Local Implementation of State and Federal Election Law

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There is substantial agreement in the political science literature that election laws shape electoral outcomes. This literature assumes laws are implemented as written, but there is extensive anecdotal evidence that this is not always true. States delegate the administration of elections to local officials. These agents often have discretionary power or autonomy from state and federal officials to act contrary to electoral laws which may benefit their parties' candidates. We evaluate whether local administration of electoral laws can have a partisan effect with an original database on partisanship of local registrars and turnout in state gubernatorial elections. We find that registrars can increase turnout of their partisans in gubernatorial elections and can positively affect their party's vote share. We also find that this relationship can be mitigated by institutions set up to monitor the electoral process like state appointment and bipartisan boards.

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On November 4, 2008 voters cast approximately 127 million ballots, breaking the previous record of 122.2 million in 2004.[4] Many of these voters had registered for the first time and a number of states, even where the outcome was not uncertain, experienced substantial increases in voter registrations. For example, in reliably Republican states Alabama and Texas the number of registered voters exceeded for the first time 3 million and 13.5 million, respectively. In California, which was largely uncontested by Republicans, more than a million registered to vote in the final two months of the campaign, raising the state registration total to a record 17.3 million.[5] In part these record registration numbers reflected a concerted effort of groups such as the Association of Community Organizations for Reform Now (ACORN) to register voters likely to support Democratic candidates.

However, the effort was not without critics. Republicans complained that a significant number of new registrants were fraudulent and suggested that the registration effort would taint the outcome of the election.[6] In the final presidential debate before the 2008 election Republican candidate John McCain argued: "[ACORN] is now on the verge of maybe perpetrating one of the greatest frauds in voter history in this country, maybe destroying the fabric of democracy."[7] In response, Democrats pointed out that the evidence of actual voter fraud was minor and that ACORN itself had brought to light many of the cases where registrations were in error.

Furthermore, Democrats maintained that the real threat to democracy was voter suppression. Before the debate, Democratic candidate Barak Obama warned that Republicans

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[4]See the post election report on the CNN webpage for estimated turnout figures in the 2008 election: http://www.cnn.com/2008/POLITICS/11/06/voter.turnout/index.html

[5]See Xinhua General News Service, November 3, 2008, Voter registration reaches all-time high in California, and Phillip Rawls, the Associated Press State & Local Wire, November 4, 2008, Turnout records fall even in GOP-friendly states.

[6]See for example Kathleen Brady Shea, Chester man arrested in voter fraud, Philadelphia Inquirer, October 22, 2008 and Todd Richmond, 3rd person charged with election fraud in Wis., the Associated Press State & Local Wire, October 14, 2008.

[7]See transcript of the debate, http://elections.nytimes.com/2008/president/debates/transcripts/third-presidential-

might use voter fraud "as an excuse for the kind of voter-suppression strategies and tactics that we've seen in the past."[8] Other Democrats and liberal groups complained about efforts to purge voters from registration lists based on whether voters' information matched other information in governmental databases such as driver's license rolls, etc. In Ohio, Republicans demanded that state election officials flag 200,000 voters whose records failed to match.   The Democratic state officials came out victorious when the Supreme Court ruled that the Ohio Republican Party did not have the right to sue the state regarding the implementation of federal election rules.[9] In Mississippi, Republican governor Haley Barbour speculated that many of the state's newly registered voters would need to cast provisional ballots because they would not have the necessary identification on election-day. The NAACP argued that Babour's remarks should be seen as an attempt to suppress turnout.[10]

Controversies like these indicate how crucially important the implementation of electoral law is for both political parties. In a country where elections are often decided by razor-thin margins, election laws have the potential to determine the outcome of political contests. But, what the law prescribes and how the law is implemented may not be the same thing. Often those in charge of implementing the laws are local officials who have significant discretionary power or autonomy from state supervision to make choices at variance with the laws.   For example, the NYU Brennan Center reported that prior to the 2008 Democratic primary in Mississippi one county official purged 20,000 voters on her home computer.[11] In 2006 the Cooperative

debate.html

[8]Matt Kelley, Campaigns take aim as new voter-fraud allegations emerge, USA Today, October 15, 2008.

[9]See Top court blocks Republican attempt to purge voter registrations, Agence France Presse -- English, October 17, 2008.

[10]Sheila Byrd, NAACP: Miss. gov's comments could suppress turnout, the Associated Press State & Local Wire, October 29, 2008.

[11]When discovered at the state level, the registrants were reinstated. See Rhonda Cook, A surprise for voters: Off the list; When state clears rolls of those who have died, committed felonies or moved, others can get ousted, too, Atlanta Journal-Constitution, October 3, 2008.

Congressional Elections Study found that half of their sample of more than 36,000 voters was asked to show photo identification although only state laws in Indiana and Florida required IDs of these voters (Ansolabehere 2007). Ansolabehere argues this result is instructive because of what it suggests about how rules are *not* followed, (p1, emphasis in original). Yet there has been little academic work focused on the administrative process.

For the most part academic research on the effect of state election laws assumes that the laws are implemented as they are written by state officials. Although the nuts and bolts of conducting elections are a matter of state responsibility, state level officials are removed from the actual running of elections because the administration of elections is delegated to lower levels of government. Legislatures may design state election laws, but local officials determine how the law is carried out. Each state has a unique process for structuring this delegation, and as a result United States elections are handled by at least 50 different procedures. Election administration varies on a number of dimensions including who is charged with conducting elections, the amount of independent authority local officials are granted over the election process, and the degree to which local officials are monitored by state officials and other local actors. Given that there may be political benefits to reducing or increasing the participation of certain groups of voters, local officials' discretion may be used to influence outcomes. In other words, within certain bounds local registrars effectively determine the size and shape of the electorate and therefore the results of elections.

Aside from a handful of exceptions (Kimball and Kropf 2006, Kimball, Kropf, and Battles 2006, Tokaji 2005, Hamilton and Ladd 1996), analysis of electoral laws has focused wholly at the state or federal level. While these scholars have explored various aspects of this delegation process, none have systematically analyzed the relationship between the partisanship

of election officials and turnout. In this paper we take this step. We hypothesize that local partisan registrars may attempt to influence voter turnout to benefit candidates in their own party through their implementation of state electoral laws. We then investigate that hypothesis using turnout and vote share data from state gubernatorial elections.

