



Most Election Reforms Implemented; Additional Actions Could Be Considered

at a glance

The Division of Elections met the Legislature's requirement to have the new statewide voter database fully operational by June 1, 2002, and at a lower cost than the \$2 million appropriated for the project. The election reform efforts have not been fully implemented as the new eligibility determination procedures have not received federal approval and thus have not been implemented by county supervisors of elections. The problems experienced by some counties in the September 2002 primary election indicate that the state's roles in voter and poll worker education needs to be strengthened.

In addition to improvements made in 2001 and 2002 the Legislature could consider further measures to strengthen the system.

- Voter eligibility determination could be strengthened by giving individuals who contend they have been wrongly identified as felons the opportunity to provide a fingerprint to verify their identity.
- The provisional voting process could be modified to provide individuals who feel they have been wrongly identified as ineligible to vote a final opportunity to prove their eligibility.
- U.S. Postal Service information could be used to verify change of addresses for persons who are identified as potentially being registered in more than one county.
- Consideration should be given to adopting new federal standards for voting equipment.

- Prevent simultaneous rulings on the same case by the division and the Florida Elections Commission.

Cost savings could be realized if certain changes were made to the division's operations by

- requiring electronic filing of substantially all campaign finance reports;
- using electronic media to educate and inform candidates and committees; and
- encouraging electronic filing of local ordinances by counties.

Purpose

State law directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to complete a justification review of each state agency program that is operating under a performance-based program budget. This report reviews the performance and identifies policy alternatives for the Department of State, Division of Elections. Appendix A summarizes our conclusions regarding each of nine issue areas the law directs OPPAGA to consider in a program evaluation and justification review.

Background

The Division of Elections is responsible for the uniform compliance with Florida's election laws and for promoting public awareness and

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participation in the electoral process. The division also has a limited role in the administration of elections. As shown in Exhibit 1, the division works with other governmental entities to fulfill these responsibilities.

- **Election Law Compliance.** The division issues advisory opinions that provide statewide coordination and direction for interpreting and enforcing election law provisions. The division also qualifies state and federal candidates, committees, and political parties, and ensures the timely and accurate filing of all required campaign finance reports.
- **Voter Participation.** The division promotes participation by conducting workshops for agencies that are required to provide voter registration assistance.¹ It also operates and maintains Florida’s statewide voter database, which is used to identify potentially ineligible voters.

- **Elections Administration.** Although counties have primary responsibility for administering elections, the division has a limited role. County supervisors of elections, who are elected constitutional officers in all but one county, are responsible for registering voters, establishing voting precincts, and administering elections. These officials use local funds for these functions. Each county also has a canvassing board, which is responsible for certifying and transferring the results of state and federal elections to the Division of Elections.² The division tabulates the certified results from each county and provides statewide vote totals to Florida’s Elections Canvassing Commission, which is responsible for certifying the state and federal election results. In addition, the division certifies all voting systems used in Florida and prescribes ballot instructions and overall ballot layout for each voting system through adoption of an administrative rule.

¹ As specified by s. 97.021(28), *F.S.*, agencies required to provide voter registration assistance include any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library.

² As specified in s. 102.141, *F.S.*, county canvassing boards are composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners.

Exhibit 1

The Division of Elections Works With Several Government Entities to Fulfill Its Responsibilities

Process/Function	Activities Performed by the Division of Elections	Activities Performed by Other Entities
Election Law Compliance	<ul style="list-style-type: none"> • Issue advisory opinions • Monitor campaign finance reporting • Qualify candidates for state/federal and multi-county offices • Conduct candidate training 	<ul style="list-style-type: none"> • State attorneys- election law enforcement • Florida Elections Commission¹– election law enforcement • County supervisors of elections² – county candidate qualifying
Voter Participation	<ul style="list-style-type: none"> • Voter registration workshops • Ineligible voter identification 	<ul style="list-style-type: none"> • County supervisors of elections-voter registration list maintenance, voter eligibility determinations, and voter education
Election Administration	<ul style="list-style-type: none"> • Tabulate county vote totals for state/federal elections • Certify voting systems • Prescribe ballot instruction and layout via administrative rule 	<ul style="list-style-type: none"> • County supervisors of elections- polling place operations • County canvassing boards³- certify county vote totals • Election canvassing commission⁴ – certify results for state/federal elections

¹ Florida Elections Commission: As specified in s. 106.24, *F.S.*, the Florida Elections commission is composed of nine members. The President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives shall each provide a list of six nominees to the Governor for initial appointment to the commission. The Governor may appoint two members to the commission from each list. The Governor shall appoint the ninth commission member, who shall serve as chair of the commission.

