

# INTRODUCTION

## ELECTION REFORM

THE SUBJECT OF ELECTION REFORM has garnered enormous public attention since the dramatic 2000 presidential election. From voting machines to provisional ballots to voter identification requirements, the “nuts and bolts” of the country’s election systems have generated concern across the political spectrum. Yet in the face of considerable disagreement over what changes should be made, the debate has too often proceeded without an adequate understanding of existing rules and practices. Politicians and advocates often have put forward their own preferred solutions, without taking the time to gather evidence drawn from the actual experience of the state and local entities that run American elections.

Particularly in need of scrutiny is how the changes required by the Help America Vote Act of 2002 (“HAVA”), passed by Congress in response to the 2000 presidential election, as well as many recent state-initiated changes, have altered the ecology of the election systems of each state. Such information is a necessary predicate to recommending what can be done prospectively to improve the administration of elections.

This book seeks to help fill that gap by describing the results of a yearlong study of the statutory, regulatory, and judicial frameworks shaping the election administration procedures of five key Midwestern states: Illinois, Michigan, Minnesota, Ohio, and Wisconsin. Not only have these five states historically played a pivotal role in national politics, but they also are broadly representative today of the political

character of the country as a whole. In these states, perhaps more than in other regions of the nation, reside the proverbial “median voters,” whom both major political parties endeavor to persuade. As a result, statewide races in these states tend to be particularly competitive and close, making the need for a well-working electoral system especially pressing.

Since the 2000 election, each of these bellwether states has undertaken the challenge of revamping its election system. In the fall of 2006, gubernatorial contests in all five of these states provided an opportunity to test the current conditions of their revamped electoral systems. Anticipating this event, in the summer of 2006 we set out to monitor and study how the election systems in these states would function, first analyzing in detail each state’s legal landscape governing the conduct of elections, and then paying careful attention to the difficulties that unfolded in these states during the 2006 “midterm” election season. Thereafter, in each state we conducted a series of interviews and meetings with local and state election administrators and officials, seeking to understand how the underlying statutory and judicial standards governing election processes in these states are actually applied on the ground.

We believe that the views and experience of these five states’ election administrators and other officials, and more generally the manner in which these states now conduct their processes of democracy – some five years after

HAVA's passage and one year before the 2008 presidential election – are of significance not only regionally but also nationally. Accordingly, in the pages to follow, we report the results of our study, in the form of both a state-by-state analysis and a cross-state comparison of fundamental matters of election administration, accompanied by some general observations and recommendations on these matters.

Part I contains two chapters. Chapter 1 provides background concerning the need for our study and outlines our research methodology. Chapter 2 then describes in more detail the particular matters of election administration that we have included in this study, grouped into the following nine areas: (1) institutional arrangements; (2) voter registration; (3) challenges to voter eligibility; (4) voting technology; (5) early and absentee voting; (6) polling place operations; (7) ballot security; (8) provisional voting; and (9) vote counting, recounting, and contests. As Chapter 2 explains, these related topics should be studied not in isolation but instead as an election “ecosystem,” in which each area affects, sometimes profoundly, several other areas.

In Part II, Chapters 3 through 7 describe what is occurring in these nine areas within the five states, including the manner in which each state has endeavored to comply with HAVA's requirements. These state-specific chapters identify the most significant aspects of the state's statutory, regulatory, and judicial frameworks that govern election processes. They also assess how well each state's election ecosystem in fact is working.

In Part III, the three concluding chapters then contain some general conclusions and observations, as well as specific proposals for im-

provement and reform. We both compare these states, and consider how each state can achieve more fair, efficient, and effective election administration. We believe that these proposals in particular, and this study generally, will be of interest to key state public officials, legislators, election administrators, election scholars, and opinion makers. We hope that the study will help to elevate the accuracy of the debate concerning election processes and to guide policymakers as they work to shape election ecosystems that are efficient, effective, fair, and accessible to all citizens.