



NEW YORK NEEDS ELECTION REFORM NOW: Industrial Age Patronage to Information Age Accountability

Specific Recommendations for Action

I. DISMANTLE the CURRENT BOARD of ELECTIONS

- A. Amend the State Constitution and end the two-party control and patronage-driven operation of both the state and city boards of election and end their existence.** The New York State Constitution currently mandates that there must be equal representation of the two political parties which received the highest and next highest vote totals during the last gubernatorial election.

- B. Amend the State Constitution and abolish partisan appointment of election boards and officers.** In addition to the requirement for an even number of members from the two major parties, the Constitution also permits the parties to appoint their respective officers.

Should these recommended changes to the constitution be implemented, Citizens Union recommends an alternate structure to the State Board of Elections (State Board) and has determined that a Chief Election Officer (CEO) should be appointed to administer elections and a nonpartisan board be created to perform certain policy-making and quasi-judicial functions.

Citizens Union proposes creating a nonpartisan board at the state level which would provide a list of appointees for a CEO to the Governor. The specific structure, appointment, and duties of the board are outlined below.

II. CREATE a NEW ELECTION ADMINISTRATION STRUCTURE

A. Statewide Election Structure

1. Create a Nonpartisan Statewide Election Board

The nonpartisan board is comprised of nine members, appointed as follows:

- Four appointed by the Governor.
- One appointed by the Speaker of the Assembly.
- One appointed by the Temporary President of the Senate.
- One appointed by the Minority Leader of the Senate.
- One appointed by the Minority Leader of the Assembly.
- One appointed by a majority vote of the eight members of the board, with a requirement that at least one of the supporting votes must be from a board member of a different party than the other board members, who would serve as Chair.

2. Qualifications for Members of Nonpartisan Board

In order to achieve a nonpartisan board, the qualifications for members should be as follows:

- a. Of the four members appointed by the governor, no more than two shall be enrolled in the same political party.
- b. No member of the commission shall hold any office in any political party, or have held office in any political party in the last year.
- c. No person while a member shall hold any public office or seek election to any public office.
- d. Experience with election administration considered.
- e. Members must undergo training.

3. Duties of Nonpartisan Board

- a. Provide the Governor with a list of five potential appointees for a Chief Election Officer.
- b. Perform some of the policy-making and quasi-judicial functions of the current State Board of Elections, such as:
 - i. Prescribe standard voter registration forms.
 - ii. Determine ballot eligibility of parties.
 - iii. Approve new voting systems/devices.
 - iv. Investigate violations of the Election Law.
 - v. Hear state-level election disputes regarding petitions, recounts, etc.
 - vi. Conduct private or public hearings relating to the Board's responsibilities.
 - vii. Administer oaths or affirmations, subpoena witnesses, compel attendance, examine evidence, etc.
 - viii. Have the ability to appoint a special investigator to examine crimes against the elective franchise.
 - ix. Approve rules and regulations for election procedures, as developed by the CEO.

- x. With CEO, provide annual report to the Election Assistance Commission, Governor and Legislature regarding performance and recommendations for improvements to promote fair, honest, and efficiently administered elections.
- c. Assume some of the responsibilities of the local boards of election, such as:
 - i. Develop standards for all ballots, including absentee ballots.
 - ii. Develop standards for training local election officials and poll workers.
 - iii. Select new voting systems/devices for the state

4. Term of Nonpartisan Board

The term of for the nonpartisan board would be four years and the terms would be staggered to ensure that the entire board is not up for reappointment at the same time. The rationale for the change to the state board of elections' current two-year term is that the present term is too short to allow for meaningful time to conduct the board's work, and does not allow for needed independence.

5. Appoint Statewide Chief Election Officer (CEO)

The CEO would be appointed by the Governor from a list of five candidates provided by the nonpartisan board. The Governor must choose from among those five candidates, unless there is undue delay by the board in providing a list of prospective candidates. No Senate confirmation necessary.

6. CEO Qualifications

The CEO would be required to take an oath to uphold voters' rights and the secrecy of the vote, and to perform his or her duties without favoritism. The CEO would also be required to have significant experience with election administration. The CEO shall not hold any office in any political party, or have held office in any political party in the last year, and shall not hold any public office or seek election to any public office.

7. CEO Term

Five-year fixed term of office, removable only for cause by the Governor. If removed, Governor would need to select replacement from a new list compiled by the nonpartisan board. This new list may include candidates from the previous list submitted to the Governor.