² County supervisors of elections: Each county has a supervisor of elections, who is a constitutional officer, named in the 1968 Florida Constitution.

³ County Canvassing Board: As specified in s. 102.141, *F.S.*, county canvassing boards are composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners.

⁴ Election Canvassing Commission: As specified in ss. 102.111 and 102.121, *F.S.*, the Elections Canvassing Commission consists of the Governor and two members of the Cabinet selected by the Governor.

The division also assists in Florida’s administrative rulemaking by disseminating administrative records, laws, acts, and rules. The division fulfills this responsibility by coordinating and publishing the *Florida Administrative Weekly* and *Florida Administrative Code*, and by classifying and establishing chapter numbers for all general laws and special acts. The division also is required to maintain copies of all local ordinances filed with the Department of State.

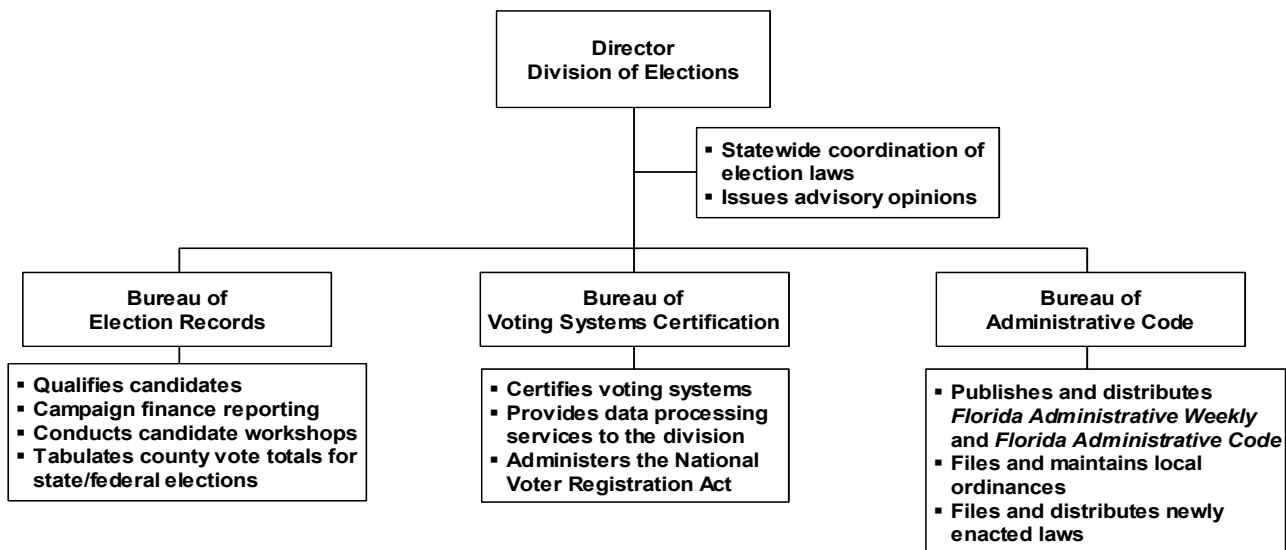
In Fiscal Year 2002-03, the Legislature authorized the division 45 full-time equivalent (FTE) employees and \$4.22 million. Approximately \$2.88 million or 68% of funds is from general revenue. The Publications Revolving Trust Fund and Public Access Data Systems Trust Fund provide the remaining \$1.34 million. Publications Revolving Trust Fund revenue is generated through *Florida Administrative Weekly* advertising charges. The Public Access Data Systems Trust funding is derived from a percentage of self-generated revenues received when the division processes documents, filings, or information requests.³

As shown in Exhibit 2, the Division of Elections is organized into a Director’s Office and three bureaus.

