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Ballot Design Matters

Next year will see a new crop of voters, including some who were in kindergarten in 2000 when the nation anxiously watched Florida's vote count. Election officials and various courts deconstructed the process of voting, ballot by ballot, to determine which candidate would get Florida's trove of electoral votes.

The 2000 election put "good ballot design" on the political map, thanks to the butterfly ballots and punch cards, which confused voters and confounded vote counters. The infamous butterfly ballot from Palm Beach County —designed expressly to make voting easier by using larger type and keeping all candidates for the same office on one page— inadvertently created confusion by putting the punches in the center of the ballot.

Although this is an oft-told tale, the moral of the story is worth remembering: Design matters.

It's no surprise that in the first couple of years after 2000, legislatures enacted many laws on ballot design. Since then, we have learned a great deal more about how design affects elections. How can states put that good research into practice? And is it worth the effort?

Besides "avoiding another Palm Beach," there are several reasons for improving ballot designs:

• Good design speaks for itself—an image is worth a thousand words. View past and proposed examples of well-designed ballots by AIGA, the professional association for design.
• Good design is nonpartisan—everyone benefits from it. The proof is that no one advocates for "bad design."

• Well-designed ballots do not necessarily carry a hefty price tag. They may even save money if they reduce the likelihood of a recount, wait times at polling places or the need for replacement ballots.
•Good design prevents misunderstandings, not just for voters but for poll workers, too. As elections have become more technologically challenging, they've become more difficult to staff. Better signs and voter information can make it easier.

What is good ballot design? Good design doesn't mean making ballots pretty. It's about making them easy to understand, use and count. Design encompasses wording, images, color, layout, spacing, typeface and usability. Good design applies to polling place signs, ballots, absentee ballot envelopes, voter information cards, voter registration applications—every piece of paper, image, or webpage about an election.

Good design is also a moving target. What was state-of-the-art in 1920 may be hard-to-read now. Back then, ballot designers had few options to make words stand out, so many states mandated by statute that large blocks of text be centered or that uppercase letters be used for candidate names or for the full text of various parts of the ballot. Research has since proven that centered text and uppercase letters are actually hard to read.

For more on design, watch the U.S. Election Assistance Commission's roundtable discussion, "Design Counts in Elections" from August 2011. The commission also offers camera-ready artwork and other support for ballot designers.

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"Democracy is a Design Problem."
—Dana Chisnell, Usability Professional

Who plays a role in ballot design? Legislators are among an ensemble of characters who have a role in ballot design decisions. Local election officials usually design the actual ballots; state election officials may offer technical assistance or regulate design; and makers of voting equipment indirectly control what designs can be processed through their machines. People in the "usability profession" would like to be part of the cast, too, by conducting usability tests on designs before they are used.

Dana Chisnell is one of those professionals and author of the blog, Civic Design. "Democracy is a design problem," she says. "There are so many ways to introduce errors." She says usability testing can fix most of the problems, however. "It's easy to mock up a ballot, even if you don't know what all the measures are going to be," she says. "Then you can look at the layout and get a few people to spend five minutes voting the mocked-up ballot. Then ask them questions about what was clear and unclear." She reports that having as few as a dozen people try out a ballot can reveal potential problems.

Legislators often focus on ballot design in response to specific situations. Here are three recent examples:

Minnesota—A ballot redesign was triggered in 2008 after a U.S. Senate race was decided by a recount that excluded many absentee ballots because of errors in how they were signed, witnessed or returned. As a result, the state opted to redesign absentee ballots. All redesigned materials for absentee ballots (envelopes, instructions, witness forms) were included in two rounds of usability testing. While the design process was underway, the Minnesota Legislature was working on statutory changes that influenced the final ballot design. "It ain't over until the Legis-

One aspect of the redesign of Minnesota's absentee ballots

lature is done," said the lead designer for the project, Whitney Quesenbery of WQusability. The results, adopted by the Secretary of State's office, are described in this slideshow.