8. Duties of CEO

- a. The CEO would assume many of the duties of the current State Board of Elections, such as:
 - i. Issue instructions and promulgate rules and regulations relating to the administration of the election process, subject to board approval.
 - ii. Visit local officials, examine their procedures and records and ensure that procedures are consistent with state law and regulations.
 - iii. Advertise statewide ballot questions.
 - iv. Prepare election calendar.
 - v. Canvass election returns for statewide and multi-county elections.
 - vi. Administer statewide voter database.
 - vii. Take all steps to encourage broadest possible voter registration, including administering agency-based registration programs.

- viii. Compile information regarding the National Voting Rights Act and report findings to the Governor and Election Assistance Commission, as well as provide an assessment of operations and recommendations for improvement.
 - ix. Study and examine the administration of elections in the state.
 - x. With nonpartisan board, prepare annual report to Governor and Legislature regarding performance and recommendations for improvements to promote fair, honest, and efficiently administered elections.
- b. The CEO would also assume many of the responsibilities of the local boards of election, such as:
- i. Administer voter education for state elections and coordinate with local officials to provide voter information.
 - ii. Conduct regular training and certification of local election officials (modeled on other states, such as California, Georgia and Kansas).
- c. New responsibilities of the CEO would include:
- i. Develop and distribute a Voter Guide for statewide elections.
 - ii. Collect and publish online data from local offices regarding election results and statistics.

9. Reporting Relationship to Nonpartisan Board

The CEO would report to the board regarding all operations, including canvassing and procedures for county officials. The board would sign off on reports and recommendations to the Election Assistance Commission, Governor, and Legislature.

B. Local Election Structure

On the local level, a similar structure would be established between an appointed Chief Local Election Officer (CLEO) and a locally chosen Board of Canvassers. The CLEO implements state policy decisions while the Board checks ballots and voter registration to ensure bipartisan oversight and counting of votes.

1. Appoint Chief Local Elections Officer (CLEO)

- a. The CLEO and his or her deputy CLEO would be appointed by the local county executive, or in the case of New York City, the Mayor, with the advice and consent of the local legislature. In smaller counties, both the CLEO and deputy could be part-time employees. This method of selection ensures the greatest level of local accountability, which is the problem with the current structure of the board, there is no local accountability despite majority of funding is at the local level.
- b. Qualifications: The nominee must have election experience; cannot hold elective office in the year preceding appointment until one year after the expiration of his or her appointment as CLEO or deputy CLEO; hold a leadership position with a state or local political party; or hold a paid position with a campaign for elective office in the local county in which seeking nomination. The deputy CLEO cannot be of the same political party as the CLEO.
 - i. As part of the appointment process, the appointee before taking office must complete training and be certified by the state CEO.

2. CLEO Term of Office and Removal

- a. The CLEO's term of office should be five years, which would be the same term as the State CEO. For the first term, the CLEO would serve a four-year term in order to ensure that the CLEO is not on the same term schedule as the State CEO.
- b. The CLEO can be removed for cause, similar to the State CEO, by the appointing authority. This seeks to ensure that there is accountability at the local level. Further, the State CEO will have the power to intervene on the local level in egregious circumstances which will create an additional layer of oversight.

3. CLEO Responsibilities

- a. Administers absentee voting and in-person absentee voting. The State CEO and State Board, however, would be responsible for prescribing when in-person absentee voting begins, which will ensure that this is standardized throughout the State.
- b. Maintain current local registration structure, where CLEO would be responsible for voter registration, including agency-based registration, and maintenance of the local portion of the voter registration database, including updating lists according to duplicate checks and state verification.
- c. Draft plans establishing, changing or abolishing local election precincts. The local legislative body may approve or disapprove of the precinct plan, but may not modify such plan.
- d. Appoints poll workers from a "blind database" comprised of names forwarded by the parties, from the CLEO's own recruitment efforts and from civic groups. Appointing poll workers in accordance with the bipartisan requirement should only be necessary for those poll workers responsible for tallying votes, which are poll site coordinators and inspectors. Therefore, under this recommendation, clerks would no longer be required to be party affiliated, as they are not responsible for tallying votes. All other positions will remain open to legally valid applicants, regardless of party affiliation, and should be appointed without consideration of political affiliation, as currently is provided in state election law. The rationale for a blind database is to ensure that the CLEO does not overly weigh the names emanating from the party system.
- e. Submits the official vote canvass to State CEO for certification.
- f. Train staff and poll workers in accordance with standards drafted by State CEO and approved by State Board, including standards relating to preparation, use, maintenance and repair of voting machines.
- g. State CEO selects system for use statewide, with a waiver process allowing a locality to opt-out of the mandated machine if they demonstrate extenuating or unique circumstances.
- h. Processes and verifies candidate petitions and other documents.
- i. Prints local ballots, after ballot formatted by State CEO. State CEO would handle preparation of presidential primary ballot.
- j. Conducts voter education, notification and dissemination of election information for all elections except the presidential primary, which is handled by State CEO.
- k. Select and manage poll site locations, with input on selection from the local legislature;
- l. Maintain, repair, setup and deploy Election Day operation equipment;
- m. Prepare maps of various political subdivisions.
- n. Prepare an annual report of its affairs and proceedings to local legislative body, local executive, State CEO and State Board once every year.