- The Director’s Office, which has nine FTEs, is responsible for the statewide coordination of election laws and issues advisory opinions relating to any provision or possible violation of Florida election laws.
- The Bureau of Election Records, which has 15 FTEs, helps ensure the timely and accurate filing of qualifying documents and campaign finance reports and conducts voter registration workshops. The bureau also tabulates county vote totals for certification by Florida’s Elections Canvassing Commission.
- The Bureau of Voting Systems Certification, which has 11 FTEs, provides all of the division’s data processing services, including the operations and maintenance of Florida’s statewide voter database. In addition, the bureau certifies all voting systems used in Florida, and administers the National Voter Registration Act for the state, which includes conducting voter registration workshops.
- The Bureau of Administrative Code, which has 10 FTEs, coordinates the publication of the *Florida Administrative Weekly* and *Florida Administrative Code*, files and distributes newly enacted laws, and maintains copies of local ordinances.

³ As specified in s. 15.09, *F.S.*

Exhibit 2 The Division Is Organized into a Director’s Office and Three Bureaus



Source: Department of State and OPPAGA analysis.

Organizational Placement —

The 2000 Legislature implemented revisions to Florida's constitution that will affect management of the Department of State. Effective January 7, 2003, the Secretary of State will no longer be an elected position, but will be appointed by the Governor. This change should not affect the outcome of elections due to the Division of Elections' limited role in the administration of elections. Although the division performs several important activities relating to election administration, such as statewide vote tabulation and voting equipment certification, the supervisor of elections in each county has authority for the proper conduct of elections.

The Division of Elections is appropriately placed within the Department of State, given the department's purpose to provide access to public information and facilitate participation in government. Due to the limited role of the division in administering elections, the shift from an elected to an appointed Secretary of State is not a compelling reason to alter the organizational placement of the division. However, later in the report we provide a recommendation regarding voting equipment certification that will help avoid potential allegations of partisanship in Florida's election process.

Even though the division's role is largely ministerial, if the Legislature concludes that there is a widespread public perception that the Governor in control of the division is able to affect the outcome of elections and that this perception is sufficient to warrant placement outside the Governor's Office, there are alternative organizational placements.

- Operate the elections program as an independent entity, such as a state board.
- Incorporate the elections program into the Florida Elections Commission in the Department of Legal Affairs.
- Designate the elections program as a cabinet entity.

Program Performance —

Current performance measures are not reliable

The division's current legislative performance measures do not provide reliable information on its activities. State law requires agency inspectors general to conduct an analysis of each legislative performance measure to determine the validity of the measure and accuracy of the associated data.⁴ The department's inspector general reviewed the division's performance measures and reported in February 2002 that the information reported by the division for Fiscal Year 2000-01 was not sufficiently reliable to be used to evaluate its performance. As explained in Appendix B, the division used an invalid means of collecting data and calculating its measures for Fiscal Year 2000-01. As the division has not made the necessary corrections to make sure that the reported performance information for Fiscal Year 2001-02 is accurate, we were unable to use the reported performance results for either year in our evaluation.

Without reliable performance measures, we contacted other states' elections programs and surveyed division stakeholders, including all of Florida's county supervisors of elections to assess division performance. We found that the stakeholders were generally satisfied with the quality of the program's performance for each of the service areas we surveyed.⁵ However, stakeholders expressed concerns about two areas: the timeliness of the voting equipment certification process and the adequacy of voter education programs. The department acted to address the timeliness of the certification process, and later in the report we provide a recommendation to help improve the delivery of voter education programs.

⁴ As required by s. 20.055, *F.S.*, Florida Department of State, Office of Inspector General Memorandum dated February 28, 2002, documents this assessment.

⁵ Our survey assessed the quality of the program's performance in the service areas related to issuing advisory opinions, delivering voter education and election personnel training, providing technical advice on voting systems and equipment and state and federal election laws, certifying voting equipment, and providing written election information to candidates.