Because local partisan registrars are also selected either directly or indirectly through an electoral process, causal inference in this setting is complicated. The same factors that lead to the selection of a Democratic or Republican registrar may produce cross-sectional variation in Democratic and Republican turnout and vote margins. In an effort to minimize these problems we take advantage of the time-series nature of our data by using a difference-in-differences approach. We use as dependent variables in our main analyses the difference in turnout and vote share received by a given party in a county compared to the turnout and vote share received by the party's candidate in the previous election and our main independent variables are whether the local registrar's party affiliation has changed (prior to the election in question) or not.

We find that when the local registrar changes parties turnout declines overall but the effect is much larger for new Republican registrars than for Democratic registrars. Additionally, new Republican registrars decrease Democratic turnout to a greater extent than new Democratic registrars decrease Republican turnout. We find that both parties' registrars affect the margin of victory in their counties. Changing to a Republican registrar increases the Republican gubernatorial candidate's margin of victory and decreases the Democratic candidate's margin. Changing to a Democratic registrar has the opposite effect. Finally, we consider the effects of different mechanisms by which states can control local election officials such as bipartisan boards. We find that these mechanisms do significantly reduce the partisan effects and the variation in turnout across counties in a state.

In the next section we explore the reasons why we expect that partisan registrars may influence turnout, then we discuss our data and estimation strategy. This is followed by our empirical results and conclusions.

How Partisan Registrars Can Influence Turnout

Discretionary Power Given to Registrars

We argue that local voter registrars can influence who votes in an election through two pathways: either they are explicitly given discretion in the application of election law or they are given the autonomy to violate state election law because of lax oversight from state election officials. First, we examine how local election officials might have discretionary power to apply state electoral laws. It is useful to think of state election laws as varying in the degree of specificity. At one end of the continuum are laws that permit local officials to make decisions regarding the administration of state and federal elections and at the other end are those that define precisely how a local official should act. In the former case the laws are usually vague or imprecise such that local administrators are implicitly granted legal discretion to make decisions regarding election procedures.[12]

Many kinds of election laws fall into the vagueness category. For instance, a number of states allow local officials to determine what type of voting equipment will be used in their jurisdiction and what hours their polls will be open (subject to some minimum constraints). Ballot design is also left to the discretion of local officials in some states. The amount of information local officials are required to provide to residents can vary widely. For example,

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[12]Some states also allow administrators wide latitude in running elections for local offices, but because this is not an example of delegation, we are not analyzing these cases here.

some states require local administrators to mail registered voters their polling location for state and federal elections, but most do not. As a result, some county administrators will choose to provide this information and others will not; all within the confines of the laws. Similarly, many states leave it up to local administrators to determine how many voting machines per polling place will be available.

In a recent example of discretion, a 2006 change to Ohio's election code requiring voter identification allowed voters to present a current utility bill, bank statement, paycheck, or government document as proof of identity, but failed to specify what counted as current. The Northeast Ohio Coalition for the Homeless and the Service Employees International Union filed a case against the state claiming that counties had made different decisions regarding how recently documents needed to be dated in order to be accepted by poll workers (NEOCH v Blackwell 2:06-cv-00896-ALM-TPK). Some counties had determined that only statements dated October or November would be accepted while others accepted much older documents. The court later ruled that current would be defined as within one year of the election. Had this ruling been applied at the time of the election the constellation of the electorate might have differed.

In Alabama local officials have legal discretion at the registration stage of the voting process. Alabama state laws regarding criminal disenfranchisement states that all those committing crimes of moral turpitude lose the right to vote. Consistent confusion has arisen over which crimes fall into this category and the discretion of local officials was historically quite broad. For example, voters in some counties but not others were purged from the rolls (or denied the opportunity to register) for being convicted of driving under the influence or possession of drugs (Gooden v Worley 2:05-cv-02562-WMA).[13]

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[13]A recent court ruling stated that the legislature must define the disqualifying crimes. And in 2003 the state legislature determined what these crimes were: murder, rape, sodomy, sexual abuse, incest, sexual torture and nine

Finally, sometimes there are conflicts among different electoral laws which increases the discretion power of local officials because they must then choose which electoral laws to apply.[14] An instance of this type occurred in Florida during the 2000 election where more than half of Florida's county supervisors chose not to purge their voter rolls using the list of ineligible felons provided by the state Department of Elections because they believed it to be inaccurate and wrongly compiled. Stuart (2004) finds that to some extent these decisions were driven by partisan motivations -- Republican supervisors were more likely than Democratic supervisors to remove registered voters from the rolls if their names appeared on the official list.

Deviation from Laws that do not offer Discretion

At the other end of the continuum local administrators lack discretion. In these cases laws limit administrators' freedom of choice through detailed or precise instruction. For example, California code defines the font size and spacing for all ballots. Section 13203 states "Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 30-point, the words 'OFFICIAL BALLOT.'" With regard to felon disenfranchisement, many states with such laws have clearly defined what types of crimes lead to disenfranchisement and the phase of punishment which must be completed for regaining the right to vote. Local officials in these circumstances do not officially have the freedom to determine which convicted felons will be allowed to register and vote on the basis of their criminal record. According to these

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other crimes mainly involving pornography and abuses against children. However, in 2005 the State Attorney General Troy King developed a new list that included a dozen additional crimes including several involving the sell of marijuana. On July 21, 2008 the American Civil Liberties Union (ACLU) sued Alabama election officials. According to a New York Times report the ACLU asserts that election officials are disenfranchising voters who have committed crimes that are not on even King's list. In particular, one of the plaintiffs, Annette McWashington Pruitt, claimed to be was turned away because of her 2003 conviction for receiving stolen property. Nossiter, Adam, ACLU Sues Alabama on Ballot Access, *New York Times*, July 22, 2008.

