NCSL-Democracy Fund Project
Elections 2020: Policy, Funding and the Future

Texas

A team of Texans from the Legislature and state and local election offices convened in Austin on May 19, 2016, to discuss elections-related technology. Topics included the process for certifying voting systems in Texas, the cost and maintenance of voting machines, and the future of election technology in Texas.

A Profile of Elections in Texas

- Turnout: 50 percent in the November 2012 General Election.[1] The national average was 58 percent.
- Registered voters: 14,238,436.[2] This is the 2nd highest in the nation (after California).
- Election administration units: 254 counties.
- Equipment: ballots are counted in three different ways in Texas, depending on the county: hand counted paper ballots, precinct or centrally counted optical scanned paper ballots, or Direct Recording Electronic (DRE) voting machines.
- Overall rank on The Pew Charitable Trusts' 2012 Elections Performance Index: 41.

Overview of Election Technology in Texas

Presentations from the Elections Division of the Texas Secretary of State covered the impact of the 2002 federal Help America Vote Act (HAVA) on voting in Texas, and the current framework for testing and certifying voting systems in Texas. Key points included:

- Texas qualified for $203.7 million in federal HAVA funds, and the state provided matching funds of $9.5 million. The majority of these funds were distributed to counties in 2004 and 2005 in support of new voting equipment and other election administration improvements.
- HAVA required a phasing out of older lever and punch card voting machines, and also required accessible voting machines to be made available in all polling places for voters with disabilities.
- The state assisted with the acquisition of HAVA-compliant voting systems by establishing a state-negotiated contract through the Texas Procurement and Support Services Cooperative Purchasing Program, with assistance from the Department of Information Resources (DIR).
- Voting systems were acquired at the county level, but the secretary of state's office approved the voting systems that could be purchased, and drafted a "Best Practices Guide for Acquiring Voting Equipment."
- Counties may charge political subdivisions, such as municipalities, school boards and water districts, for actual costs incurred by running elections. They may charge $5 per piece of equipment used in a primary election and up to 10 percent of the purchase price of the equipment each day it is used for all other non-county elections. When there were still HAVA funds, counties did not pass on costs to subdivisions as much, though now that HAVA funds are depleted this is perhaps something that counties should reexamine.

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[1] Percentage of voting eligible population, courtesy of The Pew Charitable Trusts' Elections Performance Index
[2] March 2016 Voter Registration Figures, Texas Secretary of State

- In order to be used in Texas, a voting system must pass a two-part certification process:
  - It must be tested to federal standards, e.g. the [Voluntary Voting System Guidelines (VVSG)](#) set by the U.S. Election Assistance Commission (EAC). Testing is conducted by independent [Voting Systems Test Laboratories (VSTL)](#) accredited by the EAC.
  - It must be approved by the secretary of state's office. The Texas certification process includes a written application process, an in-person examination and a public hearing. Examiners are appointed by the secretary of state and the attorney general, and have technical expertise or specialize in election law.
- Three vendors are certified to provide voting equipment to counties in Texas: Hart InterCivic, Election Systems & Software (ES&S) and Premier Equipment (formerly Diebold, serviced by Dominion).
- The equipment that is currently certified and in use still functions well, but is showing its age.
- The certification program in Texas currently does not include "peripheral systems" such as e-poll books.

Local Election Officials: Demonstrations and Panel

Local election officials from Bexar and Burnet Counties demonstrated the voting machines that are currently in use. Participants noted the age of the machines, and that many of the consumables that the counties rely on to run the machines (zip disks and paper for dot matrix printers, for example) are difficult to find and expensive to procure.

A panel of location election officials from seven counties in Texas, ranging from 27,000 to 1.2 million registered voters, addressed the following questions:

- When did you last purchase voting equipment and how much did it cost at the time? How was it paid for?
  - All counties purchased equipment between 2002 and 2005. Dallas County purchased machines in 1998 and was able to upgrade with the help of HAVA funds in 2003. Bexar County purchased machines in 2002 before HAVA funds become available through a five-year financing program, but was then able to pay off the machines early with HAVA funds, which provided significant savings.
  - Purchase prices for machines ranged depending on the size of the county, from $363,000 in Burnet County, to over $2 million in Lubbock and Hidalgo Counties, and to $15 million in Dallas County.
  - In all cases HAVA funds paid for a significant portion of the new equipment that was bought, ranging from 60 percent in Lubbock County to 100 percent in Hidalgo County.
  - Election officials note that maintenance and licensing fees are significant as well, so the purchase price does not reflect the total cost of ownership for these machines. Bexar County and Hidalgo counties, for example, both pay about $300,000/year for ongoing maintenance.
- When will you look for new equipment and where will the money come from?
  - Officials are in various stages of having conversations with county commissions for funding, since it is unlikely that federal or state funds will be available for new equipment.
  - There is some uncertainty as to how and when new equipment may be purchased, though some counties have started to put aside funds.
  - Dallas County obtained quotes for about $21 million to replace its equipment, and is exploring lease-purchase options. Williamson County was quoted $4.5 million and Lubbock County $8 to $12 million.
  - The option of participating in the countywide polling place program (vote centers) affects the decision of the type and quantity of equipment to purchase, since statute requires DREs to participate.
  - Counties are looking at replacing equipment between 2017 and 2019.
- What is your dream and hope for the future for elections in your community? What do you need from the legislature?
  - Prices for equipment, including licensing and support, are too high. It would be helpful if the state could help in some way, perhaps by putting a cap on what can be charged or by dictating that counties have to buy through the DIR so that everyone gets the same price.
  - It would be nice to be able to take advantage of some of the newer technology, including e-poll books and QR codes on cell phones that allow voters to pre-mark their ballots and bring them into the polling

place. Legislation relating to both of these issues, a certification process for e-poll books and guidance on cell phones in polling places, would be helpful.