Improved performance measures would enhance accountability

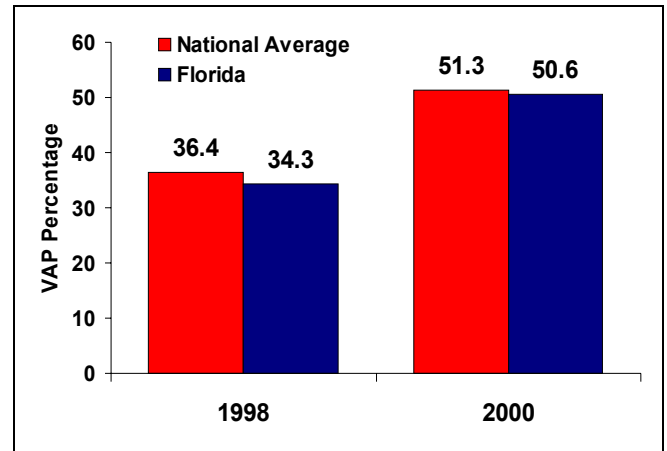
Accountability would be improved if the division modified its performance measures in addition to resolving the validity problems identified by the department’s inspector general (discussed earlier). The primary objectives of the Division of Elections are to protect the integrity of elections and to promote public awareness and participation in the electoral process. These objectives are accomplished by providing accurate and open public access to information and by ensuring that Florida’s election laws are uniformly administered. While the current legislative performance measures can assist in the evaluation of specific activities performed by the division, they do not provide sufficient information to assess whether these objectives are being effectively accomplished. Several changes should be made.

1. **The division should adopt a new measure to show the percentage of the voting age population which voted in a general election.**⁶ One of the division’s primary objectives is promoting voter participation by making sure that voters understand the importance of elections and have knowledge and skills to register and cast votes. Although voter participation is primarily driven by voter interest in the candidates and issues on the ballot, the division performs several activities that can help promote voter participation. These activities include voter registration workshops, campaign finance monitoring, and voting equipment certification.

The Federal Election Commission currently reports information on voter participation. As shown in Exhibit 3, the level of participation in Florida’s election process is similar to the national average. For example, in the 2000 general election, 50.6% of the voting age population in Florida voted, as compared to the national average of 51.3%.

⁶ Voting age population refers to the total voting age population of the state as reported by the Bureau of Census. The total voting age population includes all persons over the age of 18, which in Florida includes a significant number of non-citizens and ex-felons who have not had their voting rights restored.

**Exhibit 3
The Percentage of Florida’s Voting Age Population That Votes Is Similar to the National Average**



Source: Federal Elections Commission.

2. **The division’s current performance measure “percentage of campaign treasurer report detail information released on the Internet within seven days,” is not useful in evaluating the effectiveness of the division’s campaign finance report processing and should be eliminated.** The division does not release campaign treasurers’ reports on the Internet until all detail information is ready from all candidates participating within a specific race or until a ‘failure to file’ notice is issued. The ‘failure to file’ notice is issued eight days after the campaign treasurers’ report due date thus rendering the “within seven days” performance measure useless. When one candidate fails to file a report on time, all of the campaign reports for the associated race could be identified as not released within seven days. However, timely public disclosure of campaign finance information is important because it promotes the integrity and accountability of the election process by providing greater opportunity for public scrutiny during an election campaign. To help evaluate whether campaign finance reports are filed timely and contain all required information, the Legislature should consider adopting the following two new performance measures:
 - percentage of campaign finance reports filed timely and
 - average number of days to process campaign finance reports.

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Division activities to promote public disclosure of campaign finance information include conducting candidate workshops, providing candidate and political committee qualifying information packages, and notifying each candidate and political committee prior to each required reporting submission requirement. In addition, the division conducts audits to determine whether campaign finance reports contain all required information. These two proposed measures will help identify the effectiveness of these activities.

- The Legislature should consider adopting a new performance measure showing the percentage of ballots not registering a valid vote for President or Governor in a general election.**⁷ Undervotes occur when votes are uncounted or unmarked due to the intent or confusion of the voter or because of the failure of the recording device. The division performs several activities that can reduce the percentage of undervotes, such as conducting voting equipment certification and monitoring voter education programs. Reducing the number of undervotes can serve to increase public participation in the election process because voters will have greater assurances that their votes will be recorded as intended. Later in the report, we provide a recommendation designed to reduce the percentage of undervotes that are cast.

