



ELECTION LAW REVIEW AND UPDATE

Part 1: Voter Registration & Election Day Procedures

ADOPTED BY LWVPA STATE CONVENTION, JUNE 7, 2015

**Deadline for Local Leagues to submit consensus question responses:
April 1, 2017.**

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VOTER REGISTRATION AND ELECTION DAY PROCEDURES

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LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA ELECTION LAW REVIEW AND UPDATE

As recommended by the State Board, delegates to the June 2015 State Convention voted to approve the following update:

“Review and update Election Laws Positions, focusing specifically on apportionment and redistricting, election procedures, registration requirements, alternatives to closed primaries and alternatives to ‘winner take all’ election systems.”

Rationale for recommending the update:

“While both LWVUS and LWVPA have positions on many aspects of election law, there are many areas of concern not adequately addressed by either. It is unclear when our current Election Laws position was adopted. Some changes have been made in recent years including the addition of a ballot access position, a position supporting voter verifiable paper ballots as the official ballot, support for no excuse necessary absentee voting and dropping our support for the closed primary. However, the rationale behind many of the other positions is unclear, making it difficult to lobby in their support. Over the past decades there have been many changes in registration and voting technology and election administration which suggest that a comprehensive review of our present position is needed.”

Following the Convention, the Board formed an Update Committee to prepare materials for Local Leagues to use in preparing their members for participation in and arriving at consensus. First, the committee reviewed the current LWVPA positions, as presented in *Where We Stand*, the LWVUS position as presented in *Impact on Issues*, and various other LWVUS and LWVPA documents. This included testimony presented at the national and state levels.

The committee found that existing materials already covered well most of the issues presented for review and update. Knowing that LWVPA could take action at the state level, based on national positions, the committee narrowed the scope of the study to 25 topics, grouped into four broad categories.

Initially, the Board anticipated addressing the full Update Committee products in a single review process. However, the Board later determined that the scope of the Committee product – update materials, consensus questions, resources – made a review by the Local Leagues in a single pass impractical. Therefore, the review, discussion, and consensus attainment will occur in two stages. The first stage will consider the first two categories, covering 14 topics:

1. Voter registration:
 - election day voter registration,
 - youth pre-registration,
 - primary voting at age 17,
 - national voter registration act,
 - automatic voter registration,
 - universal automatic voter registration,
 - non-incarcerated felon voting rights, and
 - documentary proof of citizenship requirements for registration.
2. Election day procedures:
 - poll watchers and election day challenges of voters,

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- no-fault absentee voting, early voting and vote by mail,
- emergency absentee ballots,
- prison voting,
- straight-party voting option, and
- internet voting.

The second stage will consider the third and fourth categories, addressing 10 topics:

3. Alternative election systems:
 - instant runoff voting,
 - the Borda count,
 - approval voting,
 - range voting,
 - mixed-member proportional vote,
 - single transferable vote,
 - limited voting, and
 - cumulative voting.
4. Primaries:
 - open, closed, semi-open and semi-closed primaries and
 - top two and top four primaries or blanket primaries.

The study materials for both stages also include a summary of the myriad local government structures used in Pennsylvania. Some of the proposed alternative election systems might be more suitable for adoption at the local level. However, one size will not fit all.

In reviewing these materials, members might want to remember these principles.

- The League of Women Voters believes that voting is a fundamental citizen right that should be guaranteed.
- Elections should be accessible, transparent, fair, and secure.
- Voters should have meaningful choices when they go to the polls.
- Election policies should aim to achieve universal voter participation.
- Access to voting should be barrier-free.
- Every vote should count, and every vote should matter.
- Outcomes should reflect the values and opinions of all Americans.

Timeline for the Update

- Winter 2015 – Election Law review and update proposed as part of local League program planning process
- June 2015 – Review and update proposed and approved in Convention 2015 plenary sessions
- September 2015 – June 2016 Committee prepared study materials
- June 2016 LWVPA Board approved study materials and consensus questions
- June to September 2016 Study Materials distributed to Local Leagues and Posted on www.palwv.org.
- Fall, 2016 – Local Leagues form study committees, organize meetings to educate members and the public.

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- April 1, 2017 – Deadline for Local Leagues to submit responses to consensus questions – Section 1
- New position from Section 1 will be announced at Convention 2017
- December 1, 2017 – Deadline for Leagues responses to Section 2
- New position from Section 2 will be ready for use by March 1, 2018

Update Committee

Co-chairs:

- Carol Kuniholm ckuniholm@verizon.net, LWV of Chester Co. and State Board, Election Reform and Social Media
- Lora Lavin, lavin@steuber.com, LWV of Central Delaware County, Former State Board, Representative Government

Voter registration:

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Alternative election systems:

- Jack Nagel, LWV of Central Delaware County, Professor Emeritus of Political Science at the University of Pennsylvania, where he taught courses and conducted research on electoral systems
- Lora Lavin, LWV of Central Delaware County, covered election law issues and Representative Government Specialist for LWVPA

Primaries:

- Mark Lafer, LWV of Centre County, previously served on the county-level response to the issue of K-12 high-stakes testing in Pennsylvania
- Tina Smith, LWV Abington-Cheltenham-Jenkintown. Past president of LWV of Northeast Montgomery County, 28 years Voters Guide editor

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<http://www.dos.pa.gov/VotingElections/Documents/Elections%20Division/Administration/Election%20statutory%20reference%20guide.pdf>.

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- Local Government,
<http://www.dgs.pa.gov/State%20Government/Print,%20Design%20and%20Mail%20Services/Documents/Vol%20121%20-%20Section%206.pdf>.

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Pennsylvania Election Code,

<http://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/0320..PDF>.

