

ELECTION REFORM

Briefing

SEPTEMBER 2002

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Working Together? State and Local Election Coordination

Each state strikes a unique balance in allocating responsibility for elections between state and local governments. A survey of all 50 states reveals a wide spectrum of power-sharing arrangements ranging from elections run entirely by state agencies to decentralized elections where not one but several local authorities conduct elections with little or no state involvement.

A top state election official described Rhode Island's system as "highly centralized," with state election authorities handling all the details, from selecting and maintaining voting systems to training poll workers.

In contrast, South Dakota's state election agency has one employee and its budget is submerged within the budget of another executive office. The state election authority approves voting systems and produces training materials; county auditors are responsible for every other aspect of conducting elections. In North Dakota, virtually all decisions are left to county government.

In this report, the fourth in a series examining election reform issues, the Constitution Project and *electionline.org* interviewed state election directors and local officials nationwide to measure the level of cooperation and coordination between states and localities and to gauge the impact of proposed federal changes.



Federal and state legislative proposals now being debated are likely to produce shifts in the traditional division of responsibilities and require increased state and local coordination. Federal legislation is expected to include a new requirement for statewide registration systems; equally important, this same legislation is likely to direct federal funds to the states for distribution to localities.

In states in which elections have traditionally been more decentralized, localities may experience increased interaction with the state as state agencies take on new and unfamiliar roles.

Federalism vs. Uniformity

Although possessing the authority to regulate the “time, place and manner” of elections, Congress has nonetheless been reluctant to act in this area.¹ Members of both the House and Senate repeatedly vowed they would not “federalize elections,” and none of the leading bills came close to testing the limits of federal authority.

The House Report on the election reform bill passed last year asserted that decentralized election administration – meaning a system in which local jurisdictions rather than states or the federal government retain control – has numerous benefits over centralized control.

“The dispersal of responsibility for election administration...leaves the power and responsibility for running elections where it should be, in the hands of the citizens of this country.”

If something goes wrong, who gets blamed?

The varying allocation of responsibility and authority between state and local election agencies makes enforcement a thorny issue. Both the House and Senate versions of election reform delegate enforcement to the U.S. Department of Justice (DOJ), but when DOJ files suit, will the defendant be the state or the local authority?

In some cases, the new law may assign responsibility, as in the House provision requiring states to file a certification as a condition of receiving federal funds. Accordingly, the chief state election official would be the likely target of DOJ action to remedy a false or incomplete certification. Similarly, if grant money is made available to localities, it would follow that the appropriate local election official would be the defendant in any lawsuit to enforce the conditions on such grants.

Who has responsibility for compliance may not be clear in every instance. In looking at DOJ’s history in enforcing federal election laws – specifically, the Voting Rights Act – however, a pattern emerges. Customarily, DOJ focuses on the official(s) with the power to enact the desired remedy.

Thus, when DOJ finds defects in a state legislative redistricting plan – even if the defects are confined to districts within a given locality – the resulting lawsuit will target state officials because only the state legislature can enact changes to district lines. Disputes over local legislative lines (e.g., county or city council districts), however, are litigated against local officials since local government can enact changes.

In the context of election administration, however, the lines of authority are not so clear. Without explicit direction from Congress, DOJ (and perhaps the new election agency) will have to decide which level of government, state or local, has the authority and the ability to bring the jurisdiction into compliance with federal requirements.

All other things being equal, however, state officials – who could be considered an easier target – are the best bet to be answering the door when DOJ comes knocking.

“The dispersal of responsibility for election administration has made it impossible for a single, centrally-controlled authority to dictate how elections will be run, and thereby be able to control the outcome. ... Local control has the further added benefit

of allowing for flexibility, so that local authorities can tailor their procedures to meet the demands of disparate and unique communities. Further, by leaving the responsibility for election administration in the hands of local authorities, if a problem arises, the citizens who live within their jurisdictions know whom to hold accountable. The local authorities who bear the responsibility cannot now, and should not in the future be able to point the finger of blame at some distant, unaccountable, centralized bureaucracy.”²

Despite this endorsement of local control, the new federal law could nonetheless lead to substantial

– House Report on H.R. 3295

Executive Summary

Fifty states and 50 systems have been used to describe election administration in the United States, but a more accurate description would be 50 states – and hundreds of systems.

As Congress considers sweeping election reform legislation as a direct result of voting-day problems in Florida and elsewhere in November 2000, it is becoming clear that increased state and local coordination and cooperation will be required to meet likely federal standards for voting system accessibility and error rates, provisional voting and statewide voter registration databases.³

The states' readiness to meet those goals varies widely around the country, our study found. The findings offer a comparative measure of cooperation and coordination between states and localities in three key areas: funding for elections, local election official training and voting system acquisition.

To the extent that any new federal legislation seeks to make states accountable for implementing election reform, this report gauges their capacity to do that.

changes in the balance of authority between the states and the localities.

Many reformers contend that allowing the states to delegate the authority and responsibility to the localities has led to election mismanagement and inconsistent application of the law. A number of civil rights advocates charge that in the worst cases, local administration has led to chaos, disqualification of eligible voters and racial discrimination.⁴

One Michigan clerk, who testi-

Funding

If Congress provides grants to states, states will likely need to coordinate between state and local offices to determine needs, evaluate programs and distribute federal funds. States will also need to establish mechanisms for transferring funds from the state to the localities. The survey found:

- 19 states provide no funding to localities for elections
- 22 states reimburse localities for some costs or for a percentage of costs incurred in a statewide election.
- 9 states pay the majority of election costs or have made substantial capital expenditures for localities

Training

Well-trained election officials can help a state and locality compensate for other problems in elections, such as aging machines or faulty registration rosters. Lack of training, however, can cause election disasters. Statewide training is the primary means by which a state can promote

locally-administered elections are the best way for ensuring fair voting. Decentralized election administration, they say, makes it virtually impossible to rig an election while allowing for innovation in hundreds if not thousands of laboratories of democracy around the country.⁶