4. Appoint Local Board of Canvassers

- a. Board members would be appointed by local legislative body and local executive, with the local executive designating a chair on the advice and consent of local legislature. In New York City there would be eleven commissioners – ten appointed on a bipartisan basis and the eleventh member would be from a third party or be an unaffiliated voter. In all other counties there would be five board members – four appointed on a bipartisan basis and one unaffiliated or third-party member.
 - i. Qualifications: The nominee must have election experience; cannot hold elective office in the year preceding appointment until one year after ending employment as a board member, party position, or paid position with a campaign for elective office in the local county in which seeking nomination.
- b. The term for the board of canvassers should be the same as the current board commissioners (4 years commencing on odd numbered years), except that the terms would be staggered.
- c. Board members would be removed for cause by the appointing authority. In the event that the non-appointing authority believes that an appointing is not performing duties can recommend that appointing authority remove such board member. Ultimate recourse will reside with the State CEO who will have authority to intervene in egregious situations.

5. Local Board of Canvasser responsibilities:

- a. Canvass and audit election returns and report comprehensive results to the CLEO.
- b. Conducts recount for county office.
- c. Sign-off on voter registration.
- d. Consider petition challenges.

6. Reporting relationship between CLEO & Board of Canvassers:

- a. CLEO superior to board of canvassers, only answerable to appointing authority and, if the appointing authority is not the State CEO or State Board, State CEO & State Board.
- b. Board of Canvassers reports to CLEO regarding all responsibilities.

III. IMPROVE, STANDARDIZE AND ENSURE GREATER EFFICIENCY OF ELECTION AND CAMPAIGN FINANCE OPERATIONS AT THE STATE AND LOCAL LEVELS

Regardless of whether the state constitution is amended to provide for a new structure, changes can be made through statute or regulation to improve the operations within the existing structure.

A. End Patronage Hiring and Implement Merit-Based Hiring

1. Applies to administrative staff and certain poll workers.
2. Have one executive director, and/or chair, of the State Board and a single appointed person in local boards with executive authority to manage board offices, similar to commissioners of agencies, with the ability to hire and fire, with no requirement for party representation in staffing.

B. Improve Decision-Making

1. Legislation should be enacted to help prevent gridlock and promote enforcement, modifying the structure of the state and local boards by:
 - a. Adding a fifth nonpartisan commissioner to the State Board to prevent gridlock, or
 - b. Creating a quasi-judicial forum to resolve election disputes and penalize election law offenses in a strictly neutral manner.

C. Improve Public Access to Information

1. Centralize information from county boards at the state level to create a clearinghouse for voter enrollment totals of each municipality, voting results, and absentee ballots cast.
2. Increase resources for providing public information and communication at the state and local levels.

D. Improve Poll Worker Recruitment and Training

1. Increase poll worker compensation above the current \$25 for attending a training session and \$200 per Election Day worked, which could be coupled with a requirement that all poll workers must attend training in order to work on Election Day.
2. Increase poll worker recruitment efforts at colleges and universities.
3. Increase internet recruitment efforts.
4. Recruit language interpreters through ethnic and local media.
5. Institute split shifts for poll workers on Election Day to allow people who may not be able to work an entire day to serve in some form.
6. Encourage city employees to register as poll workers by printing information on paychecks or other notices.
7. Require all poll workers to attend training before each election cycle, including returning poll workers.
8. Enhance online technology resources to complement the training process to allow poll workers to refresh their skills before Election Day.
9. Enforce a policy to ban poll worker trainees who failed the poll worker test after training from serving at the polls that year.
10. Require coordinators to contact all poll site personnel prior to Election Day to ensure near 100% attendance.

