

Draft

Model Policy for Politically Neutral State Election Leadership

The following is a summary of a bill to secure trusted and impartial elections by providing for oversight by an independent state board of elections and election administration by a nonpartisan professional.

Drafted by

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Introduction

This bill establishes durable safeguards to improve trust in elections, ensure professional and politically neutral election administration, and prevent partisan control over election infrastructure. The bill amends either the state constitution or state election code to establish an independent, multistakeholder State Board of Elections and a nonpartisan, professional State Elections Administrator.

The Board oversees elections, sets policy in accordance with state and federal law, educates the public on elections in the state, and nominates the State Elections Administrator, who serves as a non-voting chair of the Board and as the state's chief election official.

The Board is designed to gather input from a diverse set of stakeholders in election policy, including elected officials, election administrators, civic organizations, judges, political parties, and citizens. Its structure gives responsibility for detailed election administration rulemaking consistent with state and federal law to a body that has substantial election expertise and is free from conflicts of interest because it cannot be controlled by any competing political party.

The State Elections Administrator must meet minimum professional qualifications and abide by strong impartiality standards while holding the position. The Administrator is nominated by the Board, appointed by the Governor, and remains accountable to the Board. This structure empowers the state's chief election official to make day-to-day decisions to implement state and federal election law while also promoting accountability to the people most involved in elections.

Board makeup

The Board consists of nine voting members. The first six are chosen as follows:

- One former state judge, appointed by the Chief Justice of the state Supreme Court, to serve as chair until the State Elections Administrator has been chosen.
- One election law expert, appointed by the State Bar Association.
- Two appointees of the state association of election administrators, both former election administrators, one urban and one rural, who may not be members of the same political party.
- Two former state legislators who served on a legislative committee responsible for elections, chosen by the majority and minority leaders of the state senate.

These six members then choose the next two members:

- Two representatives of nonpartisan civic organizations. Each of the first four members above propose a nonpartisan civic organization, each organization names a proposed representative, and each former state legislator will strike one civic organization's representative from the list of four proposed representatives.

These eight members then choose the final member, for nine total:

- Either a representative of the state's third-largest political party or a former independent/unaffiliated candidate or elected official.

After the State Elections Administrator is appointed, the Administrator will chair the Board but will not be a voting member, except as needed to resolve a tied vote.

The Board will also be joined by three registered voters of the state, who will be permitted to attend all meetings and have "observer" status. These observers will provide insights and feedback to help inform Board deliberations and decisions but will not be permitted to vote on Board decisions. Each observer will be selected from one of three separate pools of applicants: Democratic registered voters, Republican registered voters, and unaffiliated or minor-party registered voters.

Powers and duties of the State Board

The Board serves part time, and its duties fall into the following categories:

- Nominating and supervising the activities of the State Elections Administrator.
- General supervision and rulemaking authority over all elections for public office, in accordance with state and federal law.
- Coordination and oversight of election administration for counties, municipalities, and other local jurisdictions, including training, professional development, qualification-setting, and the power to remove local election officials for cause.
- Public outreach and voter education.
- Receiving reports regarding potential violations of election laws and referring nonfrivolous allegations to law enforcement.
- Certification of election results for state and federal offices.

The Board's supervision of the State Elections Administrator includes receiving periodic reports, reviewing and approving significant decisions, and reviewing and approving election materials such as training manuals. The Board may remove the State Elections

Administrator by a majority vote, in which case the Deputy State Elections Administrator serves until the end of their term or until a replacement is nominated and appointed.

State Elections Administrator

The first duty of the State Board of Election is to nominate candidates to serve as the State Elections Administrator. The nomination process involves a period of solicitation of applications and interviews. To serve as State Elections Administrator, a person must meet a series of qualifications, including substantial election administration experience. A person is disqualified from serving as State Elections Administrator if they have recently run for partisan office or worked in leadership for a political party, a candidate committee, or a political action committee. The Board submits a slate of three qualified nominees to the Governor, who is charged with appointing the State Elections Administrator. If the Governor fails to appoint one of the three nominees, the Board may appoint their preferred nominee directly.

The State Elections Administrator serves full time as the chief election official for the state and as the non-voting chair of the State Board. The State Elections Administrator chooses a Deputy State Elections Administrator to take their place in case they become incapacitated or otherwise vacate the office, or if they need to recuse themselves due to a conflict of interest.

The State Elections Administrator carries out whatever roles are delegated to them by the legislature or the State Board. The Administrator chairs the meetings of the Board, which include reporting on the Administrator's significant decisions and materials produced.

Terms & compensation

After the initial seating of the Board of Elections, Members of the Board will serve staggered four-year terms for a maximum of three consecutive terms. The State Election Administrator will serve six-year terms for a maximum of four consecutive terms. All members of the Board and the State Election Administrator are compensated according to the state budget.¹ The Board is provided with dedicated staff according to the state budget and the Board exercises hiring and firing authority over that staff. The Board's staff also serve as staff for the State Elections Administrator.

Ethics

All members of the Board and the State Elections Administrator must recite an oath pledging to carry out their duties in an impartial manner. While serving, they must abide by a code of ethics that includes restrictions on political activities, endorsing candidates, and conflicts of interest.

¹ When board reform is structured as a constitutional amendment, advocates are encouraged to provide constitutional protections for the board's funding and for election funding more generally.