanes Katrina and Rita. In January, the Governor rescheduled the elections for April 22 and May 20. U.S. District Judge Ivan Lemelle had warned state officials that he would step in to protect voters' rights under federal law if the elections were not rescheduled.

A principal concern about the upcoming elections is that the elected mayor and city council members may significantly affect how New Orleans is rebuilt, while fewer than half of the city's voters are currently living there. Displaced voters had three options: to vote absentee, travel to an early voting location in one of 10 Louisiana parishes outside New Orleans before election day, or travel to the city on election day to vote in person.⁴ An estimated 272,000 black residents of Orleans Parish were displaced by the hurricane, compared with 101,000 non-black residents.⁵ Some observers have suggested that a city that was once approximately 70% black has become predominantly white because areas of the city that remain uninhabitable were mostly black.⁶ The large number of displaced

² Kris Axtman, "Big Easy has candidates, ballots, ... but voters?," *Christian Science Monitor*, Mar. 10, 2006, p. 1.

³ Kristie Rieken, "Group encourages Katrina evacuees to cast absentee ballots," *Associated Press State & Local Wire*, Mar. 12, 2006.

⁴ Satellite early voting was available at the office of the Registrar of Voters in Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Ouachita, Rapides, St. Tammany, Tangipahoa, and Terrebonne Parishes, and at other locations in East Baton Rouge and Jefferson Parishes.

⁵ See CRS Report RL33141, *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*, by Thomas Gabe, Gene Falk, Maggie McCarty, and Virginia W. Mason.

⁶ Ann M. Simmons, "Racial Current Runs Through Campaign," *Los Angeles Times*, Apr. 17, (continued...)

voters from New Orleans and elsewhere may have an impact as well on the election of state and federal officeholders later in 2006.

Post-hurricane conditions have created unusual obstacles for voters, whether they presently reside in New Orleans or not. According to the League of Women Voters of New Orleans, 295 out of 442 polling places were destroyed and are no longer available for use on election day. Many of those voting in person on election day needed to determine where their new polling places were.⁷ All eligible Louisiana residents may register by mail to vote, although displaced persons who have registered in other states are not eligible. Voters who were already registered in Louisiana were eligible to vote in person, but the rules varied for absentee voting and early voting at the satellite early voting places in parishes outside New Orleans. The same rules will be in effect for the May 20 mayoral runoff election:

- all displaced, registered voters were eligible to vote by absentee ballot;
- any voter who was registered before September 24, 2005, was eligible to vote in person at one of the satellite voting places established for early voting;
- early voting locations were not open on election day;
- all persons who met eligibility requirements (U. S. citizen, age 18 by the next election, Louisiana resident, not in prison or judged mentally incompetent) were eligible to register absentee, but first-time registrants had to vote in person in New Orleans;
- New Orleans registered voters living in the city could vote absentee only by meeting one of the standard criteria for absentee voting.

The New Orleans election plan received Justice Department preclearance on March 16, as required by Section 5 of the Voting Rights Act of 1965; but objections were raised because the state did not set up polling places outside the state where there are large numbers of displaced New Orleanians, such as Houston.⁸ A bill to create out-of-state polling places was considered by a committee of the Louisiana State Senate in March, but no further action was taken. U.S. District Court Judge Lemelle heard complaints from civil rights groups about the election at a hearing on March 27, but declined to postpone it. The NAACP established voter assistance centers in 15 cities in nine states across the country: Alabama, Arkansas, California, Georgia, Illinois, Louisiana, Mississippi, Tennessee, and Texas. Voters could also call a toll-free number established by the

⁶ (...continued)
2006, p. 4.

⁷ See League of Women Voters of New Orleans website at [<http://www.lwvno.org/elections.html#wheretovote>].

⁸ For an explanation of Sec. 5, see the Voting Section Homepage on the U.S. Department of Justice website at [http://www.usdoj.gov/crt/voting/sec_5/about.htm].

Louisiana Secretary of State's office for instructions and information.⁹ Election officials in 17 states reportedly made public announcements encouraging displaced voters to participate in the Orleans Parish elections on April 22, according to the National Association of Secretaries of State.¹⁰

Complaints were raised as well about sporadic mail service in the city, which may have made it difficult for some voters to return absentee ballots on time. The deadline for returning absentee ballots was midnight on April 21, and officials advised voters to send voted ballots to the Secretary of State's office because of continuing mail problems. Voters could request absentee ballots and return the ballots by facsimile. Before the election, the New Orleans *Times-Picayune* reported that more than 10,000 displaced voters had requested absentee ballots, including 2,510 in Louisiana, 3,557 in Texas, 508 in Mississippi, and 764 in Georgia.¹¹ The Federal Emergency Management Agency provided \$733,000 to replace voting machines and equipment, but the funding could not be used to locate voters.¹² The state spent an estimated \$750,000 on media advertising in cities outside Louisiana to reach and educate potential voters.¹³

April 22 Results. Approximately 108,000 voters participated in the April 22 election, compared with 135,000 in the 2002 mayoral primary. Voter turnout was 36%, down 10 points from 2002.¹⁴ According to press reports, civil rights activists, including the Reverend Jesse Jackson, may file complaints about the voting procedures with the Attorney General, the Secretary of State, and U.S. District Judge Lemelle.¹⁵ Black voters accounted for 62% of the electorate in the 2002 election and 52% on April 22. Almost twice as many absentee ballots were cast in this year's primary — 21,000 — as in 2002, with blacks accounting for 65%, and whites for 32%, of absentee voters.¹⁶

⁹ The number is 800-883-2805. A website also provides instructions for voters; see [<http://www.sec.state.la.us>].