11. Implement stronger enforcement of the New York City commissioners' Program for Poll Worker Non-Compliance.

E. Strengthen Campaign Finance Enforcement

1. Change the responsibilities for campaign finance enforcement and disclosure by:
 - a. Transferring the authority to the Commission on Public Integrity or a new integrated ethics authority; or
 - b. Create a discrete election enforcement unit with the State Board with adequate resources and independence to investigate, either on its own initiative or upon complaint, potential violations of the Election Law and make recommendations for enforcement to the board, and in the case of campaign finance investigations
 - i. In the absence of a fifth nonpartisan commissioner, allow an investigation to move forward in the event of a two-two tie, as opposed to requiring a majority to move an investigation forward.
2. Ensure that the Attorney General and local district attorneys can independently investigate and prosecute alleged violations of the Election Law.
3. Develop more effective enforcement mechanisms, including more and greater fines, and the use of random audits to review campaign filings for exceeding contribution limits and violations of campaign finance disclosure laws. The maximum penalty for failing to file a statement required by law should be increased from \$500 to as much as \$5,000. Violations of the law which are currently punishable only as a class A misdemeanor or a class E felony should also subject the violator to high civil penalties (for example, \$20,000 for knowingly and willingly accepting a contribution that exceeds the ceiling).
4. Create a method to fine corporations who exceed their contribution limits who were previously found to have done so, by using injunction and contempt proceedings. Current law does not provide fines for violations of corporate contribution limits.
5. Fill open positions - currently there are many top-level vacancies in the campaign finance enforcement unit of the State Board.
6. Create better communication between the state and local boards to allow information on local filers to be shared on a more consistent basis. This could be accomplished through the creation of a statewide campaign finance database for candidates for statewide and local offices, as well as Political Action Committees (PACs).
7. Assuming that the authority to enforce campaign finance laws is not transferred to another entity, encourage proactive investigations into violations of state election law and the use of random audits. Currently, complaints are the only source of investigations into violations of election law governing campaign financing.
8. Create administrative fines for non-compliance with disclosure requirements.

F. Create Greater Accountability

1. Track the performance of the local boards similar to the way in which it is tracked in the Preliminary and final Mayor's Management Report in New York City. Local boards should resume publication of a yearly report to the local legislative body. Such a report should not only detail relevant statistics, but also lay out programs designed to enhance voter participation and plans for the future.
2. New York State should develop its own Vote Tabulating System. Instead of purchasing scanners from private vendors to count paper ballots at high costs, the state should fund development of its own scanner system if it fully adopts optical scan technology.

IV. REMOVE BARRIERS TO VOTER PARTICIPATION AND INCREASE ACCESS TO VOTING

A. Constitutional Amendments to Increase Voter Participation

1. Remove the ten-day advance voter registration requirement.
2. Remove the absentee voting excuse requirements of illness or physical disability to institute no-excuse absentee voting

B. Statutory Changes to Enact Increase Voter Participation

1. Standardize absentee ballots. This should include formatting, instructions, and submission procedures.
2. Institute Election Day Registration after the removal of the Constitutional requirement for advance registration.
3. Institute no-excuse absentee voting.
4. Institute early voting to allow voters greater opportunities in time to cast their ballots early during a defined period of time shortly before Election Day.
5. Close schools by state law on Election Day to increase availability of accessible poll sites.
6. Synchronize election dates for school, fire, and library elections with each other and consider having county election officials conduct these elections and report on the results of the elections.
7. In the absence of a constitutional amendment, reduce to ten days the period allowed for New Yorkers to register to vote.

C. Improve public education and access to information

1. Create easily navigable websites that includes access to data, election results, and other election related information in formats that allow for independent analysis.
2. Webcast and provide an archive of local board meetings online
3. Show sample ballots on the board websites prior to Election Day.
4. Institute more frequent mailings before each election to ensure voters are aware of upcoming elections and their correct poll site information.
5. Email notifications of election dates, deadlines and ballots to registered voters.
6. Expand New York City's popular Voters Guide to state and federal elections
7. Include HAVA voter identification requirements on the Voter's Bill of Rights that are supplied at the polls.
8. Post voter enrollment by municipality in addition to county and Election District.

D. Improve voter enfranchisement efforts

1. Direct city agencies to fully comply with the mandates of the National Voter Registration Act (NVRA) and City's Pro-Voter Law.
2. Use affidavit ballots to create & update voter registration records.
3. Commit to provide fully accessible poll sites.
4. Translate election materials into additional languages.

E. Remove the Full-Face Ballot Requirement to Ease Voters' Ability to View and Cast a Ballot