Suggested Reading

The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration,

<https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>

Improving Elections in the United States: Voices from the Field, A Report of the National Commission on Voting Rights, September 2015,

<http://votingrightstoday.org/ncvr/resources/electionadmin>

Verified Voting - Internet Voting,

<https://www.verifiedvoting.org/resources/internet-voting/>

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1. Voter Registration

Since its founding, the League's primary activity has been to encourage informed citizen participation in government starting with participation in voting. In almost all states, citizens must register to vote. Therefore, local and state Leagues have supported programs to make voter registration more accessible and to have active voter registration outreach programs made possible by the institution of registration by mail. These include setting up voter registration tables at events such as meetings, street fairs, new citizen naturalization ceremonies, places frequented by coming of age voters, such as high schools and colleges, and places where unregistered citizens might congregate, such as hospitals. Some Leagues have also set up voter registration events for employers and public housing residents.

The League has also participated in programs calling attention to voter registration, such as National Voter Registration Day and Rock the Vote. Most importantly, the League advocated for enactment of the National Voter Registration Act, sometimes nicknamed Motor Voter, which requires state governments to offer voter registration to citizens applying for government assistance and driver's licenses. The National Voter Registration Act established the responsibility of government to offer voter registration to citizens actively rather than passively expecting citizens to apply.

The League also supported the Help America Vote Act, which requires states to setup centralized voter registration databases. Pennsylvania calls this the Statewide Uniform Registry of Electors (SURE). The Act also requires anyone showing up to vote, whose name is not on the voter rolls, to have the opportunity to cast a provisional ballot, which is counted later if the voter's registration is verified.

It also assists voters who have changed their address of registration. Their provisional votes count for those national and statewide candidates who are on the ballot at both the old and new address, such as president, U.S. Senator, and governor, and possibly members of Congress and the state legislature.

The League has also advocated for programs allowing citizens to register online, and has supported allowing citizens both to register and to cast a ballot on the date of a primary or general election. The latter has significantly increased voter participation in states that have it.

Local Leagues can be active in registering voters in several ways.

1. Attend naturalization ceremonies and register new citizens during the reception that follows the ceremony.
2. Visit local nursing homes and retirement communities and register residents.
3. Set up a table on move-in day at a local college or university to register students, and to remind them that, if they want to vote in their home election district, that they will need an absentee ballot.
4. Ask the PTA at local schools to allow registration of voters at their first meeting of the year. Many parents move over the summer, and this is a good time to find them.
5. Colleges often have a day when they introduce new students to the school's co-curricular offerings. A voter registration table works well at these events.
6. Develop a program in your local jail, in conjunction with the Department of Corrections, to register inmates and to provide absentee ballot applications. Inmates jailed for

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misdemeanors or awaiting trial are eligible to vote. Those reentering society after incarceration can also receive registration applications.

LWVPA Position on Voter Registration

According to “Where We Stand,” the League supports:

- increasing the ease and accessibility of registration, and
- maintaining accurate and current voting lists.

Adding the following actions can expand the LWVUS position:

- allowing citizens to both register to vote or change their registration status on the day of a primary or election, and
- allowing voters to provide information that was missing on their voter registration forms on the day of a primary or election.

Election-day voter registration

In 14 states voters can both register to vote or change their registration status and cast a ballot on the day of a primary or general election. This makes voting more accessible for first-time voters and those who have changed their name or address, and for those who wish to change their party affiliation. In 2012, voter turnout was 10 percent higher in the 14 states that have same-day registration.

Providing registration information on Election Day (LWVUS supports)

Voter registration offices are required to try to contact applicants if their registration forms are missing information. Sometimes attempts to obtain the information are unsuccessful. This policy would allow applicants, who show up to vote but are not on the rolls because of an incomplete application, to supply the missing information and cast a provisional ballot.

National Voter Registration Act ([NVRA](#))

The National Voter Registration Act (sometimes known as motor voter), requires Pennsylvania and other states to offer voter registration to eligible citizens whenever they apply for or renew a driver’s license, at all offices that provide public assistance, and at all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities. The Pennsylvania Department of State publishes an annual report documenting compliance with this requirement. Now that Pennsylvania has begun to implement online voter registration, it should be possible to link Department of Motor Vehicles and other offices to the Department of State online system, making compliance easier and more efficient. Furthermore, under the settlement of a lawsuit, school districts must offer voter registration to students with disabilities as part of their transition to adult life. Again, school districts can satisfy this requirement by offering voter registration to all eligible students.

NVRA requires that citizens, who sign up for health insurance under the Affordable Care Act, receive an offer of voter registration. This is happening in most states that have state-run health care exchanges. However, citizens applying for health insurance in states using federal exchanges do not receive this opportunity. LWVUS is working to expand the reach of NVRA by requiring the offering of voter registration in connection with all applications for insurance under the Affordable Care Act.

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Non-incarcerated felon voting rights

In Pennsylvania, ex-felons no longer incarcerated, inmates jailed for misdemeanors, and jailed inmates who are awaiting trial may vote. Only incarcerated felons may not vote. However, there is no program for offering voter registration and absentee ballot applications to eligible inmates and to inmates upon their release from jail.

Documentary proof of citizenship requirement for voter registration (LWVUS opposes)

Kansas, Alabama, Arizona, Georgia, and Tennessee are looking to require proof-of-citizenship for voter registration. These laws face legal challenges, and the LWV is a party in some of these cases. Advocates say this requirement would prevent fraudulent voting by non-citizens, such as illegal immigrants, and is necessary. In most states, registrants affirm their citizenship on the registration form, and there have been virtually no instances of fraud. The requirement would affect new registrants and others, including, those who change their surname at marriage or their address, and those who wish to change their party affiliation.

Documentary proof-of-citizenship is either a birth certificate, a passport (which you need a birth certificate to receive or a naturalization certificate. Many people do not have or do not have easy access to a birth certificate. The requirement would put an undue burden on would-be voters. Furthermore, it would preclude community-based voter registration drives that have added millions of voters to the nation's voting rolls.