“I have found through my years serving as a local clerk that there are really no consequences for the local clerk, or county clerk, who thinks they know better than to follow the statute,” said Gloria Maichele, clerk for Emmett Charter Township.⁵

Groups representing state and local elections officials counter that

compliance with any new federal requirements. The survey found:

- 12 states conduct no training for local election officials
- 17 states provide voluntary training
- 21 states either certify local election officials or require them to undergo training

Voting Systems

With Congress considering minimum standards for voting system error rates and over-vote detection in the nation's voting machines as well as improved accessibility for voters with disabilities, states could be required to take a more active role in evaluating and testing voting machines for use in localities. The survey found:

- 6 states have no rules regarding voting systems or require only that systems meet federal – and not state – standards
- 35 states require localities to purchase machines that have been tested and approved by the state election authority
- 9 states purchase machines for localities or provide funding for voting systems

locally-administered elections are the best way for ensuring fair voting. Decentralized election administration, they say, makes it virtually impossible to rig an election while allowing for innovation in hundreds if not thousands of laboratories of democracy around the country.⁶

The National Association of Counties, along with the National Association of County Recorders, Election Officials and Clerks, recommended in an election reform report

“...Our nation should not look for a single dramatic solution but for a sustained effort to make improvements and eliminate sources of error. Improvements can and should be made within the present system.”

– NACo, NACRC, Recommendations to Improve America’s Election System

that any federally-funded upgrades to the nation’s elections preserve the decentralized structure that puts most of the authority around the country in the hands of county, city and town governments.⁷

No Longer “Us. vs. Them”?

Likely federal changes will not necessarily spark a turf war in state capitals – but they could.

One state election director, who did not want to be named, recounted an incident which indicated that the lessons of Florida’s 2000 election – a lack of uniformity that ensued in recount chaos, partisan accusations, lawsuits and ultimately Supreme Court intervention – gave pause to local officials who once rejected even the suggestion of state assistance in poll worker training.

In the late 1990s, the official said, the state office offered to produce a videotape on poll worker training. Showing the video, the official said, would be optional, intended as a benefit to local officials who each year must train hundreds of poll workers on rules and equipment. The local officials strongly rejected the idea.

“At that point, no one saw the state as having any role in poll worker training. If the state started doing [videotapes], the state would

eventually take over the training,” the official said.

After the 2000 election, the local officials changed their tune, and actually suggested that the state produce the tapes.

“It said to me that there’s been a change in attitude, and in my view it’s a good change,” the official said. “There’s a recognition that the state can play a role and should play a role and perhaps that things need to be more uniform.”

Not All States Are Ready

The survey conducted for this report indicates that for some state election authorities, the transition to a new role and new relationship with localities will be smoother than for others.

A little over a third of all states have never provided funding to localities to cover the cost of elections;

distributing money, as proposed federal legislation requires, would represent a significant new role and responsibility. State officials will have to determine the needs of their cities and counties and find an equitable formula for distributing the money. For many state agencies, filling this new role will require not only more resources, but also enhanced authority. Inevitably, states and localities will need to forge new relationships with each other.

For this report we surveyed states on three areas of possible coordination between state and local election authorities: (1) whether and how the state currently provides funds to localities to cover any aspect of elections; (2) whether the state trains or certifies local election officials; and (3) whether and how the state approves voting systems. These three areas offer a comparative measure of uniformity in election administration and a gauge of the potential impact of new federal legislation.

The survey also examines how states allocate responsibility and authority over election administration at both the state and the local level. In other words, who is responsible and, equally important, who is accountable for the proper conduct of elections?

“There’s a recognition that the state can play a role and should play a role and perhaps that things need to be more uniform.”

– State election official (name withheld)

Key Findings

Election Coordination Between States and Localities

Of all the lessons Florida’s election presented pundits, reporters, politicians and voters, perhaps none was as striking – or, for many, surprising – as the variation in administration practices between not only states, but counties, cities and towns. While voters in one county used optical-scan machines with low error rates, others used punch-card and butterfly ballots. One county counted dimpled chad, another only counted chad if detached from a ballot by two or more corners.

Some county election officials turned away qualified voters after taking erroneous information given to the state by a private contractor. In other counties, officials decided not to use the information.

As Congress debates a comprehensive election reform bill that could provide up to \$3.5 billion in federal dollars for election upgrades, state and local coordination could again come under a microscope.⁸

Likely new federal requirements include: allowable voting system error rates and accessibility for voters with disabilities; provisional voting as a safeguard for voters who believe they are registered but do not appear on poll rosters; identification requirements for first-time voters who register by mail; and statewide voter registration databases that allow instant access for poll workers. Compliance with these new requirements will depend on coordination between state and local authorities.

The findings in this report gauge the level of coordination

The Waiting Game

Traditionally, states and localities have borne the cost of running elections. Now, for the first time ever, Congress is poised to make a substantial investment in elections. With this infusion of federal grant money, however, come new federal requirements, some of which will force states to take a more active role in election administration. While state officials say they are more than ready for the money, it is less clear how prepared they are to meet the other demands – or how ready localities are to accept these changes.

“That depends on what’s in the final bill,” said Neal Erickson, Nebraska deputy secretary of state. “Do I have a grant writer? No. Do I have the accounting system? No. But these things could be geared up quickly.” According to Erickson, states with fewer resources will likely coordinate and share resources such as a grant writer.

Wyoming passed an election reform bill that will bring the state into compliance with several of the proposed federal requirements before that legislation has even been voted on. Among other measures, the bill establishes provisional ballots and sets new rules for determining what counts as a vote.

