

# Reforming New York's Election System

## Constitutional Requirements

Article II, § 8 of the NYS Constitution requires “equal representation of the two political parties” for all boards and officers that have anything to do with elections in the State. Village, school district, fire district and other special district elections not held at the time of the general election are exempt from this constitutional requirement. New York and Virginia are the only two states that provide in their Constitutions a role for political parties in state and local election administration.

## State Board of Elections

The election law creates the State Board of Elections, comprised of four commissioners, appointed by the Governor for two-year terms. The chairs of the state committees of the two major political parties recommend two of the commissioners, and the other two, one of which must be named chairperson and the other vice chair, are recommended by the leaders of the major political parties in the Legislature.

In 1974, the election law was revised to remove powers of the Secretary of State and Attorney General concerning election administration, which were consolidated in the Board. The State Board is responsible for the promotion of “fair, honest and efficiently administered elections” statewide. To accomplish this, the Board is empowered to adopt regulations concerning campaign practice and finance; to study election processes and make recommendations to the legislature; to oversee local boards; and to investigate alleged wrongdoings.

## County Boards of Elections

Under the election law, each county has a board of elections with commissioners that serve for two years (except in NYC and Schenectady County, which serve for four years). Currently, all counties operate with two commissioners representing the two major political parties (NYC has ten commissioners, two for each county within the City). Most counties also have two deputy commissioners, each appointed by a commissioner and serving at his or her pleasure. Commissioners are nominated by majority vote of the county committees of their respective political parties and are confirmed by vote of the county legislature. State Election Law requires equal representation of the two major political parties in the appointment of Board employees.

The county boards support and oversee election operations for both primary and general elections. They also provide voter registration lists for school board, fire district, village and special elections, and will oversee these elections at local request and expense. The county boards also oversee the registration of eligible voters within the county, provide assistance and information to candidates and the public, and conduct training and oversight related to election procedures and technology for election inspectors and ballot clerks.

## Issues and Alternatives

The goal of requiring equal party representation is to foster fairness in administration of state and local elections. However, the State's current system has instead resulted in a duplication of services and the major political parties completely controlling the process.



In addition, a constant state of deadlock exists in the various boards with even numbers of members split by party, with the end result of extreme amounts of litigation (New York is reputed to have half of the election litigation in the country). This is shown by the recent failure to implement the Help America Vote Act (HAVA) requirements.

Not having executive authority vested in a single person, or at least an odd numbered board with a single chair is a major weakness, as is the lack of distinguished quasi-judicial dispute resolution functions. Thirty-six states rest responsibility for the elections with a single state official.

One possible solution for the State is this model with a single, apolitical state office to oversee elections in the State and designate responsibility for the conduct of elections to a single official in each county. Any policy making or quasi-judicial boards would have an odd number of members and a single chair. This solution could:

- Establish a center of executive authority by law in the election administration agency
- Remove control of the process from the two major political parties
- Provide for professional administration by persons selected on a competitive basis and accountable to an official appointed by a neutral authority (perhaps an ex officio board chaired by a judge of the State's high court) and serving for a relatively long term
- Allow for policy guidance for the administrator by that ex officio board
- Establish a quasi-judicial forum to resolve election disputes and penalize election law offenses in a strictly neutral manner.

An alternative model to improve management, avoid stalemates, and open up the process to minority parties, without completely removing partisan influence would:

- Have one executive director, and/or a chair, of the State Board (now there are co-chairs and co-executive directors of the State Board), and a single person in the counties and NYC with executive authority to manage these like agencies.
- Retain state and local election boards (regionally instead of by county) for policy making and quasi-judicial functions but enlarge them so that they are made up of an odd number of members (perhaps five, with no party having more than two members).

[Information for this brief, including recommendations, primarily came from Gerald Benjamin's article "Reforming New York's Constitutional System of Election Administration"]

