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Michigan Election System Shows Strengths, Vulnerabilities

COLUMBUS, OHIO – After years of election administration reforms, Michigan earns both praise and caution in a recent study of its ability to administer elections. 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 significant problems while Wisconsin and Minnesota received high marks. Michigan fell in the middle.

“On a positive note, Michigan has had a balanced, stable and well-run system for years and has been in the forefront in implementing new technologies and systems,” said Steven Huefner, senior fellow at *Election Law @ Moritz*. “But, the system is decentralized and has experienced a variety of local problems, especially in Detroit, including maladministration or worse.”

The state’s Qualified Voter File (QVF) has been a model for other states and has been in place for almost a decade. While the study praised the concept of the database and its ability to cross check with driver’s license records, there were also some concerns.

“Although it is improving, the database has close to a million inactive or invalid entries,” Huefner said. “The problem is that local jurisdictions are responsible for maintaining the database, and they often lack the resources to make it accurate. Faulty entries can compound election administration difficulties especially in large urban areas like Detroit and raise the potential of insider fraud.”

The study also praised Michigan’s uniform voting technology, which has led to stability and consistency. However, researchers noted that Michigan is among many states struggling with a lack of trained poll workers, which can lead to long lines and jeopardize ballot security. Another problem is that while the secretary of state is the head election authority, that office has insufficient direct control over local election officials.

“With such a decentralized system, it is essential that the main election authority have the power to make local officials comply with regulations,” Huefner said. “The state needs to ensure that problems like those that plagued Detroit until 2005 can be identified and stopped without needing to resort to judicial proceedings.”

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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,” said Dan Tokaji, associate director of *Election Law @ Moritz*. “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*

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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.

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), 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 Michigan 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 Michigan. The analysis found that Michigan had problems in some areas of election administration, while other areas are excellent. Key findings and recommendations include:

Findings:

- 1) Michigan has a highly decentralized system of administering elections, with city and township clerks holding primary responsibility. While Michigan has not seen the problems of inconsistencies that some other states with a decentralized system have, there have been serious administrative problems in Detroit up through the 2005 election. The state's overall success in maintaining consistent regulations and implementation among the state's 1,500 election jurisdictions can be attributed primarily to the professionalism of the state bureau of elections and the longevity and leadership of state's elections director.
- 2) Michigan's qualified voter file largely complies with federal law and has been a model for other states to follow. Like its counterparts in other states, however, the file does contain a significant amount of inactive or invalid entries, which hampers its effectiveness.
- 3) Michigan uses one type of voting equipment throughout the state – optical scan voting. This has contributed to stability and consistency across jurisdictions.
- 4) The Michigan Supreme Court is bitterly divided on party lines, highlighted by its 4-3 decision earlier this year approving a voter ID law. It is doubtful that the judicial system would be able to fairly and impartially settle an election dispute in a close race.

Recommendations:

- 1) Continue to update the qualified voter file. While the QVF is a model, the number of outdated records hinders its effectiveness and leaves it vulnerable to absentee voter improprieties, which occurred in Detroit in 2005. Updating the QVF is the responsibility of local officials, who often lack resources. Therefore the study also recommends that the state increase its role in maintaining the database.

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2) Ensure that the state's chief election authority has sufficient tools to enforce consistency among municipalities. The secretary of state is the state's chief election official, but would benefit from greater authority to enforce regulations and prevent serious maladministration of the kind that until recently plagued Detroit.

3) Improve poll worker recruitment and training. A shortage of properly trained poll workers can lead to long lines and the excessive use of provisional ballots. It can also jeopardize ballot security and the consistent implementation of regulations.

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