In anticipation of federal funding, Idaho and Utah passed legislation establishing an election reform fund in their state budgets. Along with many others, they’re now waiting to learn whether there will be any money to put in the new fund.

already taking place between state and local election authorities. Culled from interviews with state election officials and state law, the findings compare potential areas or opportunities for cooperation and coordination – funding, election official training, voting system certification and ballot design and/or preparation.

In assessing the level of coordination, the findings for each topic were divided into three categories or rat-

ings. In “level 1” states, the survey found a high degree of cooperation or coordination. Taking state funding of elections as an example, Rhode Island, which covers virtually all expenses except for poll workers and polling places in all elections, would be considered a level 1 state.

“Level 2” ratings indicate some coordination. States such as Colorado, which provide reimbursement for some election costs based on the number of voters in a particu-

lar election would be categorized as level 2 for funding.

A “level 3” rating indicates little or no coordination between state and local election administrators. Mississippi, which provides no funding to localities, would be categorized as level 3 for funding.

Funding

Traditionally, localities have borne the cost of running elections. In 19 states, this is still the case. Roughly half the states, however, have developed limited cost-sharing arrangements with the localities. Frequently, the state pays for costs associated with specific statewide elections, such as presidential primaries or referenda. Of the states that share the cost of elections, eight states – Florida, Illinois, Kentucky, Louisiana, Oklahoma, South Carolina, Tennessee and Virginia – reimburse counties for some portion or all the localities’ personnel costs.

Alaska, Delaware and Rhode Island are the exceptions that prove the rule: these states cover most of the cost of all statewide elections – in effect, administering elections at the state rather than at the local level. In Alaska, for example, the state hires and trains local election officials and purchases voting systems. Rhode Island pays for all election costs except hiring poll workers and operating polling places.

In the wake of the 2000 presidential election, five states broke with tradition, appropriating significant funding at the state level for the purchase of new voting systems. Georgia, Louisiana, Maryland, Minnesota and Florida all provided money for new equipment.⁹ In each case, the state considered this a one-

time expenditure that wouldn’t alter the traditional funding relationship.

Notably, the summary below does not account for some costs borne by the state such as managing a statewide database or training local elections officials. Michigan, for example, currently administers a statewide voter registration system at an annual cost of \$1.5 million; Maine produces and pays for the printing of ballots. Rather, this accounting demonstrates whether the state has an established mechanism for sharing the cost of elections with the localities.

- 19 states provide no funding to localities for elections (level 3)
- 22 states reimburse localities for specified costs or a percentage of election costs incurred in conducting a statewide election (level 2)
- 9 states pay for the majority of election costs or have provided funds to pay for new voting systems (level 1)

Training

The role of the state in training local election officials offers a window into the relationship between state and local authorities. State training helps to ensure that local officials understand both state and federal requirements. In addition, a statewide training program indicates that the state considers the uniform conduct of elections among localities a priority and is willing to provide resources to that end.

Nearly 80 percent of the states (39) provide either voluntary or mandatory training for election officials. Of these, 23 require local election officials to take the training.

Seven states – Arizona, Connecticut, Michigan, Minnesota, North Carolina, South Carolina and

Washington – go one step further and establish a state certification process for local officials. In Florida and Tennessee, the state does not require election officials to undergo training but will supplement the salaries of those election officials who have taken additional training or passed the state certification process.

- 12 states don’t conduct training for local election officials (level 3)
- 17 states provide voluntary training for local election officials (level 2)
- 21 states certify local elections officials or make training mandatory (level 1)

Voting systems

In the vast majority of states, the state election authority tests and approves voting systems to ensure they meet the requirements of state law, while delegating the selection and purchase of equipment to local election authorities. State approval processes vary widely, however. California, for example, provides extensive equipment testing and – equally important – conducts an “acceptance test” to make sure the vendors have sent the counties the same system that was certified. The state works with disability organizations and language-minority groups to ensure systems can meet all state requirements in a real-world election. The state’s systems expert often takes an active role in the county purchasing process.

California is not the norm; many states provide only a cursory evaluation of equipment, relying more heavily on testing and approval conducted according to the Federal Election Commission’s Voting System Standards. Thirty-**nine** states

require, whether by state law, by regulation or in practice, that new voting systems meet these federal standards.

In a small number of states, the state controls the entire process. Georgia, for example, purchased new systems for every county in the state as part of its election overhaul following the 2000 election. On the other end of the spectrum, in Mississippi, Utah, Oklahoma and Nevada the state election authority has no say over what machines the counties may purchase.¹⁰

In the future, states that provide either federal or state funds for new systems are likely to take a more active role not only in procuring equipment, but also in ensuring that equipment meets any new standards.

As a side note to the state's authority over voting systems, our research found that 16 states produce, approve or certify ballots.¹¹ While state law may dictate ballot rotation or font size, for example, the design and production of ballots is still left to the localities; the state has no role in the process. The importance of ballot review by state officials became apparent in the 2002 elections.

According to *The Washington Post's* Dan Keating, the controversial "butterfly ballot" used in Palm Beach, Fla., was not legal under state law. "Maybe what they need is not better rules but better enforcement of the rules, which quite frankly really was the problem in Florida."¹²

This hands-off approach is likely to change in states that adopt uniform statewide systems. In Georgia, for example, the state election office will be designing the screen layout for the state's new touch-screen machines.

- 6 states either have no rules regarding which voting systems localities may purchase or require only that machines meet federal standards (level 3)
- 35 states require localities to purchase machines that have been tested and approved by the state election authority (level 2)
- 9 states purchase machines for the localities or provide funding for uniform statewide voting systems (level 1)

Who's In Charge?

State election authorities vary in size, structure and even power. As the role of state agencies change with the anticipated passage of federal election reform, the structure for carrying out these responsibilities will likely change as well.