[14]See Levine, Larry, Re: Election Law Violations. Email to authors. March 15, 2007 for a discussion of how this occurs in California.

types of laws the administration of elections should be identical across local jurisdictions within a given state. However, local officials may or may not implement the laws correctly. In particular, local officials may be given autonomy by state officials and may have the opportunity to implement the law contrary to how it is written.

A registrar might imperfectly implement the laws because his preferences differ from the state officials' who enacted the laws (intentional deviation) or because he or she lacks the requisite knowledge or resources to implement the laws (unintentional deviation). No doubt much of the violation of specific laws by local officials is unintentional. Empirical evidence suggests that unintentional deviation occurs primarily because registrars do not have proper information about the specifics of the laws or because they lack the resources or information to investigate the applicability of a particular law.[15] Such cases are conceptually closer to situations where laws actually give registrars discretion (discussed above) than where a registrar knows the specifics of the laws but has autonomy to violate them.

However, there is evidence that some violations are intentional or at least produce systemic biases. In a questionnaire of local election officials' knowledge of voting rights laws, Ewald (2005) found that the majority tended to make mistakes in an exclusionary direction, stating, for example, that a felon on probation loses his or her right to vote when state law is

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[15]Ewald (2005) found that 37% of the local election officials he interviewed were unable to correctly describe which criminals are disenfranchised by their state's laws. State laws have the potential to exacerbate a lack of knowledge among local officials. Most states do not have a coherent structure for letting local officials know who has been convicted of a felony and who has completed their sentence and thus regained the right to vote. We asked one of the Massachusetts town clerks with whom we spoke how a clerk would know whether a potential registrant was a felon. The clerk explained, "The only way the felon could alert us is if the person requests an absentee ballot to the prison; in which case the ballot would not be sent." This seems straightforward except for the fact that not all felons are incarcerated in prisons, and most of the people incarcerated in jails are not felons. Further, persons in prison awaiting pretrial judgment are still eligible to vote. In response to a similar question posed by Ewald a New Hampshire official wrote "This is a small state, so people often know who has been in jail." Massachusetts and New Hampshire state laws only bar incarcerated felons from voting; in states where probationers and parolees are also disenfranchised the task for local officials may be even more onerous.

limited to incarcerated felons. Ian Urbina of the New York Times reported on October 9, 2008, that election officials in six battleground states – Colorado, Indiana, Ohio, Michigan, Nevada and North Carolina – were removing voters from the roles in violation of federal election law (either removing the names too close to the election or illegally using social security data to claim that the registrations were fraudulent) and that there was further evidence of illegal purging in Alabama, Georgia, and Louisiana.

Research on principal agent relationships is helpful in explaining how registrars might use autonomy to make choices at variance with electoral laws. Intentional deviation is possible because local officials frequently have site specific knowledge and expertise that is unavailable or difficult for state level officials to obtain. As Kiewiet and McCubbins (1991) explain "The agent has incentives to use this information strategically or simply keep it hidden" (p25). Using information strategically allows the agent to produce outcomes that come closer to his preferences than would result from perfectly implementing the laws. In the electoral context we might think of this in a number of different ways. The agent might prefer that turnout favor his party and believe that perfectly implementing the laws would hinder that outcome. For instance, white supremacy was maintained in the South following the end of Reconstruction through discretionary application of state laws. The 1925 Michigan Law Review reported:

> The history of suffrage in the South during the last thirty-five years has been largely a
> story of the adoption and administration of discriminatory regulations devised to catch
> the Negro without debarring any considerable number of white people. This legal
> disenfranchisement has been accomplished by giving a great deal of discretion to election
> and registration officials, who, understanding what is expected of them, find quite
> uniformly that the negroes do not meet the [property or educational] requirements while

the white applicants generally do (p279).

We illustrate with a historical example because individuals involved in election fraud currently have an obvious incentive to keep silent (Follman, Koppelman, and Vanian 2007). But the possibility of a similar pattern exists in modern elections. If, for example, a Republican registrar believes that white felons are likely to favor the Republican party while nonwhite felons are likely to favor the Democratic party, he might selectively restrict only nonwhite felons from registering (or similarly selectively request proof of eligibility from nonwhite registrants). A less direct example might be a local official selecting a voting machine that she thinks is likely to result in a high number of invalid ballots for the opposition.

An alternative explanation for intentional deviation from specific laws may be desires of local election administrators to decrease their workloads or minimize expenditures. An example of this occurred in Ohio where a state law requires county election officials to randomly select 3% of the county's precincts for a hand count to serve as a check on the mechanical vote tabulations. If the total arrived at in the hand count does not match the machine tabulation for any of the precincts the state law requires that a countywide hand recount be conducted. In Cuyahoga County the Board of Elections staff developed an approach in which a small number of precincts were selected for hand recounts. If the staff discovered that a precinct had a hand count total that did not match the machine tabulation the vote total from that precinct was set aside and a new precinct selected for hand count. Using this strategy, the Cuyahoga board found enough precincts with matching hand and machine counts to total 3% of the county's vote. The prosecutor in the case alleged that the procedure was developed to avoid a lengthy and expensive countywide recount.[16] Even though the election law did not offer the officials discretion to determine how to conduct the recount, the administrators deviated from the rules because their

preferences were in conflict with the requirements of the law. If local election officials'
deviations from electoral laws are motivated by such nonpartisan concerns, then we would
expect partisanship of registrars to have no effect on voter turnout.

Mechanisms of Control

Regardless of the motivations for local officials to deviate from state laws, the extent to
which others such as state officials can discover errors is integral to their ability to maintain
control over outcomes. The degree to which local officials can implement their own version of
electoral laws without being caught or sanctioned is the degree of autonomy possessed by these
officials. A high degree of autonomy can advantage local registrars at the expense of state
officials, but it does not need to have this effect. State officials may choose not to ensure
compliance with state laws in order to achieve outcomes that they prefer as well. As noted above,
in the South during the first half of the 20th century registrars were unofficially encouraged to
disqualify African American voters.

