Testimony of Reinvent Albany to Senate Standing Committee on Elections

September 21, 2021

Thank you for the opportunity to submit written testimony for this hearing. Reinvent Albany is a watchdog organization that advocates for open and accountable government in New York.

Reinvent Albany supports calls from advocates across the state for a constitutional amendment to replace the NY State Board of Elections with a nonpartisan, professional agency. The embarrassments of the past few years cannot be forgotten – the legislature must take steps to establish a new board that can administer elections in a manner that does not disenfranchise tens of thousands of voters. We recognize that finding a better way will take time, but we urge the legislature to stay the course so that New Yorkers can finally have the safe and smooth elections they deserve.

Reinvent Albany's testimony today urges the Legislature do the following:

- **Pass a state law requiring local BOEs to track and publish electronic poll book, absentee ballot, and early voting data**
- **Amend the John R. Lewis Voting Rights Act of New York to include open data**
- **Establish minimum funding standards for local boards of elections**

Pass a state law requiring local BOEs to track and publish electronic poll book, absentee ballot, and early voting data
Local boards of elections in New York are notorious for their lack of transparency. They often fail to provide timely and accurate open data about election results and voting, and often provide much delayed and only partial information in response to FOIL requests. New York can easily improve transparency and accountability to the public by requiring in law that election results and enrollment totals be published in a downloadable, machine-readable, open data format.

Unfortunately, very few local boards of election provide this information.

Earlier this year, Reinvent Albany reviewed all 58 local board of elections websites (for 62 counties, including New York City's five boroughs). These results are not final, but our review found the following:

- Of the 62 counties, only 16 provided election results in an open data format.
- 35 counties provided on-line results only in a PDF file format that was saved from a spreadsheet. These local BOEs could also easily provide data in a much more usable spreadsheet format, in addition to the PDF.
- 16 of the 62 counties did not provide results at the election district level.
- Election information on numerous local board websites was out of date, difficult to locate, or unavailable.
- Nearly a third of counties did not publish election district maps, only six counties provided maps in Geographic Information Systems (GIS), and only seven provided downloadable shapefiles.

Open elections data matters because it enables the public to analyze voter registration and turnout statistics, then determine how to improve the voting experience. Election data is not limited to election results – it includes open electronic pollbook, absentee ballot, and early voting data as well. In showing *how* New Yorkers vote, this data is in some ways even more important than election results data.

New York needs to develop a common open data standard so that local boards of election publish this information proactively and in a consistent format. Most of the counties that provide elections open data share it in different formats – some will not list results for election districts, others will combine election districts, and others release it in a format that is not user-friendly (such as the results data provided by the [New York City Board of Elections](#)).

Specifically, counties should provide the following:
- **Election results disaggregated by election district and type of ballot received (election day, early voting, absentee ballots), and open electronic pollbook check-in data.** We believe that the [Otsego County Board of Elections](#) provides election results in the most user-friendly format.
- **Absentee and affidavit ballot applications received and broken down by election district.** The Onondaga County Board of Elections [provides a spreadsheet of absentee and affidavit ballot applications and ballots received](#). Until recently, Wayne County's Board of Elections went even further, publishing a PDF detailing whether locals voted by absentee, early voting, affidavit, or on election day *by each individual voting district* (unfortunately, the Board's website is down as of this writing).

- **Shapefiles for election districts** so that agencies and the public can apply results to election maps and easily view what areas are falling behind in voter registration, turnout, or how residents are voting in certain areas (whether by absentee, early voting, or on election day). Agencies can then use this information to determine the next best steps for channeling more resources to areas in need.

Civil servants and journalists have attempted to retrieve these datasets through FOIL requests and emails to boards of election, and often do not receive the documents, or receive it in a PDF format that is not machine-readable open data. One journalist we spoke to expressed uncertainty that these records are even kept.

We agree with the nine principles outlined by the Open Election Data Initiative for publishing open election data.[1] This data should be provided in a non-proprietary format such as .CSV, .XML or .JSON so that users do not need to purchase software to view the data.[2]

Data should also be updated as frequently as possible. As the NYC Campaign Finance Board pointed out in its 2020-2021 Voter Analysis Report, the frequency of election data updates varies by county.[3] They noted that counties outside NYC provide voting wait times, whereas NYC does not, and the NYC BOE provides absentee ballot canvass totals, whereas many counties outside NYC do not.

In the run-up to elections, the state should require that absentee ballot totals, applications, and early voting totals be provided daily. Beyond NYC, daily updates are common practice in other parts of the country, from Washington State,[4] which provides daily absentee ballot return totals, to Texas, which provides daily updates on early voting.[5]

Requiring this information to be made publicly available in an open data format would be enormously helpful for the civic servants and voting advocates working to improve our elections. Unfortunately, much of the data never sees the light of day or possibly is never tracked at all.

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[1] https://openelectiondata.net/en/guide/principles/
[2] https://openelectiondata.net/en/guide/principles/non-proprietary/
[3] https://www.nyccfb.info/pdf/2020-2021_Voter-Analysis-Report.pdf
[4] https://www.sos.wa.gov/elections/research/ballot-return-statistics.aspx
[5] https://www.co.ellis.tx.us/654/Texas-Election-Code-Section-87121-EVR

Amend the John R. Lewis Voting Rights Act of New York to include open data

Addressing New York's issues with election data will require new legislation. However, in the near term, the legislature can amend the [John R. Lewis Voting Rights Act of New York](#) (NYVRA) to include open data.

The NYVRA contains many laudable provisions that would help improve elections in New York, such as the preclearance requirement. One provision requires that a faculty member at the State University of New York manage the statewide database, which is to include population estimates, election results, voter registration lists, maps and shapefiles, poll site info, apportionment plans and more. This would provide a "one-stop shop" for the public to retrieve election data. However, we note the importance of having county board websites provide this data as well, as they could do so more promptly than the statewide database.

Currently, the NYVRA requires data to be provided in an *electronic* format. This needs to be amended to say: "population estimates, election results, voter registration numbers must be published in a downloadable, tabular and machine-readable open data format." The broader term "electronic format" will allow the statewide database to publish data as PDF image files that are basically unusable for the public and journalists.

Establish minimum funding standards for local boards of elections

We recognize that one impediment to better and more open voting and election data is that BOEs are understaffed and underfunded. We ask you and the governor to establish minimum funding standards. In New York City, the Independent Budget Office's budget is a fixed percentage of the budget for the Office of Management and Budget. We consider the legislature to consider a similar model, as we have already seen incidents where [commissioners have had their pay cut when they've upset local legislatures](#). New York's local boards need a mandatory funding stream so that boards can fulfill their basic civic duties.

In addition to more funding, the legislature can help local BOEs also by requiring the state board to develop an open data team that monitors local BOE data, aggregates it and publishes it on the state's website. The state BOE already collates election data and is subject to Executive Order 95 of 2013, the Governor's Open Data Executive Order, and provides election results for districts which cross county lines. Certain data files and displays (such as shapefiles and GIS) demand expertise that may be difficult to find in rural areas. Having the state collect this local data and publish it in an open format on the State Board of Elections website and open data portal would ensure greater accessibility for the public.

New York's legislators, civil servants, and advocates cannot make a full assessment of our election needs without comprehensive open data across all counties. Allowing the government and the public to view results and turnout open data at the election district level is crucial for helping understand which areas of the state are in greatest need and determine the best steps for fixing problems. Without greater transparency, our elections systems will continue to falter and deprive many voters of their most fundamental right.

Thank you for allowing me to testify today. I welcome any questions you may have.