In a majority of states, an elected official – the secretary of state – heads the state election authority. In Delaware, New Jersey, Pennsylvania and Texas the state elections official is appointed; in Maine and New Hampshire the state legislature elects the state election official.

Of the 29 secretaries of state with election responsibilities, slightly more than a third have some regulatory authority.¹³ Most, however, only have authority to provide guidance or information on election law. "State legislatures, in general, are reluctant to grant a partisan constitutional officer, such as a secretary of state, extraordinary powers," explained Bill Kimberling, deputy director of the Federal Election Commission's Office of Election Administration.

Other states delegate election authority to an independent, bipartisan election board or commission made up of politically-appointed

members. In most cases the governor appoints the members with some mechanism to ensure bipartisanship. The executive director, typically appointed by the board, then serves as the state's chief election official. These agencies frequently have rule-making or regulatory authority. New York, North Carolina and Wisconsin give these agencies an enforcement role.

A few states divide the state's election responsibilities among two or more agencies. In Louisiana, for example, the secretary of state and the commissioner of elections have responsibility for different aspects of election administration (this will change at the end of the commissioner's term in 2003). In some instances, the state has both a secretary of state and an independent commission or board. In Arkansas, Georgia, Kentucky, South Dakota, and West Virginia, the secretary of state serves as chair or secretary of the independent agency.

In yet another variation, three states – Connecticut, Florida and Georgia – created separate agencies to enforce election laws, including campaign finance laws.

The lines of responsibility at the state level are not always clear. In New York, for example, both the attorney general and the New York State Task Force on Election Modernization, established by the governor, produced comprehensive recommendations for election reform. While the reports shared many recommendations, they also differed on such issues as liberalizing absentee voting, prohibiting punch-card voting systems and lengthening polling place hours among others.

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- Level 1:** state mandates training or certifies local elections officials
- Level 2:** state provides voluntary training for local election officials
- Level 3:** state does not conduct training

Summary

Level 1:

21 states
 Alaska
 Arizona
 Arkansas
 Connecticut
 Delaware
 Illinois
 Maine
 Maryland
 Michigan
 Minnesota
 Mississippi
 Montana
 Nebraska
 New Mexico
 North Carolina
 Ohio
 Oregon
 Rhode Island
 South Carolina
 Vermont
 Washington

Level 2:

17 states
 California
 Colorado
 Florida*
 Georgia
 Hawaii**
 Idaho
 Indiana
 Iowa
 Kansas
 Massachusetts
 Missouri
 North Dakota
 South Dakota
 Tennessee*
 Texas
 Virginia
 Wisconsin

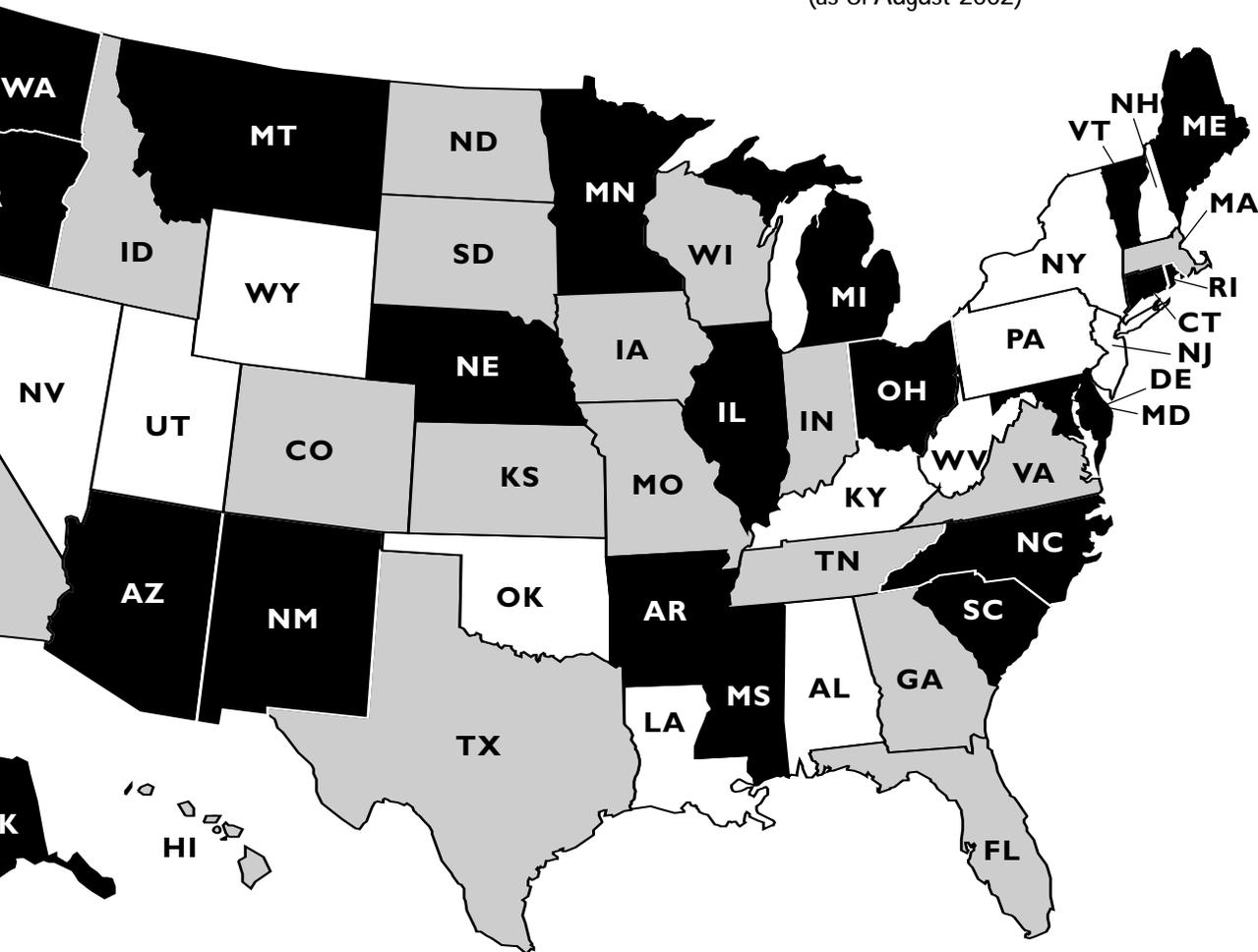
Level 3:

12 states
 Alabama
 Kentucky
 Louisiana
 Nevada
 New Hampshire
 New Jersey
 New York
 Oklahoma
 Pennsylvania
 Utah
 West Virginia
 Wyoming

* Florida and Tennessee supplement the salaries of those local officials who undergo state training.
 ** Hawaii certifies poll workers.

Training

(as of August 2002)



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- 10 states have an independent appointed commission or board to oversee elections
- 28 states house all election administration within a single agency headed by a statewide official
- 9 states divide election responsibility among two or more agencies
- 3 states divide the enforcement of election laws from the administration of those laws by creating an independent enforcement agency

Capacity

In addition to the authority granted the state agencies, the agencies' size and capacity can affect the state's ability to implement new reforms or bring localities into compliance with statewide rules. Indeed, state agencies with little authority to enforce compliance can sometimes compensate, for example, by conducting an active training program or by taking on the task of administering voter registration.

The size of state election agencies or divisions ranges from one to 60 full-time employees (FTE). Staff size in some states can double in an election year. In the last year, several states facing budget shortfalls have endured cuts in staff. Many states will likely need either to hire consultants or increase staff in order to fulfill the new federal requirements.

While the population of a state can give some indication of how many election personnel a state employs, it is not always reliable. Pennsylvania, the sixth most populous state in the country, has 10 full-time employees; New Jersey, the ninth most populous state, has only five full-time employees. Conversely, Delaware and Alaska,

two of the least populated states, have election offices of 43 and 22 employees, respectively.¹⁴

- 24 state election offices have 10 employees or fewer
- 12 state offices have between 10 and 25 employees
- 10 state offices have over 25 employees

State election budgets

Few state budgets include a separate line item for election administration. Frequently costs associated with elections are absorbed into agency budgets. The intermittent nature of elections means that in some states, funds will double in an election year. Among those states able to produce a discrete accounting of election funds, the total amounts ranged from \$225,000 to \$10 million.

Local authority

Rep. Bob Ney, R-Ohio, one of the principal architects of election reform, raised the issue of accountability when he declared that "local authorities who bear the responsibility cannot now and should not in the future be able to point the finger of blame at some distant unaccountable centralized bureaucracy."¹⁵ While in the vast majority of jurisdictions the election authority is either elected or appointed by a local governing body, in some states, the state agency appoints local election officials.

These differences will affect the relationship between the state and local election authorities. According to Richard Smolka, editor of *Election Administration Reports*, "an elected official, particularly one who is a constitutional officer, is less likely to take direction from a state official because that person has the support of the law and the vote of the people." In the last election, for example, not all county officials removed the voters that had been identified as felons in the controversial ChoicePoint list provided by state officials.

States have limited authority over election officials. When last year the Virginia State Board of Elections attempted to remove local electoral board members for failure to follow state law on the treatment of ballots, the state board's only recourse was to appeal to local precinct judges responsible for appointing the electoral board members. The state board had the authority to fire the local registrar but not electoral board members.

- In 15 states the state election authority has a role in appointing the local election authority.
- In 19 states an elected county official is responsible for local election administration.
- In 12 states the local election authority may be appointed or elected.
- In 4 states the local government appoints the local election authority.

"Local authorities who bear the responsibility cannot now and should not in the future be able to point the finger of blame at some distant unaccountable centralized bureaucracy."