There is variation in the extent to which states select, control, monitor, and sanction local
officials. In most states election officials are selected (either by appointment or election) by local
constituencies. However, twelve states select local election officials at the state level. When
considering mechanisms state and party officials might use to ensure compliance, the delegation
literature is again helpful. States can set up procedures to encourage both formal oversight and
informal oversight for monitoring lower level officials (McCubbins and Schwartz 1984).
Informal oversight, where states to rely on outside observers or interested parties to file
complaints against local officials through the judicial system or a state elections agency, is
common but due to a lack of data we are unable to test the effect of such techniques in this

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[16]Hoke, Candice, Re: Cuyahoga Election Law Violations. Email to authors. March 15, 2007.

analysis.[17] When formal oversight mechanisms are used the principal (here state officials) searches for violations through active surveillance or oversight, thereby discouraging deviation from state laws. Some states, for example, have established bipartisan boards at the local level to monitor registration and voting. In other cases state officials attempt to uncover violations themselves. Todd Rokita, Indiana's Secretary of State, convened public hearings in 2006 to determine whether the state's voting system's vendors violated state laws after his office discovered problems with ballot counting. Rokita subpoenaed company officials and local administrators in order to hold the appropriate parties accountable (Rokita Press Release).[18]

Another formal mechanism of oversight is the provision of training to local officials on a regular basis. In twenty one states, training or certification of local elections officials is mandated; in seventeen sates voluntary training is offered, and in twelve states no training at the state level is provided. Finally, thirty one states provide at least some funding to localities for running elections and forty four states regulate local purchases of voting machines both of which might be used to constrain the behavior of local officials. In an extreme case in which a state wants all local registrars to perfectly implement the states' laws, these control strategies should produce more similar turnout levels across counties within the state (controlling for the other factors that would generate differences in turnout across counties).[19]

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[17] State officials can encourage outsiders to sound alarms by establishing a system of rules, procedures, and informal practices that enable individual citizens and organized interest groups to examine administrative decisions, charge the agents with violating state goals, and seek redress through specific channels (McCubbins and Schwartz 1984, p166). With regard to election laws, states can give standing to individuals or groups to challenge local officials, provide access to information regarding state laws and the election process, and make it easy to lodge complaints (e.g. posting complaint forms on the internet, permitting anonymous grievances to be filed, setting up hotlines). Recent research by Kropf, Kimball, and Battles (2006) finds that competitive elections mitigate local officials' attempts to affect electoral outcomes through administrative decisions. This makes sense from a delegation perspective. In tight races there is a greater incentive for political parties and interest groups like MoveOn.org to pay close attention to the electoral process. Knowing that they are more likely to be caught, local officials may operate with reduced autonomy.

[18] http://www.in.gov/sos/press/2006/04122006.html

[19] State laws vary with regard to punishments for election law violations. Fines and prison time are common penalties, but harshness varies across states. We might expect that states with stronger penalties would have fewer

In sum, there are many ways that local officials can affect who participates in elections and a variety of mechanisms states can use to deter deviation from the law. We argue that we should be able to see evidence of both local discretion and state control in elections. First, we expect that local officials will use available tools to encourage election outcomes that are preferable to them. Secondly, we expect to see less variation across counties when states engage strategies for mitigating deviation. The next section discusses these hypotheses in detail and describes the data we collected to test them.

Empirical Analysis

Data

In order to understand the effects of administration on election outcomes we collected panel data at both the state and county levels across the United States. Each observation represents a single county in a gubernatorial election year between 1990 and 2000. This time frame was driven by the availability of data on our main independent variable as is discussed below. The number of counties in each state and the years for which we collected data can be found in Table A1 in the Appendix.

Our main dependent variables are county level measures of turnout and vote share of Democratic and Republican candidates in state gubernatorial elections. Our denominator for the turnout measures is the population aged 18 and over. Scholars like McDonald and Popkin (2001) have argued that the proper denominator for turnout should exclude felons and non-citizens because they are legally ineligible to vote. Given that these laws are subject to the same processes of administration and delegation as other election laws, we do not want to exclude

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registrars deviating from the law.

these populations from our analysis outright. Denying eligible felons or naturalized residents the

right to vote or permitting ineligible felons or non-citizens access to the ballot may contribute to

variation across counties.[20]

To construct our main independent variables we gathered data on the partisan affiliations

of the official in charge of registration at the county level. Our goal was to determine the partisan

affiliation of the county registrar in office at the time of the gubernatorial election. We

successfully compiled data for multiple years for counties in 39 states using a combination of

blue books and election returns. In the remaining 11 states published data for the relevant year

were unavailable and we resorted to contacting the registrars directly. When possible we asked

how long the official had been in office and whether they knew the partisan affiliation of the

person who had served previously. This provided data for relevant years in an additional 105

counties in four states giving us data in a total of 43 states.[21]

In states where the registrar is appointed the official frequently refused to tell us their

affiliation. Because issuing public information requests for all of these officials would have taken

more time and resources than we had available, we coded the partisan affiliation of the

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[20]Felon data are not available at the county level. We attempted to get around this in a number of different ways. First, we estimated the number of felons currently under supervision at the state level (a complicated process in and of itself) and used these figures to simulate estimates at the county level using a combination of felony arrest data and demographics (which are available at both geographic levels). Given the enormous number of problems with small areas estimation techniques we decided not to use this measure for our dependent variable and instead include the demographics on the right hand side of the equation. Second, we tried using felony arrest data as a substitute measure. Finally, we settled on using the number of persons housed in correctional institutions. We like this measure best because it seems to us the least prone to error. Instead of making the assumption that all persons arrested of felonies are treated like felons when it comes time to vote, we need only make the assumption that incarcerated persons are unlikely to be allowed to vote. This is reasonable in part because of residency requirements. Additionally we believe that persons housed in prisons or jails are unlikely to seek to participate in the electoral process. The results change very little with any of the measures mostly because the felon population is a relatively small share of eligible voters. None of these measures capture the largest group of people potentially affected by felon disenfranchisement laws --felons who are no longer under state supervision.