The standards used for some of the division's performance measures should be modified

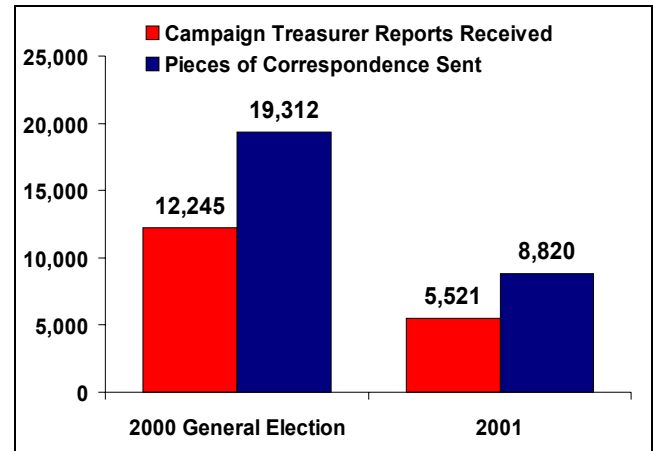
Florida's general elections are held every two years.⁸ As demonstrated in Exhibit 4, the division's annual workload for activities associated with the election process increases significantly during those years in which a general election is held. Consequently, this affects the division's ability to meet some of its

⁷ The offices of President of the United States and Governor of Florida are elected to four-year terms with elections held during alternating general elections. Generally voters are most informed about the candidates running in these elections and therefore are less likely to intentionally not cast a vote.

⁸ As specified in s. 97.021, *F.S.*, general elections are held on the first Tuesday after the first Monday in November in the even-numbered years for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

performance standards. For example, the number of campaign finance reports received in 2000 when a general election was held was more than twice the number received in 2001. However, the performance standard remained the same for both reporting periods.

Exhibit 4 Annual Workload Increases for Many Activities During General Election Years



Source: Department of State, Division of Elections.

To provide a more accurate assessment of the division's performance, the Legislature should consider assigning separate standards for years in which a general election is held and for years when a general election is not conducted for the following two performance measures:

- number of campaign reports received/processed and
- number of attendees at training, workshops and assistance events.

Florida's Election Reform

The Florida Legislature has passed legislation that strengthened Florida's election system. While many of these measures have been fully implemented, those relating to voter eligibility determination are still awaiting federal approval. The problems experienced by some counties in the September primary election indicate that the state's role in voter and poll worker education needs to be strengthened.

To address problems identified during the 2000 presidential election and to improve the election

process in Florida, the 2001 Legislature created the Florida Election Reform Act.⁹ This act includes numerous revisions to the election code that will facilitate participation of eligible voters. In addition, the 2002 Legislature enacted voter eligibility determination procedures for supervisors of elections to use. These eligibility determination procedures are to be used to make the final determination as to the eligibility of a voter identified as potentially ineligible to vote through the statewide voter database.¹⁰

As specified by the Election Reform Act, over the past two years the Legislature has authorized \$32 million for new voting equipment, voter education programs, and a statewide voter database. In 2001 the Legislature appropriated \$20 million to help implement Florida's Election Reform Act, which included \$12 million for the purchase of new voting equipment by counties, \$6 million for local education programs, and \$2 million for the development of a statewide voter database. The 2002 Legislature appropriated an additional \$12 million for the purchase of new voting equipment.

Voting Equipment. The Florida Election Reform Act specified that counties must use either electronic or electromechanical precinct-count tabulation voting systems in the 2002 elections. As shown in Appendix C, 41 of Florida's 67 counties were required to purchase new voting equipment; however, every county was allocated funding for voting equipment regardless of whether new equipment was required. Small counties were allocated \$7,500 per precinct and large counties \$3,750 per precinct. All counties have obtained voting equipment that meets the requirements of the act.

New equipment will not totally eliminate the possibility of undervotes, as mechanical failure or confusion on the part of the voter as to ballot or equipment design could result in a voter's preference failing to be recorded.¹¹

Voter Education. The Florida Election Reform Act authorized the distribution of \$6 million of general revenue for local governments to fund comprehensive voter education programs. To be eligible for these funds, each county supervisor of elections submitted to the division a detailed description of the voter education programs to be implemented. The Department of State adopted minimum voter education standards that require county supervisors of elections to create a voter guide and to conduct voter registration and education programs. These standards will be used by the division to report on the effectiveness of the education programs to the Governor and Legislature after each general election.¹²

Statewide Voter Database. To address problems identified during the 2000 general election regarding the accuracy of county voter rolls, the Legislature authorized the division to develop a new statewide voter registration database.¹³ As shown in Exhibit 5, the statewide voter database contains voter registration information maintained by each of Florida's 67 county supervisors of elections. The statewide voter database will interface with other state databases to help identify voters that are deceased, convicted felons who have not received clemency, or adjudicated as mentally incompetent.¹⁴ In addition, the database will identify potential duplicate voter registrations. Identified voter information will be made available to the associated county supervisor of elections who is responsible for making the final determination of the voter's eligibility and updating the voter registration records.