– Rep. Bob Ney, R-Ohio



Snapshot of the States

CEO=Chief Election Official
SA=State Agency

SOS=Secretary of State
FTE=full-time employees

Alabama	State pays for half of elections that include federal, state and county races and the total cost for exclusively federal and/or state elections. State regulation requires that voting systems to meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (6 FTE); Alabama Office of Voter Registration handles all aspects of registration except compliance with the National Voter Registration Act (NVRA).
Alaska	State pays for and conducts primary and federal and state elections, which are combined, and for certain local elections. State is responsible for hiring and training local election officials. State purchases voting equipment and required systems to meet federal standards. • CEO : Lieutenant Governor, elected statewide • SA : Election Director and 4 regional offices (22 FTE).
Arizona	State reimburses counties for printing, labeling and mailing sample ballots for statewide elections, including general elections. State provides mandatory training and certification of local election officials and Secretary of State publishes elections manual. (League of Arizona Cities and Towns trains city election officials.) State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Election Services (9 FTE).
Arkansas	State Board of Election Commissioners (SBEC) reimburses counties for primary elections and statewide special elections. State law mandates SBEC training of at least one election official per precinct using state materials according to state guidelines. State approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division oversees records and voter registration. State Board of Election Commissioners has 6 bipartisan, appointed members; SOS serves as chair (4 FTE). SBEC oversees all other aspects of state election administration.
California	State reimburses localities for state-mandated costs. State conducts voluntary training and produces training materials. State law requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (35 FTE).
Colorado	State reimburses counties on a per-voter basis when the ballot has statewide candidates or ballot measures; reimburses all costs for statewide elections. State paid the counties' licensing fees for voter registration software. State conducts voluntary training for clerks. State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division.
Connecticut	State provides training and certification of chief polling-place officials, and also trains on how to train polling place workers. State requires that voting systems meet federal standards; state approves voting systems. State approves ballots. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division oversees administration. State Elections Enforcement Commission has 5 bipartisan, appointed members; oversees enforcement.
Delaware	State pays for all local election administration. The state trains all voter registrars and poll workers. State purchased voting systems and required that voting systems meet federal standards. • CEO : Commissioner of Elections, appointed by Governor and confirmed by Senate • SA : Department of Elections (43 FTE).
Florida	State pays for special elections called by the governor to fill a vacancy. The state has appropriated money on a one-time basis (over two fiscal years) to replace voting systems; a second appropriation covered the cost of hiring and training poll workers. The state conducts voluntary training for local officials; the state will supplement the salaries of local officials who take continuing education provided by the state or other organizations. State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide (in 2003, the SOS changes to an appointed position) • SA : Secretary of State's Division of Elections oversees elections administration (42 FTE). 9-member Florida Elections Commission oversees enforcement.
Georgia	In 2001, the state appropriated \$54 million on a one-time basis to institute a uniform statewide voting system. State purchased voting systems and required that voting systems meet federal standards. After new touch-screen voting systems are in place, the state will be responsible for screen (ballot) layout. State conducts voluntary training for local election officials. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division oversees elections administration (staff: 21 FTE). Georgia Board of Elections (GBE) has 4 bipartisan, appointed members. GBE oversees enforcement; SOS serves as chair.
Hawaii	The state shares the cost of elections with localities based on a percentage formula that varies by program area. The state establishes all procedures and provides training and training manuals for local election officials. State leases voting systems and requires that voting systems meet federal standards. The state works with the vendor to design the ballots; ballots are uniform throughout the state. • CEO : Chief Election Officer appointed by the bipartisan Elections Appointment Review Panel • SA : Office of Elections.

Snapshot of the States, continued

CEO=Chief Election Official
SA=State Agency

SOS=Secretary of State
FTE=full-time employees

Idaho	The state reimburses the counties for 25 percent of ballot printing and publication costs for presidential preference primaries. State required to provide biannual training. State requires that voting systems meet federal standards; state approves voting systems. State certifies the ballots. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (3 FTE).
Illinois	State legislature approves uniform stipend for county clerks; state reimburses counties for percentage of election judge salaries. State provides mandatory election judge training. State requires that voting systems meet federal standards; state approves voting systems. Election authorities choose and purchase tabulating systems from among those certified; state tests periodically after installation. • CEO: Executive Director of the Illinois Board of Elections (IBE), appointed by the IBE • SA: IBE, an independent state agency, has 8 appointed members (staff: 60 FTE).
Indiana	State provides voluntary training and materials. State requires that voting systems meet federal standards; state approves voting systems. State approves ballot design. • CEO: Co-directors, Indiana Election Commission • SA: SOS Elections Division, and the Indiana Election Commission (IEC). IEC has 4 bipartisan, appointed members (staff: 10 FTE); IEC oversees enforcement.
Iowa	State provides voluntary training for local election officials. State requires that voting systems meet federal standards; state approves voting systems. State certifies ballots for certain elections. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (5 FTE), State Voter Registration Commission and Board of Examiners for Voting Machines.
Kansas	State provides training for election officials at the request of the county officers' organizations. State policy requires that voting systems meet federal standards; state tests and approves voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (6 FTE).
Kentucky	State reimburses localities annually on a per-voter basis; in addition, following an election, counties can request reimbursement for personnel and other costs. State provides training materials for clerks. State law requires that voting systems meet federal standards; state approves voting systems. • CEO: Secretary of State, elected statewide • SA: State Board of Elections, an independent agency, has 6 appointed bipartisan members (staff: 12 FTE); SOS serves as chair.
Louisiana	The state subsidizes 50 percent of state elections. State requires that voting systems meet federal standards; state approves voting systems. State produces ballots for every parish. • CEO: Secretary of State, elected statewide • SA: SOS Department of Elections, oversees candidate certification, election administration; Commissioner of Elections, elected statewide, regulates voting equipment and voter registration, disburses payment to localities.
Maine	State provides ballots and forms. As of January 2003, state training of election officials will be mandatory; state will also provide optional training for poll workers. State requires that voting systems meet federal standards; state approves voting systems. State produces ballots. • CEO: Secretary of State, elected by legislature • SA: SOS Division of Elections (6 FTE).
Maryland	State provides matching funds for uniform voting equipment purchases. State provides uniform election judges' training and procedures manual used throughout the state. State approves voting systems and employs federal standards. State approves ballots. • CEO: State Administrator of Elections, appointed by State Board of Elections. • SA: State Board of Elections, an independent agency, has 5 bipartisan appointed members (staff: 28 FTE). SOS certifies candidates, accepts petitions.
Massachusetts	State pays costs of special elections or for extended polling hours. Town/local elections on state issues get special funding for supplies such as printing of ballots. State provides voluntary training for local election officials. State regulation requires that voting systems meet federal standards; state approves voting systems. State prints ballots for state elections; provides guidelines for local election ballots. • CEO: Secretary of Commonwealth (SOC), elected statewide • SA: SOC Elections Division (7 FTE).
Michigan	State reimburses localities 100 percent for presidential primaries and other statewide special elections. SOS office trains and accredits all local election officials. State requires that voting systems meet federal standards; state approves voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections division (30 FTE).
Minnesota	Some counties will receive one-time matching grants (in 2002) to pay for half of the cost of new optical-scanning machines. State certifies county election officials. State trains election judges. State regulation requires that systems meet federal standards; state approves voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (8 FTE).