¹⁰ The states are Alabama, Alaska, Arkansas, Indiana, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, New Mexico, Oregon, Pennsylvania, Rhode Island, South Dakota, West Virginia, and Utah. National Association of Secretaries of State Press Release, *NASS Tells Katrina Evacuees: Don't Miss Your Opportunity to Vote*, Mar. 16, 2006.

¹¹ "The Displaced Voters," New Orleans *Times-Picayune*, no date, at [http://www.nola.com/katrina/pdf/vote_map.pdf].

¹² Associated Press, "FEMA Won't Pay For New Orleans Election," Apr. 16, 2006, at [<http://www.nola.com/newsflash/louisiana/index.ssf?/base/news-24/1145228347117750.xml&storylist=louisiana>].

¹³ *Ibid.*

¹⁴ Robert Travis Scott, "N.O. vote reveals hints of new political era," New Orleans *Times-Picayune*, Apr. 25, 2006, at [<http://www.nola.com/elections/t-p/index.ssf?/base/news-0/1145945933313590.xml>].

¹⁵ Michelle Krupa, "New challenges of election vowed," New Orleans *Times-Picayune*, Apr. 25, 2006, at [<http://www.nola.com/news/t-p/neworleans/index.ssf?/base/news-5/1145944899313590.xml>].

¹⁶ John Pope and Matt Scallan, "Black precincts buttress Nagin victory," New Orleans *Times-Picayune*, Apr. 24, 2006, at [http://www.nola.com/elections/newslog/index.ssf?/mtlogs/nola_politics/archives/2006_04.html#134401].

New Orleans incumbent Mayor Ray Nagin will face Louisiana Lieutenant Governor Mitch Landrieu in the May 20 runoff mayoral election. Voting procedures, including early voting at satellite locations in Louisiana and the use of facsimile return of absentee ballots, will be the same as for the April 22 primary.

Statewide Elections in 2006

Some of the challenges of the New Orleans experience will likely reoccur with upcoming statewide elections in Alabama, Louisiana, and Mississippi. As in New Orleans, election officials in the numerous counties affected by Hurricanes Katrina and Rita will need to locate voters and may also need to replace voting equipment and find new polling places. And although the circumstances for the New Orleans election involved the largest number of potential voters in a single jurisdiction, the situation did not involve a statewide election across many affected counties.

Voters who are in the military, their spouses and dependents, and overseas citizens who no longer maintain an address in the United States are eligible to register and vote absentee in federal elections under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973ff). For others, absentee voting rules in Alabama require that a voter be out of the county or state, incapacitated, required to work hours that coincide with polling hours, or working as a polling officer at a vote site that is not his or her own. Those voting absentee in both the Alabama primary (June 4) and the runoff (July 18), if necessary, will need to submit a ballot request for both elections. In Mississippi, voters can request an absentee ballot because of age, health, or work demands; specific eligibility requirements are determined at the local level.

Legislation

On February 9, the Senate passed S. 2166 (Lott) by unanimous consent. The bill would provide \$50 million for FY2006 to replace voting equipment and other election administration supplies that were lost or damaged in Hurricanes Katrina or Rita. The Election Assistance Commission would administer the grants. H.R. 4140 (Millender-McDonald) is similar and would also provide \$50 million to restore and replace supplies, materials, and equipment used in the administration of elections. Alternatively, Congress may consider providing funding directly through the appropriations process.

Three bills would provide for displaced victims of Hurricane Katrina to be eligible to vote in federal elections from 2006 to 2008 under provisions of the Uniformed and Overseas Citizens Absentee Voting Act: H.R. 3734 (Artur Davis), H.R. 4197 (Watt), and S. 1867 (Feingold). H.R. 4197 also would provide \$50 million in grants to replace voting supplies, records, and equipment. The grants would be administered by the Election Assistance Commission.

H.R. 4666 (Fitzpatrick) would extend the deadline for replacing punch card and lever voting machines until the November 2006 election. Under the Help America Vote Act, states that took Section 102 funds to replace these voting systems were required to do so by January 1, 2006. Alabama, Louisiana, and Mississippi received Section 102 funds. H.R. 3163 (Goode) would extend the Section 102 deadline, as well as the deadlines for meeting HAVA requirements, by 48 months.