Vermont Municipal Clerks & Treasurers Association (VMCTA)
Legislative Committee

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Elections Notes January 14, 2021

1. Allowing early processing of ballots. This was one of the items included in the Secretary of State's COVID-related directives for last year's elections. VMCTA would like to see the change become permanent. It allowed clerks to feed absentee ballots into tabulators during the 30 days before the election. Current statute allows clerks to feed ballots the day before, but the extra time would be valuable. We expect a continuing increase in early and absentee voting, and the day before elections tends to be very busy with other chores associated with getting ready for voting the following day. The SOS directive from July 2020 could be used as a template for draft language. 17 VSA §§2546,2546a, 2546b.

2. Authority to mail ballots to all active voters. Make this a permanent option for municipalities. 17 VSA Chapter 51 and 17 VSA §2539.

3. Authority to allow outdoor elections/voting. Many towns used outdoor or drive-through voting for the August election, and some are planning similar arrangements for the annual meetings this spring.

4. Drop boxes allowed. Many towns installed drop boxes for the November 2020 general election. The drop boxes expanded ballot return options for our voters, and it would be nice to have them permanently allowed going forward.

5. Change write-in tally requirements based on notification of write-in candidates. We have brought this item up for consideration in the past, and continue to propose creating a way for write-in candidates to submit their names in advance of or during election day, so only those names need be counted after the polls close.

For the August 2020 primary, Barre City tallied 369 write-ins on 1,617 ballots, representing 143 different names. The majority of them were people trying to cross party lines – writing in their Democratic choice on the Republican ballot or vice versa. Those offices that are district, county or statewide need to be reported so the numbers can be added together, but if a write-in candidate declares their candidacy the day before the election to the Secretary of State's office, the SOS could let clerks know which names need to be tallied.

For local elections, write-in candidates could inform the clerk before close of polls, and then only those write-in votes would be counted. At town meeting 2020, Barre City had 67 write-ins to tally, and none of them were actual candidates, nor did they receive enough votes to qualify for election. Another challenge is knowing exactly who the write-in vote is for. There are many people on our checklists with identical names, and without clarification through some form of notification, it can be impossible to know which person is actually receiving the vote. By creating a system where write-in candidates declare their candidacy beforehand, vote tallying would be a smoother, clearer, and quicker process when closing out an election.

6. Clarity on defective ballots. One of the items that received coverage this past election cycle, especially during and following the August primary election, was defective absentee ballots. 17 VSA §2547 specifies the conditions under which a ballot is deemed defective, and therefore cannot be counted:
   a. Identity of the voter cannot be determined.
   b. Voter not legally qualified to vote.
   c. Voter has voted in person or previously returned a ballot in the same election.
   d. The certificate envelope isn't signed.
   e. The voted ballot isn't in the certificate envelope, or
   f. Voter has failed to return unvoted ballots for the primary.

With more and more people voting early and absentee, the restrictions for defective ballots should be reviewed. Additionally, the process for data entry of defective ballots should be clarified. Lastly, perhaps there should be a way for a voter to "cure" their defective ballot. Many states allow such a practice, and a bill has been introduced in the Senate to allow for defective ballots to be corrected (H.15). While we support the idea of developing a system for curing defective ballots, we want to be sure the process wouldn't place an undue burden on clerks to attempt to track down voters for such corrections. Any system adopted would need to have processes in place to make contacting voters relatively easy and equitable.

Defectives data:

Town	August defectives	August total absentee	August percent defectives	November defectives	November total absentee	November percent defective
Barre City	110	1285	8.6%	38	3001	1.3%
Brattleboro	152	3233	4.7%	83	6719	1.2%
S. Burlington	343	4921	6.97%	35	10146	0.93%
St. Albans City	67	1340 (approx.)	5%	30	3000 (approx.)	1%
Vernon	20	300	6.67%	25 (approx.)	850	2.94%
St. Johnsbury	93	1134	8.2%	9	2620	0.34%
Marshfield	16	362	4.42%	4	858	0.47%

7. State (August) primaries: The state and towns are doing the work of the political committees by holding their primaries in August. Traditionally voter participation is lower for these primaries than any election, and voters find them confusing. Additionally, they are more expensive for the state and towns because of the number of ballots that need to be printed, and the cost for programming tabulators to tally multiple different ballots.

   It's unlikely the system will ever be changed, but the following adjustment might be considered. Voters could request which party's ballot they want, like the presidential primary. Multiple ballots is one of the most confusing aspects of the primary. Voters don't understand why they can't vote for whomever they want. Clerks spend a considerable amount of time explaining the primary process to voters, only to have them cross parties and write in candidates from the other ballots, thinking these are votes for these candidates for a particular office. This is also one of the leading causes of defective ballots during the primary – voters vote more than one ballot because they don't want to be restricted, and their ballots are then deemed defective. If voters received only one ballot for the party of their choice, like the presidential primary, there would be much less confusion, and less defective votes. Note the high percentage of defective ballots for the August primaries in the table above.

VMCTA greatly appreciates the opportunity to participate in these discussions, and the strong working relationship we enjoy with the Senate Government Operations Committee, along with the House Government Operations Committee and the Secretary of State's office.