CEO=Chief Election Official
SA=State Agency

SOS=Secretary of State
FTE=full-time employees

Mississippi	State provides mandatory standardized training for county and municipal election commissioners conducting general elections and for political party county chairpersons conducting primary elections. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (12 FTE).
Missouri	State reimburses localities for the cost of conducting statewide elections in off-years or special elections that do not coincide with primary or general elections in even-numbered years. State provides voluntary training for election officials and training for new election officials. State requires that voting systems meet federal standards; state approves voting systems. State must approve any “butterfly ballot” designs. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (6 FTE).
Montana	State provides mandatory training for county clerks and recorders. State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections and Legislative Bureau (4 FTE).
Nebraska	State provides mandatory training for local election officials. State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Election Administration Office (2 FTE).
Nevada	State reimburses counties for costs of publishing statewide ballot questions and for ballot stock. State law requires that voting systems to meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (6 FTE).
New Hampshire	State approves voting systems. • CEO : Secretary of State, elected by legislature • SA : SOS Elections Division (6 FTE).
New Jersey	State approves voting systems. • CEO : Attorney General, appointed by Governor • SA : Division of Elections (5 FTE).
New Mexico	State pays for approximately 40 percent of election supplies. State provides mandatory training for election officials before federal elections. State runs mandatory training of poll workers in large counties. State law requires that voting systems meet federal standards; state approves voting systems. State approves ballots. • CEO : Secretary of State, elected statewide • SA : SOS Bureau of Elections (6 FTE).
New York	State regulation requires that voting systems to meet federal standards; state approves voting systems. • CEO : Executive director of State Board of Elections, appointed • SA : New York State Board of Elections, an independent agency, has 4 part-time appointed commissioners (43 FTE).
North Carolina	State certifies local election officials and requires training of poll workers with state-produced materials. State approves voting systems. State approves ballots using statutory guidelines. • CEO : Executive Director, State Board of Elections, appointed by SBE. • SA : SBE, an independent, quasi-judicial body, has 5 appointed, bipartisan commissioners (20 FTE).
North Dakota	State provides voluntary training for local election officials. Counties approve voting systems. State provides counties with sample ballot designs; counties must seek approval to changes the sample design. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division, (1 FTE).
Ohio	State reimburses counties for poll worker training and advertising of statewide issues. State provides mandatory training for local election officials. State requires that voting systems meet federal standards; state approves voting systems. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (25 FTE).
Oklahoma	State pays salary of chief election official in each county. State provides localities with training material. • CEO : State Election Board Secretary, appointed • SA : State Election Board, an independent body, has 3 appointed members (24 FTE).
Oregon	State pays for special elections, statewide recall or other not regularly scheduled elections. State provides voluntary and mandatory training for local election officials. State gives directives for ballots; changes must be approved. • CEO : Secretary of State, elected statewide • SA : SOS Elections Division (15 FTE).
Pennsylvania	State approves voting systems. • CEO : Secretary of Commonwealth, appointed • SA : State Bureau of Commissions, Elections and Legislation (10 FTE dedicated to elections).

Snapshot of the States, continued

CEO=Chief Election Official
SA=State Agency

SOS=Secretary of State
FTE=full-time employees

Rhode Island	State pays for all election costs except poll workers and polling locations. State conducts mandatory training for election officials and poll workers. State purchases and maintains voting equipment; systems purchased must meet federal standards. State designs and prints ballots. • CEO: Secretary of State, elected statewide • SA: State Board of Elections has 7 appointed members (15 FTE).
South Carolina	State pays all costs associated with primaries. Each local election board member receives \$1,250 annually from state. State pays portion of ballot costs for general election and all poll worker wages. State certifies county election officials. State requires voting systems to meet federal standards; state approves voting systems. • CEO: Executive Director of State Election Commission (SEC), appointed to indefinite term by SEC. • SA: SEC, an independent agency; has 5 appointed members (20 FTE).
South Dakota	State provides optional training materials and offers voluntary training for local election officials and staff. State requires that voting systems meet federal standards; state approves voting systems. State approves ballot language • CEO: Secretary of State, elected statewide • SA: SOS elections office; State Board of Elections has 7 appointed bipartisan members, (1 FTE). SOS serves as chair.
Tennessee	State provides funding that covers part of local Administrator of Elections' salaries if state certified – \$18,000 annually to each county. State administers voluntary certification classes and examination. State requires that voting systems meet federal standards; state approves voting systems. State establishes ballot layout. • CEO: State coordinator of elections, appointed by SOS • SA: SOS Division of Elections (7 FTE); State Election Commission has 5 bipartisan members elected by the legislature.
Texas	State pays 85 percent of the cost of all primaries. State provides voluntary training videos for poll workers and conducts voluntary training schools. State regulation requires that voting systems meet federal standards; state approves voting systems. • CEO: Secretary of State, appointed by Governor • SA: SOS Elections Division (33 FTE).
Utah	State provides voter information for constitutional questions. State requires that voting systems to meet federal standards. • CEO: Lt. Governor, elected statewide • SA: State Elections Office (5 FTE)
Vermont	State provides ballots for general and primary elections. State provides mandatory training for local election officials. The state approves voting systems and designs ballots for all voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (3 FTE)
Virginia	State appropriates approximately \$6.5 million annually to reimburse counties for local officials' salaries. State provides voluntary training and produces handbook for registrars and electoral boards. State regulation requires that voting systems meet federal standards; state approves voting systems. State Board of Elections approves ballot. • CEO: State Board of Elections Secretary, appointed • SA: State Board of Elections has 3 bipartisan, appointed members (25 to 30 FTE).
Washington	State reimburses counties for odd-year election costs when statewide initiatives are on the ballot. Funding based on number of initiatives on the ballot. State office certifies county auditor or deputy. State requires that voting systems meet federal standards; state approves voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (30 FTE)
West Virginia	State provides absentee voting guide. State provides video and audiotapes to train poll workers; use is mandatory. State policy requires that voting systems meet federal standards. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division, 5 employees, 6 field officers. West Virginia State Elections Commission has 4 appointed, bipartisan members; the SOS serves as SEC secretary. SEC oversees voting systems and campaign finance.
Wisconsin	State does not provide funds for local election administration. State required to provide voluntary training. State requires that voting systems meet federal standards; state approves voting systems. • CEO: Executive Director of State Elections Board, appointed • SA: State Elections Board has 8 bipartisan, appointed members (12 FTE).
Wyoming	State provides supplies, including absentee ballot envelopes, voter registration withdrawal forms, voting guides and campaign guides. State provides voluntary election judge handbook. State requires that voting systems meet federal standards; state approves voting systems. • CEO: Secretary of State, elected statewide • SA: SOS Elections Division (3 FTE)