- o Clean up the election code to update references to technology that is no longer used.
- o Provide funding assistance for recruiting student poll workers, who are often more tech savvy that older workers.
- o Assistance on working with the postal service to ensure timely delivery of absentee ballots.

Thinking About the Future of Voting Systems in Texas

The afternoon conversation was kicked off by presentations on the current legislative framework for voting systems in Texas, the national situation of voting systems and considerations for new voting systems. Key points included:

- Many references in the Texas election code to "voting machines" or "electronic voting systems" have not been updated in 50 years or more, and refer to machines that are no longer in use. The election code has not been significantly updated since 2003 and there are systems that have recently been developed or are in the process of being developed that do not fit within the parameters of code.
- Updates in code are necessary if the legislature would like to require a voter verified paper audit trail (VVPAT) for DREs, or permit peripheral systems like ballot-on-demand printers, ballot marking devices or voter assistance applications.
- Since HAVA, some states have moved toward requiring a uniform voting system—the same equipment used in each jurisdiction throughout the state.
- Some states assist with paying for voting equipment by: providing a direct appropriation for equipment statewide; splitting costs 50/50 between the state and counties, providing grant or low-interest loan programs, negotiating agreements for buying equipment in bulk or providing dedicated revenue through other fees charged by the secretary of state's office.
- When purchasing and funding new machines is left up to individual counties, they may also use a variety of strategies to help reduce costs: creating consortiums of counties in order to buy equipment in bulk, developing open source software that can be run on off-the-shelf devices or by creating efficiencies in the election process in order to save up the funds for new equipment.
- The "voting system" is no longer just the voting machine—it also encompasses a variety of other systems, including voter registration, redistricting, ballot printing, e-poll books and statewide election night reporting. This means that a glitch in any one of these systems has the ability to impact an election.
- A lot has changed since HAVA and the last round of voting machine purchases, including technology and voter expectations that voting be quicker, more convenient and transparent.
- Transitioning to a new voting system is difficult and costly, like changing the tires on a bus without stopping. A transition provides the opportunity to look at the voting model and procedures as a whole.

A Conversation on Election Technology and the Future of Texas Elections

The discussion was facilitated by Merle King from the Center for Election Systems at Kennesaw State University. Participants were asked to provide some key takeaways and possible action times moving forward:

- State agencies such as the DIR may be able to assist with the process, look for opportunities to be innovative and keep the costs of purchasing new voting equipment affordable. The state could consider a four-year plan, in anticipation of the next presidential election.
- It may be possible to look at non-substantive changes to the election code to modernize and create the needed framework for newer technologies.
- The state should provide adequate enough support to counties, especially smaller counties. The state has a vested interest in making sure every county does things well, since it only takes one to cause problems with statewide election results.
- Communication can be difficult in a state as large as Texas, but is extremely important. It's good to hear from counties all over the state.

- For the next round of purchases, it's important to consider the whole cost of ownership of a voting system and even consider things such as the availability of batteries and other consumables 20 years from now.
- Voting machines are the classic political problem: the law was written a long time ago, technology is evolving all the time and money is needed for upgrades. Solving the problem will require collaboration between various state and local entities.
- Legislators may request to meet with local election officials in their jurisdictions to see how the process works any time.

Resources

- Ask NCSL if you would like to see the presentations from this meeting.
- NCSL's Election Technology Overview
- NCSL's Elections Technology Toolkit: Voting Machines and Beyond
- NCSL's Elections 2020: Policy, Funding and the Future
- NCSL's Election Tech Funding News
- NCSL's Funding Elections Technology
- NCSL's Voting Equipment
- Articles from NCSL's election administration newsletter The Canvass:
  - Election Funding for 2020 and Beyond
  - Elections Technology: Nine Things Legislators May Want to Know
  - Burning Questions at NCSL's Policy and Elections Technology Conference
  - Internet Voting - Not Ready for Prime Time?
  - Internet Voting: Creeping Our Way?
  - All About E-Poll Books
  - Voting Technology: Current and Future Choices
  - Voting Technology Standards: What Legislators Need to Know
- NCSL offers technical assistance, testimony and other in-person help as needed, and can provide research on any topics useful to Texas policymakers.
- The U.S. Election Assistance Commission's (EAC) webpage on Voting Technology Procurement
- EAC'S webpage containing Voting System Reports
- EAC's webpage on Managing Election Technology
- EAC'S Quick Start Management Guide on Technology in Elections
- The Brennan Center's America's Voting Machines at Risk
- The Brennan Center's Guidance for Election Officials with Aging Voting Equipment

Contacts

Wendy Underhill
Program Director
National Conference of State Legislatures
303-856-1379
wendy.underhill@ncsl.org

Katy Owens Hubler
Senior Policy Specialist
Consultant for NCSL
Democracy Research
435-647-6051
katy@democracyresearch.com

Merle King
Executive Director
The Center for Election Systems
Kennesaw State University
770-423-6900
mking@kennesaw.edu