New York—In 2010, a ballot was designed for new optical scan voting equipment . This equipment replaced a gear-and-lever system that had been in place for 112 years. The new design was intended to give voters a sense of familiarity. Unfortunately, 30 percent of voters surveyed said they found the ballot confusing or difficult to read. "It is a bad sign, in terms of design, when election workers bring magnifying lenses from home to do their job," said Assemblyman Brian Kavanagh. To fix some of these problems he introduced the "Voter Friendly Ballot Act of 2011." The bill requires removal of clutter from ballots; shorter, clearer and better-placed instructions; and maximum flexibility in design. The last, he says is "so that rules don't get in the way of producing a voter-friendly ballot at the end of the day." Although the bill failed this year, he plans to reintroduce it.

Washington—After a statewide ballot question in 2009 was "under-voted" in King County (Seattle) compared with other counties, Representative Scott White worked with the Secretary of State's office to craft legislation to prevent such problems in future elections. The short ballot question had been placed directly below the rather long voting instructions, and, apparently was overlooked by many voters. The legislation "provided clear guidelines, without being overly prescriptive," said Shane Hamlin, co-director of elections for Washington.

What do design experts recommend? Design experts recommend that legislators not wait for a problem to emerge but avert controversy by:
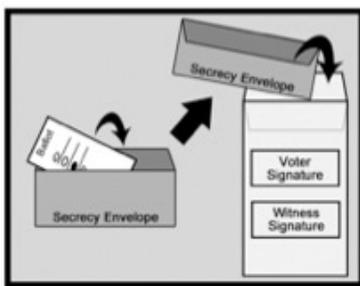
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• Asking state election officials for a review of existing laws to identify archaic or overly prescriptive language and to suggest potential improvements.

• Reviewing all legislative proposals to ensure they promote flexibility in design, rather than hard-and-fast rules that may become cumbersome later on.

• Adopting "plain language" requirements for ballots. Plain language is written to be easily understood by the average reader. For more information, try the Plain Language International Network or the Center for Plain Language.

• Using a design checklist. The Brennan Center for Justice's report, Better Ballots, contains a Ballot Design Checklist,

or your state might want to develop its own.

• Requiring, or at least encouraging, usability testing of ballots. To help, the Usability Professionals' Association offers a Local Election Official Usability Test Kit.

• Consulting the National Institute of Standards and Technology's publications on language, style, color, clear writing, and usability for election design.

• Funding a "design fellow" position in your state's elections office. AIGA, the professional association for design, created this fellowship program. Washington and Oregon have used these experts, and state election officials have been enthusiastic about the benefits.

Bookmark this:

The brand new Election Data Dispatches, which come from the Pew Center on the States, is a website for dataphiles. These dispatches point to election research and analysis from the micro to the macro level, with observations about the data. The idea, says manager Sean Greene, is to share good information about how states and localities use data to increase the efficiency and effectiveness of their election systems.

Registration Conversations, Recapped

At NCSL's 2011 Legislative Summit, voter registration was a major topic, at least for all the election wonks. Below are quick-and-dirty summaries of two presentations, that of Shane Hamlin, co-director of elections for the state of Washington, and John Lindback, senior officer for the Pew Center on the States.

A video of the full program is available; it includes comments from Delegate Jon Cardin of Maryland, who spoke about legislation in his state this year that created an online voter registration system and permitted participation in an interstate data exchange of voter registration information.

Shane Hamlin, co-director of elections for the state of Washington, described his state's experience adopting online voter registration. Washington was the second state, after Arizona, to do so, and he says it has improved accuracy, saved money, and met most expectations.

He emphasized that online registration is only one option for registering. Paper applications are available as always, and most registrations continue to be done at motor vehicle offices. Data show that online voter registration is increasing in popularity with citizens. While it is more common for younger voters, all ages are using it.