LWVPA's Position on Registration Could be Expanded by Adding the Following Issues

Youth pre-registration

High schools would be the primary place for pre-registration for 16 and 17-year-olds. The League's High School Voter Registration Project currently applies only to 18-year-olds. Hawaii and Florida are the only states that offer youth pre-registration. The NVRA requires special education offices within public school districts to offer voter registration to special education students when they become eligible. Special education offices can offer voter registration during annual Individual Education Program (IEP) meetings with students and their parents. As an alternative, school districts could satisfy this requirement by implementing a school-wide program for all voting age students that would include assistance in filling out the forms.

According to LWVUS's "Empowering the Voters of Tomorrow," approximately three-quarters of young people, who register, end up voting in major election years. Youth pre-registration would reach more people who do not frequent places that hold voter registration drives. Furthermore, too many young people report that it is lack of information and access – not lack of interest – that keeps them from voting.

<http://lww.org/files/Empowering%20the%20Voters%20of%20Tomorrow.%202015.%20LWVEF.%20Full%20Manual.pdf>

Primary voting at age 17

At least 21 states and the District of Columbia allow citizens who will be 18 on or before Election Day to vote in the corresponding primary or caucus. They are barred from voting on ballot issues or in special elections that may be on the primary ballot. Currently, Pennsylvania 17-year-olds who will be eligible to vote on Election Day do not have a voice in determining who will be on the ballot. Allowing students to vote while still in school reinforces what they are learning in their civics classes, and they can participate in voting with their peers. This policy could establish a habit of voting that carries throughout life.

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Automatic voter registration (AVR)

Under an AVR program, a state department of motor vehicles automatically shares its database of the names and addresses of license holders with election officials. Entries include applications for original, renewal, lost or stolen licenses, and changes of name or address. Election officials then inform these prospective voters by mail that automatic registration will occur in 21 days, unless they opt out. Thus, as opposed to merely offering registration, the burden of registration shifts to government agencies rather than citizens.

On January 1, 2016, Oregon became the first state to implement AVR. The Election Division mails to each eligible voter a card and a stamped return envelope. If the recipients do nothing, they become a registered, non-affiliated voter (not a member of a political party.) To vote in primaries, they indicate their chosen party and mail back the card. Alternatively, they may opt out by so stating on the returned card. The institution of automatic registration added 34,000 new voters in the first three months of the year.

This program, as well as the current non-automatic motor voter programs in the other states, is currently limited to applicants for driver's licenses, who are usually owners of automobiles. African Americans are five times less likely than whites are to own cars. Residents of urban areas are also less likely to own a vehicle. Therefore, AVR leaves out these segments of the population. Senator Bernie Sanders introduced an [ARV bill](#) on August 15, 2015, that would require each state to designate additional agencies that would transfer prospective voter information electronically to election officials for automatic registration. Former U.S. Attorney General Eric Holder has called for automatic voter registration since 2011 and, on May 18, 2016, stated, "[Governments can, and should, automatically register citizens to vote by compiling –from existing data bases—a list of all eligible residents in each jurisdiction.](#)"

LWVUS thinks automatic voter registration is a good idea but has concerns over current proposals that would rely on the use of department of motor vehicle records. One concern is the possible automatic registration of those who are not citizens. In order for automatic voter registration to work, it must connect to citizenship status.

Using lists of citizenship status raises concerns regarding privacy and the accuracy of the lists used. Additionally, this becomes a civil rights issue. Automatically registering non-citizens could expose them to prosecution and deportation by putting them in a position for which they are not responsible. Oregon has addresses these concerns in the following ways.

- The system ensures that it automatically registers only U.S. citizens, because you must provide proof of legal status in order to obtain a driver's license.
- The Election Division will only mail out registration cards to people who have provided documentation that they are citizens.

Privacy is not a concern, because DMV records are not generally public. Only police and other agencies may access them and only for legitimate government purposes

More information about automatic voter registration appears at <https://www.scribd.com/doc/289377031/Automatic-Permanent-Voter-Registration-How-It-Works>

Universal automatic registration

Most democracies make voter registration automatic at age 18, or the age of majority. Therefore, the government, rather than its citizens, carries this responsibility. Government officials typically possess a large and current database of citizens, including names, addresses, and dates of birth. By using data-matching technology widely deployed in the private sector, it is not difficult to

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establish a universal voter registration list. Without safeguards preventing inadvertent registration of non-citizens, however, universal registration raises the same concerns as automatic voter registration does.

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Voter Registration as Part of Transition to Adult Life, PA Department of Education.
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Voting Rights of Convicted Felons, Convicted Misdemeanants and Pretrial Detainees.

http://www.cor.pa.gov/How%20Do%20I/Documents/Convicted_felon_brochure%20-%20Voting%202016.pdf

Registration Consensus Questions

1. LWVPA supports enabling voters to provide missing registration information on Election Day and to vote on a provisional ballot.
1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

2. LWVPA supports youth pre-registration.
1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

3. LWVPA supports allowing 17-year-olds who will be 18 years old on or before a general election to register and vote for candidates in the primary election.
1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

4. LWVPA supports automatic voter registration and universal automatic registration as long as concerns over mistakenly registering non-citizens and others who are ineligible to vote are adequately addressed.
1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

5. LWVPA supports all programs, especially those run by LWVPA chapters, that offer voter registration and absentee ballot applications to eligible jail inmates and to inmates upon their release from jail.
1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

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2. Election Day Procedures

**Current League Positions: State and Local Leagues
May Take Action under These Positions**

Provisional voting

Provisional voting must address the inability of polling place officials in many locations to check the status of the voters on the official list. Solutions must encourage alternatives such as the low-tech use of provisional ballots or the high-tech use of laptop computers that provide access to the official list at polling places.

