Vermont Municipal Clerks & Treasurers Association (VMCTA) Legislative Committee

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REVIEW OF 2020 ELECTIONS

There were successes and challenges from the 2020 election seasons. On Thursday the Secretary of State's office provided you with a comprehensive review of the year.

Some of the highlights from the election seasons are:
1. Clerks worked closely with the Secretary of State's office on directives associated with local elections (post-Town Meeting), the August state primary and November general election.
2. Worked closely with the Legislature and Secretary of State's office on the adoption and implementation of Act 92, especially with regards to mailing general election ballots to all active voters.
3. Postcards were mailed to all voters in advance of the August primary, offering them the opportunity to request an absentee ballot for the primary and/or the general election. In addition to receiving many ballot requests, many postcards were received back as undeliverable as mailed, which gave clerks data necessary to do some clean-up work on the voter checklists.
4. Towns took advantage of the opportunity to hold primary voting in different ways to ensure safety for the election workers and voters. Clerks pulled together drive-thru, outdoor, curbside, walk-thru, and conventional polling places.
5. There were challenges tallying write-ins for the primary, as there is no way to do such a tally without handling the ballots. Accommodations were made in the SOS directives which allowed clerks to have individual election workers tally write-ins rather than teams. People would then swap a stack of ballots with another election worker to double-check results.
6. Ballots for the general election started being bulk mailed by the SOS in late September. Clerks immediately started receiving voted ballots in the mail, and processed in-house requests for mailed ballots from new voters and those who had moved from one town to another. Coordination of ballots was challenging. Hundreds of ballots were received back as

undeliverable as addressed. There were some discrepancies in mailing addresses, and clerks reviewed undeliverable ballots to try and mail them out to the voter at a correct or updated address.

7. There were challenges with public feedback. Many people were pleased to get the ballot, but many others weren't happy with the universal mailing. Clerks fielded phone calls, emails, and social media attacks.

8. Funding support was provided by the Secretary of State's office which allowed towns to install ballot drop boxes, and to cover other extraordinary election expenses. Many clerks also received grants from the Center for Tech & Civic Life, whose mission is to "harness the promise of technology to modernize the American voting experience." Grant funds could be used for any extraordinary election expenses associated with voting in the age of COVID.

9. Clerks were dealt with record numbers of absentee ballots. As part of his directives, the Secretary of State allowed clerks who use tabulators to process their ballots into the tabulators in advance of the election. Many clerks took advantage of that option, and with the growing demand for early absentee voting, it's something we'd like to see become a permanent option through legislation.

10. Election Day went very well. Most towns saw a significantly reduced number of in-person voters, which helped control contact between election workers and the voting public. As the SOS reported, 98% of precincts had reported election results by midnight on election night.

11. There were challenges with defective ballots, especially during the primary election. The process is complicated, and voters feel they're being denied their rights to vote for whomever they choose. They resent being limited to one party.

12. Collaborations between the Legislature, SOS, US Post Office, clerks, political parties, advocacy groups, election workers and voters played a huge part in making the elections successful.

13. The key to success was flexibility. There were enough options in the directives that each clerk could put in place the procedures that worked best for them and their communities.

SUGGESTIONS FOR FUTURE ELECTIONS

Below are notes for proposed changes to election laws, most of these growing out of the experiences during the 2020 election seasons:

1. Allow 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. Early and absentee voting is expected to continue to increase, 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 hold outdoor elections/voting. Many towns used outdoor or drive-through voting for the 2020 elections, and some are planning similar arrangements for 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 voters.

5. Change write-in tally requirements based on notification of write-in candidates. This item has been brought up for consideration in the past, and VMCTA continues 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 to 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 can 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 a town's checklist 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 before the close-of-polls, 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, the legislature should consider creating 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), and a similar bill will be introduced in the House. VMCTA supports the idea of developing a system for curing defective ballots, but wants 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.

See the chart below for data from several towns on the defective ballots they processed during the 2020 elections.

1/26/21

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 other election, and voters find them confusing. Additionally, they are more expensive for the state and towns because of the number of ballots that are required to be printed, and the cost for programming tabulators to tally multiple ballots.

It's unlikely the system will ever be changed, but adjustments 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, believing these are votes for their choice 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.