[21]Some states delegate the administration of elections to town or city officials. Vote returns are not available for this low level of geography so we collected county data for these states. However, all of these states have either bipartisan or nonpartisan registrars and so are excluded from our analyses. We are missing data for Alaska because election data, vote administration data, and census data are collected at different geographies.

appointing official. In some states registration duties are shared among different local offices. In these cases we selected a single official to code for our data set. For the most part this was the official who had the largest (or clearest) responsibility for the registration process; but in one case, Alabama, we selected the elected official for whom we could get partisan affiliation data. In other states the registration process is handled by a board of officials that is either appointed by state or local officials or has equal bipartisan representation. When the board is appointed we coded the county as having the same partisan affiliation as the appointing official. For the most part we exclude from our analyses states that require local officials to run on nonpartisan tickets and those in which the registration board is divided equally between the parties.[22] In total, our pooled analyses include data from 24 states and our change analysis includes data from 20 states.

Table A2 in the appendix lists the offices we coded for each state as well as the method of selection and any bipartisan requirements. Over the whole time period officials are 33% Democrats, 31% Republicans, 25% Nonpartisans/Independents, and 11% pure bipartisan. Of the counties with partisan registrars, 22% have external bipartisan oversight. Figure 1 shows a map of the partisan affiliations by county in the most recent year for which we have data [for the seven states where we were unable to collect time series data we were able to collect the partisan affiliations as of 2007 and these are included in the figure].

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[22]The exception is the last analysis we present where we analyze the variance of turnout in states.

| Democrat | Republican | Bipartisan | Nonpartisan |
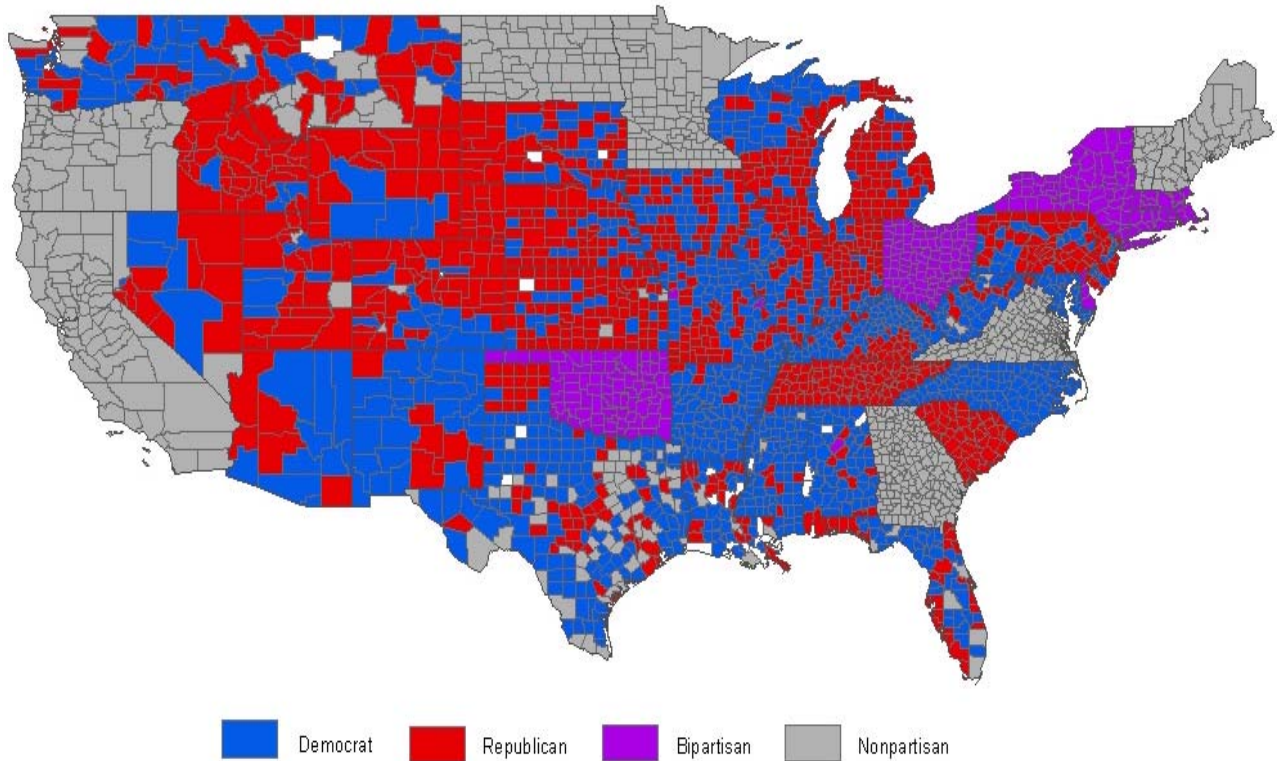
In addition to the partisanship of local officials we coded the selection mechanism of each (state appointed, locally appointed, and locally elected). Most administrators, 67%, are locally elected, 14% are state appointed, an 18% are locally appointed.

For each county we collected demographic control variables from the census of population and housing. We linearly interpolated data for non-census years. We also collected a number of state level variables including state laws regarding the selection of local officials, the partisan affiliation of the governor, and state control over voting machine selection.

The Effect of Registrars' Partisanship on Electoral Outcomes

Pooled Cross-Sectional Estimation

Our goal is to determine if the partisan affiliation of local election administrators has an effect on turnout and vote share in state elections. In particular, we wish to determine if partisan

registrars can affect electoral outcomes to benefit their party. In Table 1 we estimate a set of

cross-sectional models to determine whether or not there is evidence that partisan registrars

influence turnout of their partisans.   Our dependent variables are *Total Turnout, Turnout for*

Democratic Candidate, and *Turnout for Republican Candidate.* Our principal independent

variable is the partisan affiliation of the registrar at the time the gubernatorial election was held.