Absentee voting

Support no-excuse necessary absentee voting. Absentee ballots should be required to arrive at the election office by Election Day. There should be uniform standards for handling and counting absentee ballots.

Voting equipment standards

Local and county government should evaluate (and upgrade if necessary) maintenance and storage procedures for voting equipment, as well as procedures for providing technical expertise and needed repairs on Election Day.

Election funding

State and county governments should place election funding on a priority line in their budgets.

Accessibility

States should create uniform, nondiscriminatory standards for the voting process to allow citizens with disabilities to vote privately and independently at each polling place. Localities should ensure that persons with disabilities have full, nondiscriminatory access to polling places and the ballot.

Polling places and poll workers

States should set uniform, non-discriminatory standards for public and voter notification of polling place locations.

States and localities should ensure that each polling place has the capacity to serve its voters equally, with all other polling places in the state, and is open long enough to provide every eligible voter a convenient opportunity to vote.

States and localities should expand voter information activities including:

- providing registered voters with sample ballots before Election Day,
- giving notice to voters of their appropriate polling place locations, and
- providing public and voter notification of voter's rights at the polling place.

States should authorize adequate compensation for poll workers.

Local and county governments should upgrade training opportunities for poll workers.

Election Procedures

LWVPA supports:

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- state administered elections with a single appointed official having authority to define responsibilities and to direct the activities of county and district election officials,
- appointment of district election officers by county boards of elections, from lists submitted by political parties on the basis of bipartisan representation, qualifying tests, and mandatory training,
- use of public buildings as polling places wherever practical,
- display of identification badges by election officials,
- increased use of the provision that watchers may be appointed to serve in districts other than their own,
- strict enforcement of present election procedures,
- extension of election hours,
- intensified voter education in methods of splitting a ticket, and
- nonpartisan election of school directors as an interim step toward the ultimate goal of nonpartisan election of school directors, LWVPA supports cross-filing on the ballot by candidates for school director.

Voting systems

The League supports only voting systems designed so that:

- They employ a voter-verifiable paper ballot or other paper record, said paper being the official record of the voter's intent.
- The voter can verify, either by eye or with the aid of suitable devices for those who have impaired vision, that the paper ballot/record accurately reflects his or her intent.
- Verification takes place while the voter is still in the process of voting.
- Audits and recounts use the paper ballot.
- The vote totals may use an independent hand count of the paper ballot/record for verification.
- The conduct of routine audits may use paper ballot/record in every election, in randomly selected precincts, with results published by the jurisdiction.

Absentee voting

The League supports:

- simplified procedures for all qualified absent electors,
- guarantees against fraud, and
- protection of the secrecy of the ballot, including the counting of absentee ballots at the county level.

The League believes the only absentee voting provision in the Constitution should be that it is mandatory upon the legislature to provide for civilian absentee voting.

The League believes that any qualified elector should be able to choose to cast an absentee ballot without a reason.

An overview of voting in Pa appears at https://ballotpedia.org/Voting_in_Pennsylvania.

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Items for Study and Consensus

Poll watchers and Election Day challenges of voters

Poll watchers are private citizens appointed by a political party, candidate, or an organization to observe the election process. The term can encompass activities before, during, and after the day of a primary or general election, but is generally applies to people authorized to be inside the area where voting is taking place.

Poll watchers are not poll workers. Poll workers are the people elected and appointed to administer the voting process at each polling place. They include the elected Judge of Elections who oversees everything, machine inspectors who operate the voting equipment, and appointed clerks who check the poll books, to assure the proper registration and signature of each voter.

Poll watchers are also different from the individuals deployed by nonpartisan organizations, such as the Philadelphia-based Committee of Seventy, to serve as polling place observers. Observers are there to answer questions and to help voters, but lack authorization to be inside the polling place.

Poll watchers generally have the charge to ensure the integrity of the election process. Nevertheless, overly aggressive poll watching can also be a source of voter intimidation and suppression. They can also be a source of embarrassment, when they challenge the right of an individual to vote.

In Pennsylvania, poll watchers may have lists of registered voters and may check off the names of people who vote. They may communicate this information to candidates or parties throughout the day so they may contact those who have not voted.

In Pennsylvania, each candidate may appoint two poll watchers for each polling place at which the candidate is on the ballot. Each political party, which has nominated candidates on the ballot at a polling place, may appoint three poll watchers. There is no provision for appointing poll watchers, to represent organizations supporting or opposing ballot issues or non-partisan organizations, with a general interest in election integrity, such as the League of Women Voters. Each poll watcher must be a qualified registered voter of the county in which the polling place is located. Each watcher has the authority to serve in his or her appointed election district and, when the watcher is not serving in the assigned election district, in any other election district in the county in which the watcher is a qualified registered voter,.

Poll watchers must have a certificate from the county Board of Elections stating name and address and the candidate or party represented and must present the certificate when asked. Poll watchers may keep a list of voters and may challenge any person seeking to vote. After the polls close, they may also be inside the polling place during the vote count.

In Pennsylvania, an election officer, overseer, or official poll watcher may challenge any voter as to his or her identity, continued residence in the election district, or about any alleged violation of legislated voting procedures. If challenged as to identity or residence the voter must have a qualified voter from the district attest to his or her identity or residence. If poll watchers identify a problem, they must speak directly to a poll worker, not the voter. If a voter's name is not on the voter rolls, or there is no other way to establish eligibility to vote, he or she is entitled to cast a provisional ballot.

Poll watchers may also challenge an absentee ballot for any one of three bases.

1. The voter is not a qualified voter.
2. The voter was within the municipality of residence on the day of a primary or election while the polls were open.

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3. The voter was physically able to appear personally to vote on Election Day while the polls were open.

All challenged voters receive a notice, as is anyone making the challenge, as to the time and place of a hearing on the challenge.

The Election Code requires a challenger to act in good faith. However, the challenge does not require completion of a form or a signature.