Methodology

Information for the map and state-by-state summaries was culled primarily from phone interviews with election directors and/or their deputies in all 50 states between June 2002 and August 2002. In addition, state codes were reviewed. State election officials verified all entries. Officials' explanations were considered to be authoritative in resolving any inconsistencies. For congressional information, first-hand sources, including legislation, the *Congressional Record*, hearing transcripts and other primary materials were used.

In addition to materials cited in this report, other research sources include:

"An Agenda for Election Reform," *Brookings Policy Brief No. 82*, by Thomas Mann, The Brookings Institution, June 2001.

Culver, Chet. *Iowa's Election 2000: Facts, Findings and Our Future*, March 2001.

"Election Reform Report Says Changes Needed at All Levels," National Association of Counties, June 2001.

The Federal Election Commission's Office of Election Administration, <http://www.fec.gov/elections.html>

The Indiana Bipartisan Task Force on Election Integrity, *In the Best Interest of the Voter*, Oct. 2001.

Michigan Task Force on Voting Reform, *Voting Reform: A Report of the People*, Sept. 2001.

National Association of Secretaries of State

National Conference of State Legislatures

Oregon Elections Task Force, *Report of the Oregon Elections Task Force*, Feb. 2001.

Endnotes

¹ Constitutional lawyers are largely in agreement that the Constitution's elections clause (Article I, Section 4) invests the states with responsibility for the mechanics of congressional elections, but only so far as Congress declines to pre-empt state legislative choices. According to Pamela Karlan, a law professor at Stanford University, "it is well settled that the Elections Clause grants Congress the power to override state regulations by establishing uniform rules for federal elections, binding on the States. The regulations made by Congress are paramount to those made by the State legislature." Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, "Congressional Authority to Regulate Elections and Election Technology," www.constitutionproject.org, Feb. 2001.

² H.Rep. 107-329 Report on H.R. 3295: Help America Vote Act of 2000. p. 32.

³ For more information, see electionline.org and Constitution Project's *Election Reform Briefing*, "Statewide Voter Registration Databases," *Election Reform Briefing*, "Provisional Voting Challenge," Jan. 2002.

⁴ "The federal government guarantees every American's right to vote, but state governments bear the responsibility of handling the structural aspects of voting. Even for federal elections, Congress has assigned to states the power of registering people to vote, setting up polling places, printing ballots, and making the rules for who is and is not eligible to vote. The states have further delegated many of these functions to local government...when states and localities shirk their responsibilities or otherwise manipulate election systems, the end result is structural disenfranchisement – and voters are either turned away from the poll or their votes are thrown out." *America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy*, The Advancement Project, Nov. 2001.

⁵ Michigan Task Force on Voting Reform, *Voting Reform: A Report of the People*, Sept. 2001.

⁶ "Fix the vote, but skip the uniformity," by R. Doug Lewis, executive director, The Election Center, *The Washington Post*, Dec. 24, 2000.

⁷ "The election system of the United States is large and complex with many interdependent parts, including political parties and campaigns, the media, voters, and numerous government agencies, which are not under the authority of election officials. Coordination is diffi-

cult and changes in one part often produce unintended consequences in another. The conclusion the Commission reached is that our nation should not look for a single dramatic solution but for a sustained effort to make improvements and eliminate sources of error. Improvements can and should be made within the present system." *Recommendations to Improve America's Election System*, National Association of Counties, National Association of County Recorders, Election Officials and Clerks, May 2001.

⁸ The House approved \$2.65 billion (H.R. 3295); the Senate approved \$3.5 billion for election reform (S. 565).

⁹ In 2001, California voters approved a bond measure that will provide \$200 million to replace punch-card systems and improve elections.

¹⁰ In August 2002, Utah's state legislature passed a bill requiring that voting systems meet specified state standards and the federal Voting System Standards.

¹¹ The following states certify or review all or some ballots: Conn., Hawaii, Idaho, Ind., Iowa, La., Maine, Md., Mass., Mo., N.M., N.C., N.D., Ore., R.I., Vt.

¹² Dan Keating, remarks given at "Election Reform: Action and Reaction," Washington, D.C., Jan. 2002.

¹³ Secretaries of state in the following states have some rulemaking or regulatory authority: Az., Colo., Ks., Mass., Neb., S.D., Tenn., Vt., Ore., Wash. and W.Va.

¹⁴ Table ST-2001EST-04 – States Ranked By Estimated July 2001 Population, Population Division, U.S. Census Bureau, Dec. 27, 2001.

¹⁵ Keynote address, "Election Reform: Action and Reaction," Washington, D.C., Jan. 2002.

electionline.org, administered by the Election Reform Information Project, is the nation's only nonpartisan, non-advocacy website providing up-to-the-minute news and analysis on election reform.

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electionline.org
Your first stop for election reform information

1101 30th Street, NW
Suite 210
Washington, DC 20007
tel: 202-338-9860
fax: 202-338-1720
www.electionline.org



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The Constitution Project

1120 19th Street, NW
8th Floor
Washington, DC 20036
tel: 202-721-5616
fax: 202-721-5659
www.constitutionproject.org