Shane Hamlin, *Co-Director of Elections for Washington*

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John Lindback*, Senior Officer with the Pew Center on the States*

The initial costs of instituting registration online were around $250,000 in Washington, which was recouped within a couple of years, according to Hamlin. The savings come from no longer needing staff time to hand-process written applications. Because voters enter and confirm their own data, accuracy has improved, too.

Security is always a concern in election-related matters. To verify online registrations, they are matched against data in the motor vehicle database, where citizens have to appear in person. If there is no match or if voters have had no interaction with the motor vehicle department, the online registration cannot be completed. This gives a greater level of security than the paper-based system. Learn more in this short video interview.

John Lindback, senior officer with the Pew Center on the States, spoke about voter registration from a national perspective. A former director of elections for Oregon, Lindback says that elections directors are "accustomed to getting angry phone calls" from organizations and constituents claiming that the rolls are inaccurate. "At any given period, you're going to have deceased voters or voters who have moved still on your voter rolls," he says.

The goal, then, is to have the rolls as up-to-date as possible when Election Day arrives. Since one in four valid voter records have at least one piece of inaccurate information, keeping the rolls clean is a Herculean task. These inaccuracies are the result of a citizenry that moves frequently as well as data processing errors. Problems also occur in states that rely heavily on third party registration drives—when political campaigns and other non-governmental groups provide and collect paper registration applications. These registrations often contain errors as well as cost the most to process.

To improve registration systems, Lindback says, states must put technology to work. Online voter registration saves money and improves accuracy. Both *intrastate* data matching (comparing applications to other databases within a state, such as from social services agencies, motor vehicle bureaus and death records) and *interstate* data matching (comparing applications with other states' data) can also greatly improve accuracy. Elections officials and experts from 21 states worked with Pew to create ERIC (Electronic Registration Information Center), a multi-state data-matching effort that is in the planning stage. It will be run by states and for states, with the Pew Center on the States serving as a non-voting board member. Learn more in this short video interview.

One Big Number: 45,482,188

That's how many voter registration forms were received from November 2008 to November 2010 in local election offices around the country. Of these applications, 14.4 million were from new voters in jurisdictions; the rest were for changes to current records, or duplicates, or other matters. This information comes from the U.S. Election Assistance Commission's report, The Impact of the National Voter Registration Act, 2009-2010.

What is Section 5?

Section 5 of the federal Voting Rights Act of 1965 has been in the news recently. But what is it? Residents of the 16 states where Section 5 pertains are likely to know all about it, but the rest of us may be in the dark. Here is a short explanation, including a vocabulary lesson.

In 1965, President Lyndon Johnson signed the Voting Rights Act, establishing that no person can be denied the right to vote because of race or color, and in 1975 membership in a minority language group was added. Some states are covered by a part of the law commonly referred to as Section 5 that dictates that no changes to voting procedures in state election law are legally enforceable in specific jurisdictions until approved at the federal level. In other words, an election bill passed by the legislature and signed by the governor in a Section 5 state or jurisdiction does not become law until approved by the federal government. Section 5 was an extraordinary remedy under the U.S. Constitutional system of federalism to deal with discriminatory voting practices in some states and counties. For more details about the Voting Rights Act, see the U.S. Department of Justice's explanation.

Section 5 Vocabulary:

Covered jurisdictions—those jurisdictions that must submit any changes to voting laws and procedures for federal review under Section 5, based on a past history of impeding minority citizens from their right to vote. These jurisdictions were identified based on specific measures, such as low voter registration within a minority community. The covered jurisdictions include all or part of the following states: Alabama, Alaska, Arizona, California, Florida, Georgia, Louisiana, Michigan, Mississippi, New Hampshire, New York, North Carolina, South Carolina, South Dakota, Texas and Virginia.