Some states have very liberal policies regarding who may be a poll watcher. At the other extreme, a few states do not allow anyone to be in the polling place, except poll workers and those waiting to vote or in the process of voting. Pennsylvania has seen the introduction of similar legislation. At one extreme, it would permit the appointment of any registered voter in the state, regardless of residence, to serve as a poll watcher in any election district. At the other extreme, it would restrict the appointment of poll watchers to registered voters residing in the election district.

Some states require formal training. Others require that candidates or parties certify that their watchers have received training. Other states require no training. In Pennsylvania, proposed legislation would require that poll watchers take training and obtain certification before performing duties.

The following is an excerpt from an [American Bar Association document](#) relating to poll watchers:

ABA poll watcher recommendations

Poll Watchers. Qualified political parties and candidates should be authorized to designate poll watchers at each polling place and central counting station. If poll watchers have not been designated by qualified political parties or candidates, then stakeholders of referenda or ballot initiatives should be authorized to designate poll watchers at each polling place and central counting station. The numbers of poll watchers at each location should be limited to avoid undue crowding. Parties or candidates designating poll watchers should certify in writing that each designee has been instructed as to the responsibilities of the position. Poll watchers should not be limited to those who reside in the precinct or election jurisdiction.

Observation by Poll Watchers. Poll watchers should be permitted to observe all official acts and records used at the polling places, to challenge unqualified voters, and to challenge improper voting practices. Poll watchers should present all objections and challenges directly to the Election Day officials, and should not confront or harass voters. Methods should be developed to minimize the disruption and delay of challenge procedures. Election Day officials should keep a record of all challenges by poll watchers, including the names of the challenging poll watchers. States and the federal government should ensure that voters are not challenged in contravention of the Civil Rights Act and Voting Rights Act.

All states should provide Election Day officials with formal training. Provisions also should be made to provide formal training for poll watchers as well.

No-fault absentee voting, early voting and vote by mail

Currently, Pennsylvania only permits voters to use an absentee ballot if they submit a signed application stating that they have a valid reason for absentee voting ([Article VII, Section 14 of the PA Constitution](#)). [VotesPA.com](#) lists numerous acceptable categories of citizens who may vote absentee. The primary reasons are (1) duties, occupation or business requires their absence from the municipality of residence or (2) cannot attend proper polling place because of illness or

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physical disability. Litigation has made absentee voting available to citizens, who cannot vote in person because of incarceration for misdemeanors or pre-trial detention, although official lists may omit these reasons,

Pennsylvania voters may apply for and cast an absentee ballot through the mail. They may also visit the county election office, apply for an absentee ballot, and cast the ballot during the same visit. Those applying for absentee ballots must provide a driver's license number, last four digits of their Social Security number, or a copy of an acceptable photo identification that is current, shows name, and an expiration date. Acceptable photo identification includes:

- United States passport,
- United States military identification,
- employee identification issued by a federal, state, county or municipal government,
- identification issued by an accredited Pennsylvania public or private institution of higher learning, and
- identification issued by a Pennsylvania care provider, including long-term care facilities, assisted living residences, and personal care homes.

County election boards verify the information before counting the ballot.

Twenty-seven states and the District of Columbia allow no-fault absentee voting. This permits any qualified voter to obtain an absentee ballot, without giving an excuse. LWVUS and LWVPA have positions supporting no-excuse-necessary absentee voting. Changing the law in Pennsylvania to allow no-excuse absentee voting may require amending the commonwealth constitution.

Some view allowing no-excuse absentee voting to be a form of early voting. Thirty-four states and the District of Columbia allow such in-person early voting: voters may visit an election office or a satellite voting location to cast a ballot, without explaining why they cannot vote on Election Day.

Vote by mail

[At least 22 states use mail voting for certain elections.](#) Three states – Oregon, Colorado, and parts of Washington State – use all mail voting. This is another form of no-excuse, absentee voting. Oregon's LWV supported the bill creating it. The convenience of this system increases voter participation and makes absentee ballots and early voting unnecessary. Additionally, it has saved Oregon three million dollars annually, since switching from polling locations, poll workers, and voting machines.

Every registered voter receives a ballot by mail two weeks before Election Day. Voters place their completed ballots in a secrecy envelope and either mail it back to the elections office or place it in one of special ballot return boxes. The elections office or ballot return boxes must receive all ballots by 8:00 p.m. on Election Day. The possibility of fraud is a concern. However, in the 17 years of Vote by Mail in Oregon, there have been only nine convictions of voter fraud, out of the 15 million ballots cast. Each envelope has a unique barcode, and election officials verify every signature. People can check online to make sure that theirs was a counted ballot. Voters also get a mailed Voter Pamphlet, with information about the candidates and ballot issues.

There is universal agreement that absentee voting should be available to people who cannot vote in person. Nevertheless, there is general agreement that absentee voting increases the opportunity for voter coercion and voter fraud, because the voter casts the ballot without the protections provided at polling places. This is also true of all-mail voting. So the question becomes, do the benefits of making voting more convenient outweigh the risks? Participation in

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early voting has increased, but evidence that it results in a significant overall increase in voter participation is unclear.

In-person early voting does not have the same degree of risk. However, it poses the question of how to make the opportunity equally accessible to all voters. Legislatures, in some early voting states, have recently passed laws reducing early voting hours, especially on Sundays. Proponents of early voting say these actions selectively aim at reducing participation in African American communities.

Proponents of expanding opportunities for voters to cast ballots, without having to go to the polls on a specified day, say that the added convenience is popular among voters in states that have the policies and may boost participation, especially in non-presidential election years. Certainly, early voting and vote by mail fits with modern life styles that include long commutes to work, shift work, business and vacation travel, two-worker families, child care, etc. Early and mail voting helps people to avoid long waits at the polls and may even reduce long lines. In addition, unexpected, last minute problems can prevent people from going to the polls. Pennsylvania provides for casting an emergency absentee ballot when unexpected problems arise, but exercising this right is cumbersome (see below).