⁹ Chapter 2001-40, *Laws of Florida*.

¹⁰ Chapter 2002-189, *Laws of Florida*.

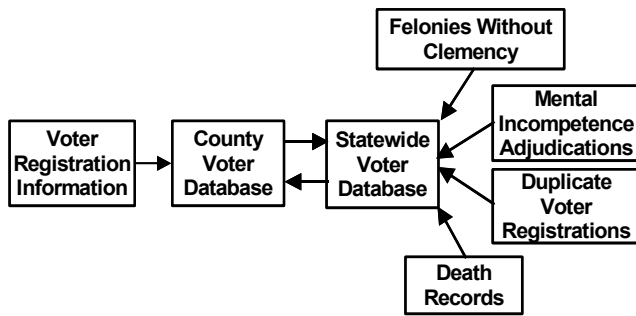
¹¹ Undervotes occur when votes are uncounted or are unmarked due to the intent or confusion of the voter or because of the failure of the recording device. New equipment should eliminate the likelihood of overvotes, which occur when the voter designates more than one choice for a given office.

¹² Rule 1S-2.033, *Florida Administrative Code*.

¹³ As specified by ss 98.0977 and 98.0979, *F.S.*

¹⁴ Clemency is an act of mercy that absolves an individual upon whom it is bestowed all or part of the punishment that the law imposes. The Parole Commission is responsible for administering the clemency process in Florida. *OPPAGA Justification Review of the Florida Parole Commission, Report No. 01-53*, November 2001, provides a detailed description and recommendations to improve the clemency process for ex-felons.

Exhibit 5 The Statewide Voter Database Identifies Potentially Ineligible Voters



Source: OPPAGA analysis.

The division met the Legislature's requirement to have the new statewide voter database fully operational statewide by June 1, 2002.¹⁵ In addition, the database was produced at a lower cost than the \$2 million appropriated by the Legislature for this project. However, the division has delayed sending information on some potentially ineligible voters for county supervisors of elections to validate pending federal approval of the eligibility determination process, as discussed below.

Eligibility Determinations. The Legislature also addressed county voter roll accuracy concerns by establishing procedures for county supervisors of elections to use in determining the eligibility of a voter identified through the statewide voter database as potentially ineligible. Voters identified as deceased or registered to vote in another jurisdiction will be automatically removed from the voter registration rolls of that county. Voters who have been identified through the database as convicted felons who have not received clemency or individuals adjudicated as mentally incompetent shall be notified via certified mail of their potential ineligibility and given an opportunity to provide additional information or attend a hearing and show cause why their names should not be removed from the voter registration rolls.¹⁶

¹⁵ It cannot be assured that information contained in the statewide voter data base is completely accurate or up to date, due to errors or delays in the information provided from the other state databases supporting the system.

¹⁶ As specified in s. 98.0977(3), *F.S.*

However, as of October 23, 2002, Florida had not received clearance from the United States Department of Justice of the process used to determine the eligibility of voters identified as potentially ineligible due to the voter having a felony conviction or adjudication of mental incapacity.¹⁷ Consequently, supervisors of elections have not yet used the new eligibility determination process to improve the accuracy of county voter rolls.

Additional Actions Could Be Considered

While the Legislature has enacted numerous changes to Florida's election process to facilitate participation by eligible voters, several additional actions could be considered.

- Supervisors of elections may need assistance in their voter education efforts.
- The eligibility determination process could be strengthened by giving voters who believe they have been wrongly identified as felons the opportunity to provide a fingerprint.
- The provisional voting process could be modified to provide individuals who feel they have been wrongly identified as ineligible to vote a final opportunity to prove their eligibility.
- U.S. Postal Service information could be used to verify change of addresses for persons who are identified as potentially being registered in more than one county.
- Consideration should be given to adopting new federal standards for voting equipment.
- The administration and enforcement of Florida's election laws can be improved by preventing simultaneous rulings on the same case by the Division of Elections and the Florida Elections Commission.

