

Contact: Barbara Peck  
614.292.0283  
peck.5@osu.edu  
electionlaw.osu.edu

### **Wisconsin's Election System Gets High Marks Overall, Though Registration Database Still Needs Improvement**

COLUMBUS, OHIO – After years of progressive election administration reforms, a recent study gives Wisconsin generally positive reviews for its administration of elections, though there is room for improvement in some areas.

Researchers at *Election Law @ Moritz* at The Ohio State University Moritz College of Law conducted a comprehensive study of the election administration systems in five key Midwestern states – Ohio, Illinois, Michigan, Wisconsin and Minnesota, focusing on how voters register, ballots are cast, and recounts are conducted. Overall, Ohio and Illinois were found to have the most significant problems, while Wisconsin and Minnesota received higher marks overall.

“What stands out in Wisconsin is the culture of nonpartisanship and professionalism among those running elections,” said Daniel P. Tokaji, assistant director of *Election Law @ Moritz*. “The state’s Election Day Registration system has been enormously successful, and we encourage other states to follow Wisconsin’s lead in this area.”

While Election Day Registration received high marks in the study, the state’s voter registration database, which is required by federal law, has been criticized as inaccurate, slow and ineffective.

“The biggest complaints we heard from local election officials concerned the state registration database,” Tokaji said. “It does not cross check against other state databases, like the death and criminal records, and could cause problems in a major election.”

Another area to watch is the newly formed Government Accountability Board (GAB), established just this year. The GAB’s elections division is still a work in progress, yet will play a pivotal role in running elections in 2008 and beyond.

“The structure of the GAB could make it one of the best systems in the country,” Tokaji said. “But it is too early to tell exactly what power and resources this board will have, which will be critical to its success. The system in Wisconsin is decentralized and strong leadership by the GAB could go a long way toward improving the system.”

The study also examines how well Wisconsin’s system would function in the event of a close statewide race, particularly a contested presidential election as

almost occurred in 2004. It questions the ability of local canvassing boards and the state's judiciary to resolve post-election disputes on the timetable that federal law requires.

Each of the five states included in the report has a unique election system, and collectively they represent the variety of systems used across the nation.

"What really stood out is that states with strong, nonpartisan oversight had significantly fewer problems," Tokaji said. "The registration process still functions as a barrier to participation in some states. On the other hand, Minnesota and Wisconsin have great Election Day Registration systems that increase turnout while reducing the need for provisional ballots."

The study makes several key recommendations for election systems across the country:

1) **Enhance registration options.** States should work to improve access to voting by relaxing barriers to voter registration. Both Minnesota and Wisconsin allow Election Day Registration and the study found no increased fraud under these systems. Other states reluctant to embrace this reform might consider Michigan's system of affidavit voting, which protects voters whose names are not on the voter rolls even though they have attempted to register.

2) **Favor early voting.** States should consider in-person early voting instead of expanded absentee voting. Absentee voting is the area of election administration most vulnerable to fraud, with serious allegations occurring in Michigan and Illinois.

3) **Clarify provisional voting standards.** States should provide clear guidance on when provisional ballots should be cast and counted. In many states, including Ohio and Illinois, individual counties hand out and count provisional ballots using different rules, calling into question the integrity and equality of the state's system.

4) **Improve poll worker programs.** Poll worker recruitment and training should be enhanced. This area was a problem in all five states studied and can lead to long lines at the polls, polling places opening late, and the mishandling of ballots and electronic voting machine memory cards.

5) **Reform post-election dispute processes.** The process for evaluating post-election disputes, including recounts, should be reviewed. None of the five states had a final arbiter of disputes in place that was perceived as fair and evenhanded. While disputes should be rare in a solid system, they do occur in close races, when tensions are running high. In these situations, a trustworthy system for handling these disputes is ideal. In addition, Congress should consider giving states more time to evaluate and settle disputes in presidential

elections. The current timeline of 35 days is not enough time for most disputes to work their way through a state's legal system.

The study was conducted with the financial support of The Joyce Foundation. The full analysis and recommendations are available in the book *From Registration to Recounts: The Election Ecosystems of Five Midwestern States*. To read the book and a state-by-state breakdown of the analysis, visit [www.electionlaw.osu.edu](http://www.electionlaw.osu.edu).

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*Election Law @ Moritz*, an award-winning program of The Ohio State University Moritz College of Law, has rapidly become one of the country's premier centers of election law expertise. The program provides nonpartisan information and insight on election law and administration, and on important issues, developments and trends within the field. Through its web site ([www.electionlaw.osu.edu](http://www.electionlaw.osu.edu)), faculty scholarship, annual conferences, speaker series and participation in academic and government sponsored examinations of election law, *EL@M* has become a resource to which the public, academics and government officials turn for accurate and non-partisan information and analysis concerning election law and administration. *EL@M* has also become a resource to which the media has turned repeatedly for assistance in its attempt to educate the public on election law and administration facts, issues and developments.

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## **Summary of Wisconsin Findings and Recommendations**

*Election Law @ Moritz* at The Ohio State University Moritz College of Law recently completed an in-depth analysis of the election administration systems in five key states, including Wisconsin. During the analysis, Wisconsin was found to have a well-functioning election system, with some areas that need improvement. Key findings and recommendations for Wisconsin include:

### **Findings:**

- 1) Wisconsin has successfully operated Election Day Registration since 1976, which has increased voter turnout and reduced reliance on provisional ballots. These improvements have come without any increase in voter fraud, the main argument that is made against Election Day Registration.
- 2) The voter registration database in Wisconsin still has serious problems, including slow speed, the inability to check voter records against other records, and problems generating absentee ballots. Currently, the registration database is the most problematic part of Wisconsin's system.
- 3) While there is a general atmosphere of nonpartisanship and professionalism in Wisconsin, the process for resolving post-election disputes would be seriously tested in the event of a disputed statewide election. Under Wisconsin law, statewide recounts are conducted by county canvassing boards, on which members of one party typically have a majority. This structure could prove problematic in the event of a contested statewide race.
- 4) Wisconsin has a decentralized system with more than 1,800 local officials administering elections. More than 400 of these officials do not have e-mail, making communication difficult. In contrast, large jurisdictions manage hundreds of thousands of voters and face unique challenges, especially in urban areas such as Milwaukee.

### **Recommendations:**

- 1) Create a strong elections division in the new Government Accountability Board (GAB). Wisconsin is in the process of creating a new GAB and the nonpartisan structure of this board appears well designed for evenhanded decision making. However, the main impetus behind the GAB's creation was to improve the enforcement of campaign finance and ethics rules, and it is not yet clear how effectively the GAB will perform its job of administering elections.
- 2) Improve the statewide voter registration system. Local election officials still

report problems with the speed of the system, cross-checking other state records, and the absentee voter module. The state must invest resources in fixing these problems so that voters aren't negatively affected.

3) Reform the post-election dispute resolution processes. It is recommended that the state vest greater authority over the recount process in the newly formed GAB. In addition, the state's process for resolving close races could lead to problems in a close presidential race, given the tight timetable set by federal law.