Some arguments for increasing alternatives to voting in person on Election Day include:

- allowing voter to cast their vote when they are able to,
- allowing voter to balance work, family, and other interests, including their civic duty to vote,
- decreasing barriers to voting, such as time, distance, and schedules,
- giving voters time to understand complicated issues and crowded candidate fields, so they can make informed choices, and
- eliminating problems with ballots being cast in the wrong precinct and reducing provisional ballots (which may remain uncounted).

Some arguments against increasing alternatives to voting in person on Election Day:

- possible voter coercion, absent the secrecy of a polling booth and the physical presence of election officials to enforce rules,
- possible fraud, absent any way to determine if the individual filling out the ballot was truly that voter, such as comparing a signature with one on file, and
- possible security issues, with the potential loss or damage of mail-in ballots that rely on unsecured methods of delivery.

Emergency absentee ballots

In Pennsylvania, registered voters who know in advance they need to vote absentee, must submit their requests at least one full week before Election Day and then return the ballot by 5:00 p.m. the Friday before Election Day. If circumstances change after the application deadline, Pennsylvania provides two ways to cast an emergency absentee ballot: one for Tuesday to Friday before Election Day, and one for after 5:00 p.m., on the Friday before Election Day through 8:00 p.m., on Election Day

The current processes are difficult, especially for those in a hospital or otherwise confined to a bed. Both processes require a notary, and if the reason is sickness or physical disability, a doctor's signature. The second process also requires a judge's signature. In other words, the process requires trips to notaries, the Election Division office, and possibly a trip to the court.

If voters are unable to deliver applications and ballots or appear in court in person, they must sign a form designating an agent to assist them. Designated agents must also sign a form agreeing to be the authorized representative. All these forms are downloadable from VotesPA.com.

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If the voter is unable to obtain assistance, a judge will direct a deputy sheriff to deliver the absentee ballot to the voter, if the voter is located within the county. Hospitals and nursing homes usually have a notary on staff. However, this does not help someone confined at home. As with regular absentee ballot applications, a driver's license number, last four digits of a Social Security number, or acceptable photo identification must accompany the application. Voters may submit the application by letter, but must have all the required information on the official form.

Can the process be simpler? A regular absentee ballot application does not require a notary, making unclear the reason to require a notary for an emergency application. Eliminating this step might reduce complexity.

The existence of the Emergency Absentee Ballot is not widely known or advertised. If no-excuse necessary absentee balloting were available, those who think they might not be able to vote in person, due (for example) to an anticipated operation or conflicting work schedule, could use this option.

Prison voting

The Election Code provides that the county chair of each political party and head of each political body (minor party) may designate a representative to visit every public institution within the county, on a day fixed by the county Board of Elections, to collect the names and addresses of residents who wish to vote by absentee ballot. Each requester then receives an application by mail.

On the Friday before Election Day, the county Board of Elections then sends teams of three members to the institutions (one team member appointed by each of the three members of the elections board) to collect the voted ballots and return them to the Board of Elections. The definition of public institution in this context means, "institutions primarily maintained by the federal, state, or local governments and includes, but is not limited to, veterans' hospitals and homes, State hospitals, poor houses and county homes." It is not clear if public institution could also apply to places such as prisons, where some residents meet the qualification to vote, because they are not convicted felons.

Straight-party voting option

According to the [National Conference of State Legislatures](#), 14 states, including Pennsylvania, offer straight party voting options on their ballots. Selecting this option chooses all the candidates affiliated with the selected party, in all the contests, by selecting one box or pushing one button, rather than selecting candidates individually. It is also possible to split one's vote (split a ticket) by selecting the straight party button or lever and then go down the ballot, to change one or more votes for individual races, to a candidate from another party.

The Pennsylvania Election Code requires voting systems to provide a straight-party voting option in November (and special) elections. This option is not available in primaries, as it makes no sense, under current commonwealth primary rules.

Straight party voting was the norm in the United States, before the advent of the secret ballot in the late 19th century. Voters would simply deposit a paper – identified by shape or color, containing a list of that party's endorsed candidates – into the ballot box. They could also cast ballots for individual candidates. Now, the common practice of listing all candidates of the same party in one column on the ballot facilitates straight party voting. Voters can individually select or mark every candidate in the column, elect to cross over to another party column for some races, or simply press the straight party button or mark the straight party box.

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In some states, that do not have the straight party option, the ballot lists all candidates for the same office together in a single column. This design actually discourages voting for candidates of only one party.

Straight party voting is popular with voters and speeds up voting. This is especially true in big cities, where elections involving multiple races at the state, county, and local levels lead to lengthy ballots. The Pennsylvania Election Code does prohibit a voter from spending an unreasonable amount of time in a voting booth or compartment; the limit is three minutes.

The straight party option also helps parties to educate their supporters who have limited reading or language skills. Nevertheless, selecting the straight party option places substantial faith in the political parties, to field qualified candidates for all offices, while discouraging voters from considering the merits of individual candidates. It can also contribute to the extreme polarization, which has caused partisan gridlock at the national and state levels in recent years.

Since 1994, seven states have abolished straight party voting. Indiana modified its law requiring those opting for just one party on the ballot to take the additional steps of selecting individual candidates in all at-large, multiple seat races, such as those for some county or municipal councils.

The decision to keep or eliminate straight party voting can be political, depending on whether the party in power believes the option helps or hurts candidates down the ballot. In Pennsylvania, elections for county and local offices and state and local judgeships occur in odd numbered years; whereas presidential, congressional, and statewide offices including governor, attorney general, treasurer, auditor general, and state legislative races occur in even numbered years. Gubernatorial elections do not occur in the same year as presidential elections. Elections for attorney general, treasurer, and auditor general take place in presidential election years. Under straight party voting, top of the ballot races do not significantly affect local races, but can have an effect on other down the ballot races held in the same year as a presidential or gubernatorial election.