Pre-clearance—when "covered jurisdictions" pass any laws or regulations that relate to voting, they must submit the changes to either a three-judge federal court in the District of Columbia or to the Department of Justice's Civil Rights Division for "pre-clearance" before the law takes effect. States choose which avenue they will take. Laws from three states that passed new photo voter ID requirements this year— Alabama, South Carolina, and Texas— must be pre-cleared before taking effect. The Department of Justice has responded to South Carolina and Texas, asking for more information before ruling on whether the new laws violate Section 5.

Bail out—jurisdictions that are "covered" can attempt to be removed from Section 5 by asking to "bail out." This involves seeking a declaratory judgment from a three-judge panel in the U. S. District Court for the District of Columbia, and is based on that jurisdiction's recent history. If there is no evidence of discriminatory voting practices in recent years, a jurisdiction might be removed from the Section 5 requirement. Recently, Shelby County, Ala., sought to bail out at the end of 2010. The Shelby County case was widely viewed as a challenge to the existence of Section 5. The County argued that if the original qualification test for coverage had been updated, neither the county, nor Alabama as a whole, should be covered. In September, a federal judge ruled in the Shelby County case upholding the constitutionality of Section 5. The County may appeal the case. Congress reauthorized Section 5 in 2007. There are several challenges to Section 5 pending in other federal courts, and opponents of the provision would like to see one of the cases reach the U.S. Supreme Court.

Worth Noting

Electoral College update: Pennsylvania is considering a proposal offered by Senate Majority Leader Dominic Peleggi on a different approach for awarding electoral votes. If enacted, Pennsylvania would join Maine and Nebraska in awarding electoral votes per congressional district instead of via the statewide winner-take-all system that is used now by Pennsylvania, the other 47 states and the District of Columbia.

Budget cuts: Will cuts to elections budgets affect voters? Local elections officials say "probably so" in this September 7th blog post from Governing, this September 26th radio report from National Public Radio, and this October 3rd Associated Press article about election budgets in the Carolinas. Doug Chapin, director of the Program for Excellence in Election Administration at the University of Minnesota, says "maybe not" depending on how well elections officials can "improvise, adapt and overcome" budgetary obstacles, in this September 28th blog post.

Must voted ballots remain private? Colorado is trying to answer this question. County clerks say "yes," because in small jurisdictions it might be possible to track a ballot back to an individual voter, something that would infringe on the confidentiality of that vote. But Secretary of State Scott Gessler says "no," be-cause the public has a right to review completed ballots, and the state can find ways to reduce risks to voters. The Colorado County Clerks Association may seek legislative clarification on the privacy of voted ballots, according to the Denver Post.

Possible Ohio referendum: In September, Ohio petitioners, who are seeking a referendum to undo this year's controversial elections law, turned in more than 318,000 signatures to the secretary of state. To put the referendum on the 2012 ballot, 231,147 valid signatures are needed. Signature verification will be completed this November.

Internet voting: The U.S. Election Assistance Commission released A Survey of Internet Voting in September,2011. It includes projects from the U. S. and abroad. The focus is on standards to develop and test Internet-based voting, and the level of risk involved, given that no system can be 100 percent secure.

When you have time: Way back in 2004, the Smithsonian Institution had an exhibit entitled, *Vote: the Machinery of Democracy*. It lives on in this electronic version. One take-away message from reviewing it is this: Election reform is a process, not an end product.

From NCSL's Elections Team

NCSL has a favor to ask of its *Canvass* readers. If you're a legislator, would you please forward this newsletter to any staff members who follow elections policy in your statehouse? And if you're a staffer, would you please ensure that the legislators you serve have access to this information? We'd like to see that our elections newsletter gets into the hands of everyone who might find it useful.

And, as always, if you've got an opinion about the newsletter, an example of newsworthy elections policy or a suggestion for future stories, please give us a call at 303-364-7700 or send us an email. Thank you.

Jennie Bowser, Tim Storey, and Wendy Underhill