This variable, *Democratic Registrar,* is coded one if the registrar was a Democrat, and coded

zero if he or she was a Republican. We transform the dependent variables to the log-odds of

turnout in order to ensure that our predictions fall between 0 and 100 (the range of real possible

values). To control for the partisan leaning of the county we include a measure of the

Democratic margin of victory in the previous gubernatorial election. We include state fixed

effects variables, dummy variables for 1994 and 1998 (the modal years in the data set)[23] as well

as demographic control variables.[24] We omit counties with nonpartisan and bipartisan

registrars.[25]

Table 1: Factors Affecting Turnout

	Total Turnout			Turnout for Democratic Candidate			Turnout for Republican Candidate		
	Coefficient	St. Err	Effect	Coefficient	St. Err	Effect	Coefficient	St. Err	Effect
Democratic local official	0.079 **	0.016	0.020	0.192 **	0.021	0.029	-0.086 **	0.020	-0.015
Constant	2.670 **	0.498		0.186	0.564		0.731	0.656	
N	2533			2551			2546		
R^2	0.723			0.510			0.551		

Note: OLS regression, robust standard errors clustered by county are presented.
Additional variables include: lagged Democratic gubernatorial margin, % urban, % black, % Asian, % Latino, % female, % moved within 5 years, % college grads, % unemployed, median household income, % in poverty, % renters, % non-citizens, % in correctional facilities; state dummy variables, dummy variables for 1994 and 1998

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[23]We do not include dummy variables for all of the years in the data set because of a high degree of collinearity with the state fixed effects.

[24]The full estimation results are available from the authors. We also estimated the equation without transforming the dependent variable with no qualitative difference in our results.

[25] It is interesting to note that partisan registrars witness higher turnout than nonpartisan registrars on average.

These estimations indicate that counties with Democratic registrars see higher turnout overall. More importantly, turnout for the Democratic candidate is about 3 percentage points higher in counties with Democratic registrars compared to counties with Republican registrars (20% versus 17%).[26] Republican turnout is about 1.5 percentage points higher in counties with Republican registrars (22.5% compared to 21%). The correlation is suggestive; partisan registrars may affect electoral outcomes. However, since partisan registrars are selected either directly in local elections or indirectly through appointment by elected officials, we would naturally expect that there would be a strong correlation between the partisanship of a local election administrator and the turnout of partisans in his or her county, even if a registrar's partisanship has little causal effect on turnout of partisans in the county.

Difference-in-Differences Estimation

One imperfect solution to our problem in establishing causality is to take advantage of the fact that we have repeated observations for each county and to use a difference-in-differences or DiD approach. The most basic set-up for a DiD analysis compares changes in outcomes between two time period for two groups one of which has been exposed to a treatment in the second time period. DiD approaches have been used widely to investigate the effects of state laws and policies. For example, a researcher might investigate a public policy implemented in some set of states which is predicted to affect individuals in the state. The researcher would collect data on individuals before and after the policy was implemented in the states affected as well as data on individuals for the same period of time in states where the policy was not implemented. The researcher then compares the change in individuals in the states affected with the change in

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[26] All estimates were generated using Stata's "mfx" command, holding all other variables at their mean values. We predicted point estimates for the log-odds of turnout and exponentiated these estimates for presentation.

individuals in the states unaffected. The approach is designed to be like a controlled experiment in which the individuals in the states where policy was not implemented serve as the baseline or control for the individuals in the states where the policy was implemented and the policy is the treatment.[27]

Given that some of our counties witness changes in the partisan affiliation of their registrar while others do not, we can compare changes in turnout and vote share for these two types of counties. Our dependent variables are similar to those used above: county level *Change in Total Turnout*, change in *Change in Turnout for Democratic Candidate,* and *Change in Turnout for Republican Candidate*. For our independent variables there are four possible scenarios for each pair of election years. The county could have a Democratic official at the time of both elections; it could have a Republican official at the time of both elections; it could have a Democratic official during the first election and a Republican official during the second election; or it could have a Republican official during the first election and a Democrat at the time of the second election. In our analysis we create four independent variables for each of these options, *Democrat both Elections*, *Republican both Elections*, *Democrat to Republican*, and *Republican to Democrat*.[28] Our treatment counties are those in which the registrar changed parties and the control or baseline counties are those where the party affiliation of the registrar did not change. For instance when we analyze the effect of changing from a Democrat to a Republican registrar, our comparison category is comprised of counties that had a Democratic registrar at the time of both elections.

What affect do we expect these changes in party affiliation relationships will have on

[27]The approach has been used widely in labor economics. For reviews see Angrist and Krueger (2000), and Blundell and MaCurdy (2000), and Meyer (1995). The approach is an example of the use of experimental reasoning to better measure causality in observational data which is discussed more expansively for political science questions in Morton and Williams (2008).

electoral outcomes? First, we assume that it is easier to restrict turnout of one's opponents than it is to increase turnout of one's co-partisans. We also expect that Republicans (as compared to Democrats) will have more to gain by depressing turnout and have an easier time doing so given the demographic characteristics of typically Democratic voters (e.g. poorer). So, if our hypothesis is correct that registrars use their discretion and autonomy to influence electoral outcomes in favor of their party, then we expect that changing to a Republican (Democratic) registrar will decrease turnout of Democratic (Republican) voters compared to counties that had a Democratic (Republican) registrar for both elections. We expect that this effect will be more pronounced for Republicans than for Democrats. Secondly, we expect that changing to a Republican (Democratic) registrar will decrease Democratic (Republican) vote shares compared to counties with Democrats for both elections. Finally, we expect that changing to a Democratic (Republican) registrar will increase Democratic (Republican) vote shares compared to counties with Republicans for both elections.

Table 2 presents the results from our turnout estimations. Similar to the results presented above, we include state and year fixed effect variables, county level change in the Democratic margin of victory, and county level changes in demographic measures.

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[28]Doing so of course means that we have one less observation per state as compared to the analysis in Table 1.