Many voters do not really understand the straight-party option. They think that this option asks them to select their party of registration. Some people find overriding some selections confusing, after using the straight-party option. LWVPA does not have a position in support of or opposed to straight party voting, but does recommend more voter education in how to split a ticket.

Internet voting

The idea of internet voting is appealing, especially for overseas and military voters. According to [Verified Voting](https://www.verifiedvoting.org/resources/internet-voting/), 31 states and the District of Columbia allow military and overseas voters to return voted ballots electronically via email or a web portal. Using postal mail can take a long time. However, experts in internet security (including the United States Department of Defense and the National Institute of Standards and Technology) warn that it is “currently not possible to ensure the security, privacy auditability and integrity of ballots sent over the internet” (<https://www.verifiedvoting.org/resources/internet-voting/>).

Credit card companies, stock exchanges, government agencies, and other organizations, with resources to defend themselves, still experience hacking. However, they have systems to identify and correct errors over time. Even if elections offices had the necessary budget and technical expertise to defend against internet threats, there is no way to trace and correct a cast ballot.

Most election-integrity professionals accept electronic transmission of the application for an absentee ballot and the delivery of the blank ballot to the voter, to save time. However, they recommend returning the ballot by mail.

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In Pennsylvania, overseas civilian and military voters, with a residence in Pennsylvania, may apply for an absentee ballot application on-line and elect to receive a blank ballot electronically. Nevertheless, they must return the voted ballot by standard mail.

If an official printed ballot is not available in time for the on-time return of the ballot, the applicant may receive a special write-in absentee ballot. This lists all offices on the ballot, but omits the names of the candidates. The voter receives the names later.

Military voters have until a week after Election Day for their ballots to arrive at the Elections Divisions. The vote certification does not occur until 20 days after an election. A qualified overseas or military voter may have an adult member of his or her immediate family sign the absentee ballot application.

Suggested Reading

Geffin, E. (2015). Watching the watchers: An analysis of poll watcher statutes in the United States. Student Works, Paper 2. http://digitalcommons.law.uga.edu/stu_papers/2

This is a comprehensive overview of Election Day poll watching and the pros and cons of the wide range of statutes governing the process in the states. It also has a model statute governing poll watching.

The National Association of Secretaries of State has a brief state-by-state summary of laws governing who may be a poll watcher and who is authorized to challenge voter eligibility. Access to the document is at <http://www.nass.org/reports/surveys-a-reports-2/>.

Consensus Questions

1. LWVPA believes poll watchers who challenge a voter's eligibility at the polls should be required to write out their challenge and sign an affidavit (with and Elections Officer as witness) that the challenge is truthful and in good faith.
 1. Strongly disagree___
 2. Disagree___
 3. Neutral/no consensus___
 4. Agree ___
 5. Strongly agree___

2. LWVPA believes poll watchers should: (Choose 1)
 - a. Be required to reside in the election district where they are serving_____
 - b. Be required to reside in the county where the election district they are serving is located_____
 - c. Can be from anywhere in the state regardless of the location of the election district they are serving___
 - d. None of the above_____

3. LWVPA believes that both Poll Workers and Poll Watchers should be required to take training authorized by the state.
 1. Strongly disagree___
 2. Disagree___
 3. Neutral/no consensus___
 4. Agree ___
 5. Strongly agree___

4. LWVPA believes that the election code should allow nonpartisan organizations to appoint poll watchers when those organizations actively support or oppose a ballot issue.
 1. Strongly disagree___
 2. Disagree___
 3. Neutral/no consensus___
 4. Agree ___
 5. Strongly agree___

5. LWVPA supports measures to make voting more accessible by providing any registered voter with alternatives to casting a ballot in person on the day of a Primary or Election.

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1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

6. LWVPA supports Vote by mail

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

7. LWVPA supports simplifying the processes for casting an Emergency Absentee Ballot, including eliminating the need to have the application notarized.

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___
2.

8. LWVPA supports utilizing the internet to transmit applications for absentee ballots and blank ballots for all voters.

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

9. LWVPA believes that because of security concerns, at this time the return of voter absentee ballots should be by hand or via US mail.

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

10. Regarding straight party voting, LWVPA believes that Pennsylvania should retain its current system.

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

11. LWVPA believes that provisions in the Election Code that facilitate absentee ballot application and voting by residents of public institutions should be extended to residents of local, state and federal penal institutions who are qualified to vote.

1. Strongly disagree___ 2. Disagree___ 3. Neutral/no consensus___ 4. Agree ___ 5. Strongly agree___

Comments:

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Local Government in Pennsylvania

A Supplement to the Election Laws Review and Update Study Guide

The primary purpose of this supplement is to assist members in making decisions about the alternative election systems section of the study. If member study and consensus results in LWVPA adopting positions in support of Instant Runoff Voting and Single Transferable Voting, the most likely level of government at which to advocate for change is the local level. This is especially true if a local government decides to consider an alternative to its existing government structure, including home rule. For example, after a two-year study, the residents of Concord Township, a second-class township in Delaware County, voted in the 2016 Primary to adopt a home rule charter. Under the new charter, a seven-member township council elected at-large for 4-year staggered terms will replace the current five-member board of supervisors, elected at large for 6-year terms.

There are six types of local governments in Pennsylvania: county, township, borough, town, city, and school district. This creates a mosaic that starts with 67 counties, subdivided into 2,561 municipalities. Overall, there are 5,089 individual governmental units.

[The Pennsylvania Manual](#) is an authoritative source of information about local government structure. It also lists the names, identified by party, of the governing bodies and other elected officials. A quick survey finds that one party dominates most of these governing bodies, with many made up exclusively of members from one party.

