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UNCOUNTED VOTES

Voting hours extended after legal flap

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A lawsuit filed in Cuyahoga County last night pushed back the voting deadline in 16 precincts by 90 minutes and helped Franklin County officials get their absentee ballots counted.

Still, more than 20,000 absentee and provisional ballots will not be counted until next week and could change the results in some close races, including one for Congress and the Central Ohio Transit Authority sales tax increase.

The Ohio Democratic Party sued in U.S. District Court in Cleveland, complaining about polling places that opened late and had long lines because of malfunctioning voting machines.

Despite an appeal by the office of Secretary of State J. Kenneth Blackwell, the 6th U.S. Circuit Court of Appeals upheld the decision to keep affected polling places open until 9 p.m. but also ordered all votes cast after 7:30 p.m. to be provisional ballots.

Blackwell then ordered all county elections boards to keep voting results under wraps until 9 p.m. A Blackwell spokesman said Democrats were manipulating the election system.

"What I think you're looking at is the Ohio Democratic Party hand-selecting some precincts where they thought that they could squeeze out a few more votes in the 90 minutes following the regular close of polls," said James Lee.

Sean Greene, a researcher for the nonpartisan Electionline-.org who monitored yesterday's vote in Cuyahoga County, said he was at a polling location in Cleveland Heights that was ordered to remain open because voters had to wait an hour or more.



The Franklin County Board of Elections sent letters and new absentee ballot applications to 550 voters whose applications were damaged in the mail. The board received numerous applications that were destroyed beyond recognition such as the ones shown here.

Greene speculated that the delay might have been a combination of heavy turnout, voter unfamiliarity with touch-screen machines and a lengthy ballot.

In Franklin County, officials said early last night that they would not be able to count 19,000 absentee ballots that voters had returned before Monday, the usual cut-off date for including the votes in Election Day totals. Because the court order gave them an additional 90 minutes before the election was officially over, they resumed tabulating and finished the count.

However, the results from 20,000 additional absentee ballots delivered Monday and yesterday, and an unknown number of provisional ballots, will not be known until the end of next week. That throws into question the COTA 0.25 percent sales tax, which was winning by about 4,000 votes in unofficial returns, and the congressional race in which Mary Jo Kilroy was ahead of U.S. Rep. Deborah Pryce by about 4,800 votes.

Relaxed rules for absentee voting led to a record number being cast. Some people also voted early because they feared long lines at the polls.

Democrats said in a news release that "over a dozen polling places" in Cleveland opened late.

Cuyahoga County has 573 polling places. "They said that there were machines that were malfunctioning," which led to long lines, said Alan Melamed, the election board's spokesman. "They said that people were turned away with no specifics."

Judge Dan Aaron Polster ruled that the county violated voters' First and 14th amendment rights by failing to open stations at 6:30 a.m., "based on malfunctioning and nonfunctioning equipment," as well as failing to sufficiently provide voters an opportunity to vote. "More than one hour in line is too long to wait, given the importance of the right to vote," Polster wrote in his order.

Polster also said in his ruling that, "Given the recent history of elections in this county, the court believes the Cuyahoga County Board of Elections did an excellent job in conducting today's election." Jennifer Scullion, a lawyer working with a national "election protection" coalition that had more than 75 observers in Ohio yesterday, also found no widespread problems.

Ohio Democrats lauded the ruling keeping the 16 Cleveland-area polling places open until 9 p.m.

"This will give more people the opportunity to vote and make their voices heard for change," Ohio Democratic Party Chairman Chris Redfern said in a statement.

Around the state, a few other glitches were reported.

In Summit County, 20 machines recorded multiple ballots at the same time before poll workers corrected the error, said elections official Marijean Donofrio. A precinct in Joy Park opened 90 minutes late because a presiding judge had a family emergency, she said, noting that no one was turned away.

In Lucas County, Jill Kelly, director of the elections board, called the process "fairly seamless," adding "Nothing's ever perfect but God."

An estimated 300,000 votes statewide — provisional, military and absentee — were not expected to be counted last night, the secretary of state's office said.

Dispatch reporters Bill Bush, Jonathan Riskind and Mark Niquette contributed to this story.