Table 2: Factors Affecting Changes in Turnout

	Change in Total Turnout		Change in Turnout for Democratic Candidate		Change in Turnout for Republican Candidate	
	Coefficient	St. Err	Coefficient	St. Err	Coefficient	St. Err
Democrat to Republican	-0.109 **	0.014	**-0.066 **	**0.012**	-0.050 **	0.115
Republican to Democrat	-0.048 **	0.004	-0.022 **	0.003	**-0.014 **	**0.003**
Republican both Elections			-0.007 **	0.002		
Democrat both Elections					0.009 **	0.002
Constant	-0.034 **	0.009	-0.021 **	0.007	-0.032 **	0.007
N	2278		2278		2278	
R^2	0.166		0.233		0.472	

Note: OLS regression, robust standard errors clustered by county are presented.
Additional variables include: change in all of the following - Democratic gubernatorial margin, % urban, % black, % Asian, % Latino, % female, % moved within 5 years, % college grads, % unemployed, median household income, % in poverty, % renters, % non-citizens, % in correctional facilities; state dummy variables, dummy variables for 1994 and 1998

Our results provide solid support for our hypotheses. We find that compared to counties where the registrar represented the same party in both elections, changing the partisan affiliation of the registrar decreased turnout overall with the effect being more than twice as large for new Republican registrars. Relative to counties that had a Democratic registrar in both elections, counties that had a Republican registrar in the second election witnessed a nearly 7 percentage point decline in turnout for the Democratic candidate. In Republican counties new Democratic registrars decreased Republican turnout by about 1.5 percentage points. It is interesting to note that new Republican and Democratic registrars *do not* increase turnout of their own partisans. In fact a new Republican registrar (compared to counties with Democrats in both elections) decreases Republican turnout more than a new Democratic registrar does (compared to counties with Republicans in both elections). This would be problematic for our argument if it also translated into lower vote shares for the registrar's party. So, does changing the partisan

affiliation of registrars affect the outcome of elections in the direction we predict? In the next
section we show that it does.

Margin of Victory Analysis

In this analysis our dependent variable is the change in the county level two-party
gubernatorial *Margin of Victory* for the party in question. First, we compare the change in the
Democratic margin of victory for counties that have Democratic registrars in both elections
versus those that have Republican registrars in the second election. We expect counties with
new Republican registrars to have smaller Democratic margins. Then (in the second column of
the table), we compare the change in Democratic margin of victory for counties that have
Republican registrars in both elections versus those that have Democratic registrars in the second
election. We expect counties with new Democratic registrars to have larger Democratic margins.
Because these are analyses of the two-party margin of victory the inverse of results can be
interpreted as the effect of changing to a Republican registrar on Republican vote share.

Table 3: Factors Affecting Changes in Democratic Margin of Victory

	Coefficient	St. Err	Coefficient	St. Err
Democrat to Republican	**-6.626** **	**2.240**	-5.863 **	2.241
Republican to Democrat	3.781 **	1.575	**4.544** **	**1.610**
Republican both Elections	-0.763	0.653		
Democrat both Elections			0.763	0.653
Constant	-21.101 **	2.035	-21.959 **	2.040
N	2278		2278	
R^2	0.551		0.551	

Note: OLS regression, robust standard errors clustered by county are presented.
Additional variables include: change in all of the following - Democratic gubernatorial margin, % urban, %
black, % Asian, % Latino, % female, % moved within 5 years, % college grads, % unemployed, median
household income, % in poverty, % renters, % non-citizens, % in correctional facilities; state dummy
variables, dummy variables for 1994 and 1998

The results in Table 3 suggest that compared to counties with Democratic registrars in both elections, counties with new Republican registrars witness a nearly 7 point increase in the Republican candidate's vote share at the expense of the Democratic candidate. Relative to counties with Republican registrars in both elections, counties with new Democratic registrars see a 4.5 percentage point increase in the Democratic candidate's vote share at the expense of the Republican candidate's share. Partisan registrars appear to have a significant impact on election results.

Can Institutions Mitigate Local Partisan Influence?

Given that state laws can limit the partisan behavior of local officials we should be able to see evidence of this with regard to statewide variation in turnout. In this test we are interested in how state laws affect turnout within states across counties. For our dependent variable we use the standard deviation of county level gubernatorial turnout for each state in each election, which we call *Across County Turnout Variation*. Our key independent variables are strategies of state control. We include a dummy variable coded one if the State appointed the local administrators and zero otherwise, which we label *State Appointed*. Secondly we have three dummy variables indicating the degree of state control over the process of Voting machine certification. States that purchase voting machines for localities are coded *Strong State Voting System*, states that require localities to purchase machines that are tested and approved by state officials are coded *Weak State Voting System*, and states with no formal requirements beyond the federal standards are excluded as the base category. Finally we analyze the effect of having a bipartisan board monitor the registration and election process at the county level, which we label *Bipartisan Local Board*. Since the measures for state appointment of local officials and the presence of bipartisan

boards are highly collinear, running a combined model is inappropriate, so we estimate each of

these mechanisms in separate regressions.

Given the small number of observations available for this analysis we use a limited

number of control variables that we think are likely to affect variation in turnout. We include

each state's standard deviation (SD) on the county level Democratic vote margin and five

demographic measures: total population, the proportion of the population that moved counties

within 5 years, the proportion in poverty, the proportion that are non-citizens, and the proportion

housed in correctional institutions. We add dummy variables for even years (1990, 1992, 1994,

1998, and 2000) to account for the possibility that concurrency with Congressional or

Presidential elections affects gubernatorial turnout patterns. Table 4 presents the results of this

analysis (we omit the demographic variables and year dummies).

Table 4: Factors Affecting Variation in Gubernatorial Turnout Across States

	Model 1		Model 2		Model 3	
	Coefficient	St. Err	Coefficient	St. Err	Coefficient	St. Err
State Appointed	-0.018 **	0.008				
Weak State Voting System			-0.009	0.008		
Strong State Voting System			-0.023 **	0.010		
Bipartisan Local Board					-0.017 **	0.006
Constant	0.027 **	0.016	0.046 **	0.018	0.031 **	0.016
N	151		151		151	
R^2	0.240		0.233		0.251	

Note: OLS regression
Additional variables include: standard deviation of all of the following - Democratic vote margin,
population, % moved within 5 years, median household income, % in poverty, % non-citizens, % in
correctional facilities; and dummy variables for 1990, 1992, 1994, 1996, 1998, and 2000

These models offer solid evidence that when states appoint their local officials, manage

the selection and maintenance of voting machines, and have bipartisan local oversight boards

they see lower standard deviations in turnout. The average standard deviation in turnout across all states is 0.072 (with a standard deviation of 0.036). The effect of having state appointed officials reduces the estimated standard deviation to 0.056 (holding all other variables constant at their means). Similarly, states with more control over the certification of local voting machines have lower deviations in turnout. When states purchase local voting machines the average standard deviation is 0.060. Bipartisan boards also reduce the standard deviation to 0.060.