[The Pennsylvania constitution](#) authorizes the state to enact laws regulating local units of government. It outlines basic requirements and rights. It requires periodic legislative redistricting for those that elect part or all their legislative bodies from districts, guarantees the right to select an optional plan of government or a home rule charter, and mandates uniform legislation establishing the procedure for consolidation, merger, or change of municipal boundaries.

Municipalities

There are four types of municipalities: counties, cities, townships, and boroughs. Each class of municipality operates under its own code of laws, which sets forth the governmental structure, as well as the general and specific powers of local government.

[The Home Rule Charter and Optional Plans Law](#) grants Pennsylvania municipalities the power to determine for themselves what structure their government will take and what services it will perform. A home rule municipality no longer has its powers and organization determined by the state legislature. A home rule municipality drafts and amends its own charter and may exercise any power or perform any function not denied by the state constitution, the general assembly, or its home rule charter. As of January 2013, 77 municipalities had adopted home rule charters, including seven counties, 22 cities, 20 boroughs, and 28 townships.

Counties

Most county governments have a board of commissioners consisting of three members. In the election of these commissioners, each voter may vote for no more than two candidates, and the three candidates with the highest number of votes win the election. Under this system, no more than two commissioners may represent the same party. Usually the three commissioners represent only the Democratic and Republican parties.

Commissioners typically serve as both the legislative and executive body for a county. In addition to the commissioners, most counties elect other officials, commonly called row officers, independent of the board of commissioners. These are sheriff, district attorney, prothonotary

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(chief clerk), clerk of courts, registrar of wills, clerk of the orphans' court, recorder of deeds, treasurer, controller, auditors, and jury commissioners.

Seven counties have home rule charters: Allegheny, Delaware, Erie, Lackawanna, Lehigh, Luzerne, and Northampton. In home rule counties, the charter determines the method, by election or appointment, for selecting these types of officials. Of these, only the Delaware County Council consists of members from only one party. The others have at least one member from a different party, although one party is usually dominant.

Philadelphia is a consolidated city and county, with the city government administering all county functions. Philadelphia City Council elections occur in part by district and at large.

Population determines the classification of a county.

Class	Max. Population	Min. Population	Number	Counties
First	--	1,500,000	1	Philadelphia
Second	1,499,999	800,000	1	Allegheny
Second A	799,999	500,000	3	Bucks, Delaware, Montgomery
Third	499,999	210,000*	12	Berks, Chester, Cumberland, Dauphin, Erie, Lackawanna, Lancaster*, Lehigh, Luzerne, Northampton, Westmoreland, York
Fourth	209,999	145,000	9	Beaver, Butler, Cambria, Centre, Fayette, Franklin, Monroe, Schuylkill, Washington
Fifth	144,999	90,000	7	Adams, Blair, Lawrence, Lebanon, Lycoming, Mercer, Northumberland
Sixth	89,999	45,000~	24	Armstrong, Bedford, Bradford, Carbon, Clarion~, Clearfield, Clinton~, Columbia, Crawford, Elk~, Greene~, Huntingdon, Indiana, Jefferson, McKean, Mifflin, Perry, Pike, Somerset, Susquehanna~, Tioga~, Venango, Warren, Wayne
Seventh	44,999	20,000	4	Juniata, Snyder, Union, Wyoming
Eighth	19,999	0	6	Cameron, Forest, Fulton, Montour, Potter, Sullivan

Cities

There are 56 incorporated cities, classified according to population. Philadelphia, with more than one million residents, is the only first class city. Pittsburgh, with more than 250,000 residents, is the only 2nd class city. Any city below 250,000 people is a third class city. The exception is Scranton, which is designated a second class A city. First and second-class cities have a strong mayor and home rule charters. Most of a city's functions are independent of state control. Except

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for Philadelphia, all city council member elections are at large and most have members of only one party.

A third class city has one of three forms of government.

1. In the commission form, the mayor and four other members constitute the commission, which is the governing body. The mayor is one of the members of the commission and acts as president.
2. The mayor-council form has a council of five, seven, or nine members, elected at large for overlapping four-year terms. Election of the mayor, treasurer and a controller are also for a four-year term. The mayor is the chief executive, and supervises the work of all departments.
3. In the council-manager form, all authority rests with council, composed of five, seven, or nine members, elected at large for a four-year term. Selection of the city treasurer and controller is also by election. The manager, appointed by council, is the chief administrative officer.

Townships

There are 1,547 townships. Townships may be either first or second-class. First-class townships have a governing board of commissioners, consisting of either five commissioners elected at large or 7-15 commissioners elected by wards, to four-year staggered terms. A second-class township usually has three supervisors elected at large for six-year terms. A referendum may allow the board of a second-class township to expand to five members. Some townships have home-rule charters, which allow for a mayor/council form of government.

Boroughs

There are 958 boroughs. Boroughs have a weak mayor and a council of three, five, seven, or nine members. The borough council may hire a manager to carry out day-to-day business. Some boroughs have home rule charters.

Town

There is also one incorporated town, Bloomsburg.

School Districts

Everyone in Pennsylvania lives in one of 500 school districts. School districts may include a single municipality, such as Philadelphia, or multiple municipalities. There are five population-based classes of school districts.

Class	Max. Population	Min. Population [14]
First	--	1,000,000
First A	999,999	250,000
Second	249,999	30,000
Third	29,999	5,000
Fourth	4,999	--

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Elected or appointed boards of school directors administer the public school systems. [The School Code of 1949](#) (as amended) provides that at each election of school directors, each voter may cast one vote for each school director vacancy. The code prohibits the use of any system of cumulative voting for the office of school director.

The composition of school boards varies by district. Some districts elect all directors at large, others by single member district. Some also use multi member districts or a mixed system, electing some members at-large and the rest from single or multi-member districts.