Concluding Remarks

In order to fully understand who registers and turns out to vote, what the effects of given election laws are, and what factors affect election results, we argue that scholars need to have a better understanding of the role of election administration. The primary contribution of this paper is to begin this process. The relationship between how laws are written and how they are carried out on the ground is complex and not easy to study. Nonetheless we have provided solid evidence that the partisan affiliation of local registrars is tied to turnout and maybe election outcomes. Furthermore, we find that states are able to mitigate differences in turnout across jurisdictions by relying on monitoring structures like state appointed registrars and bipartisan boards. We conclude that differences in the local administration of elections offers new insights into understanding registration and voting patterns.

Table A1: Number of Counties Per Year/State for which we have Registrar Data (bold=included in analyses)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Alaska	3				4				4		
Arizona					6				14		
California	58				58				58		
Colorado	62				61				1		
Connecticut	7				8				8		
Delaware							3				3
Florida									33		
Georgia	159				159				159		
Hawaii	4				4				4		
Idaho	44				44				44		
Illinois	102				102				102		
Indiana			90				92				2
Iowa	99				99				99		
Kentucky		120				39				120	
Louisiana										35	
Maine	16				16				16		
Maryland	24				24				23		
Massachusetts	14				14				14		
Michigan	83				83				83		
Minnesota	87				87				87		
Missouri			115				115				115
Montana											35
Nebraska					93				93		
New Hampshire	10		10		10		10		10		10
New Mexico	33				33				33		
New York	60				62				62		
North Carolina			100				100				100
North Dakota			53				53				53
Ohio	87				88				88		
Oklahoma	77				77				77		
Oregon	36				36				36		
Pennsylvania	67				67				67		
Rhode Island	5		5		5				5		
South Carolina	46				46				46		
Tennessee	95				95				95		
Utah											2
Vermont	14		14		14		14		14		14
Virginia				135				135			
Washington			39				39				38
West Virginia			55				55				55
Wisconsin					72				72		
Wyoming	22				22						

Table A2: Local Officials Included in Data Collection

State	Total # of Counties	Official We Coded	Selection Mechanism	Bipartisan Boards
Alabama	67	Judge of County Probate Court	Elected; Partisan	Some
Alaska	4	Election Supervisor	State appointed; Nonpartisan	No
Arizona	15	County Recorder	Elected; Partisan	No
Arkansas	75	County Clerk	Elected; Partisan	No
California	58	County Clerk/Registrar of voters	Elected/appointed; Nonpartisan	No
Colorado	64	County Clerk and Recorder	Elected; Partisan	No
Connecticut	8	Registrar of Voters	Elected; Bipartisan	Yes
Delaware	3	County Department of Elections	State appointed; Bipartisan	Yes
Florida	67	Supervisor of elections	Elected; Partisan	No
Georgia	159	County Board of Registrars/Elections	Local appointed; Nonpartisan	No
Hawaii	4	Clerk of the Council	Local appointed; Nonpartisan	No
Idaho	44	County Clerk	Elected; Partisan	No
Illinois	102	Election Commission/County Clerk	State appointed/Elected; Partisan	Some
Indiana	92	Clerk of the Circuit Court	Elected; Partisan	No
Iowa	99	County Auditor	Elected; Partisan	No
Kansas	105	County Election Commissioner/County Clerk	State appointed/Elected; Partisan	No
Kentucky	120	County Clerk	Elected; Partisan	No
Louisiana	64	Parish Registrar of Voters	Local appointed; Partisan	No
Maine	16	Municipal Clerk	Local appointed/Elected; Nonpartisan	No
Maryland	24	County Board of Elections	State appointed; Partisan	Yes
Massachusetts	14	Board of Registrar of Voters	Local appointed; Bipartisan	Yes
Michigan	83	County Clerk	Elected; Partisan	No
Minnesota	87	County Auditor	Local appointed/Elected; Nonpartisan	No
Mississippi	82	Clerk of the Circuit Court	Elected; Partisan	No
Missouri	115	County Clerk/Board of Election Commissioners	Elected/State appointed; Partisan	Some
Montana	57	County Clerk	Local appointed/Elected; Partisan	No

State	Total # of Counties	Official We Coded	Selection Mechanism	Bipartisan Boards
Nebraska	93	County Clerk/Election Commissioner	Elected/Local appointed; Partisan	No
Nevada	17	County Clerk/Registrar of Voters	Elected/Local appointed; Partisan	No
New Hampshire	10	Town/City Clerk	Elected; Nonpartisan	No
New Jersey	21	County Clerk	Elected; Partisan	No
New Mexico	33	County Clerk	Elected; Partisan	No
New York	62	County Board of Election	Local appointed; Bipartisan	Yes
North Carolina	100	County Board of Election	State/local appointed; Bipartisan	Yes
North Dakota	53	County Auditor	Elected; Nonpartisan	No
Ohio	88	County Board of Elections	State appointed; Bipartisan	Yes
Oklahoma	77	County Election Board	State appointed; Bipartisan	Yes
Oregon	36	County Clerk	Local elected/appointed; Nonpartisan	No
Pennsylvania	67	County Registrar	Local appointed; Partisan	Yes
Rhode Island	5	County Canvassing Board	Local appointed; Bipartisan	Yes
South Carolina	46	County Board of Registration	State appointed; Partisan	Yes
South Dakota	66	County Auditor	Elected; Partisan	No
Tennessee	95	County Election Commission	State appointed; Bipartisan	Yes
Texas	254	County Tax Assessor or Clerk/Elections Administrator	Elected/local appointed; Partisan/Nonpartisan	No
Utah	29	County Clerk	Elected; Partisan	No
Vermont	14	Town clerk	Elected; Nonpartisan	No
Virginia	136	County/City Registrars	Local appointed; Nonpartisan	No
Washington	39	County Auditor	Elected; Partisan	No
West Virginia	55	Clerk of County Commission	Elected; Partisan	No
Wisconsin	72	County Clerk/Board of Election Commissioners	Elected/Local appointed; Partisan	Some
Wyoming	23	County Clerk	Elected; Partisan	No

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