¹⁷ Clearance has not been provided as the United States Department of Justice has not yet determined that the changes proscribed in s. 98.0977(3), *F.S.*, do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a minority group.

Additional support for supervisors of elections may be needed

The problems experienced by some counties in the September 2002 primary election indicate that the state's role in voter education and assisting county supervisors of elections needs to be strengthened. In the primary election, voters in Miami-Dade and Broward counties experienced problems including voting precincts that did not open when scheduled, voting machines that failed to operate, and an insufficient supply of ballots.

While these problems were the responsibility of local administrators in these counties, the state's interest in elections is sufficient to warrant additional Division of Elections support for local supervisors of elections. This could be done by centrally contracting for the development of voter and poll worker training curriculum, which would then be provided to supervisors of elections. Training curriculum should include elections procedures and proper voting machine set-up and operation. In addition, the division and local election officials could enter into cooperative training agreements with school districts, community colleges, or the Florida Cooperative Extension Service to deliver the voter and poll worker training.

Voter education programs can help to increase voter turnout and decrease the number of undervotes by increasing voter confidence in the system and in their ability to use voting equipment properly. By January 30 of the year following the general election, the division is to report to the Legislature on the effectiveness of the education programs funded by recent appropriations.

We believe that a portion of any future appropriations for voter education should include an allocation to the division to develop education materials that can be incorporated by supervisors of elections into their voter education programs. Centrally developed voting education materials would help the division to ensure compliance with applicable state and federal laws and to test and evaluate the materials for effectiveness prior to providing the materials to county supervisors of elections. A consolidated development effort may also reduce overall costs for voter education because

of associated efficiencies. Voter education materials may include information that explains and demonstrates correct voting, error correction, proper casting of votes, consequences of incorrect use of equipment (e.g., undervotes), and how to obtain additional assistance from election workers.

The eligibility determination process could be strengthened by giving voters who believe they have been wrongly identified as felons the opportunity to provide a fingerprint to verify their identity

Florida's election reform act provided additional protection to help ensure that eligible voters are given the opportunity to cast their ballots. Under the act, the state has increased its efforts to identify persons who have registered yet are convicted felons who have not had their civil rights restored and are thus ineligible to vote. Florida's statewide voter database, when it becomes operational, will be used to identify such persons.

However, Florida's voter eligibility determination process could be strengthened by using a unique identifier to help identify ineligible voters.¹⁸ Unique identifiers, such as Social Security numbers, allow for more effective comparisons among various databases. The database currently does not use a unique identifier, which makes it tedious, time consuming, and expensive for the division to execute comparisons among statewide databases such as the Department of Law Enforcement's felon database due to the wide use of aliases by felons. This limits the ability of the statewide voter database to provide assurances that eligible voters are not prohibited from voting.

The division should monitor eligibility determination procedures to determine if citizens who believe they have been wrongly identified as convicted felons are in fact prevented from voting due to the system's inability to confirm their identity. As the database has not yet been used to screen voters, it is too early to tell if this potential problem will

¹⁸ A unique identifier is a common piece of information that is collected for each record among various databases. As Florida is precluded by law from requiring that unique identifiers such as Social Security numbers be provided with a voter's registration, a combination of other factors including names, dates of births, addresses, and race are used to help identify potentially ineligible voters.

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in fact occur. If the division receives reports that such cases exist, it should report to the Legislature on the extent of the problem and offer options for resolving the issue. A potential solution could include giving voters who are informed by local supervisors of elections that they have been deemed ineligible to vote the opportunity to provide a fingerprint in order to prove that they do not have a felony conviction that precludes their eligibility to vote. Comparison of an individual's fingerprints would provide greater assurance that a voter has been correctly identified as a convicted felon and thus is not eligible to vote.

To minimize the number of fingerprints collected and the associated workload, the opportunity to provide fingerprint information could be provided after the supervisor of elections has completed the initial eligibility determination review. Many supervisors of elections report that they plan to perform this initial review by comparing requested identifying information from the voter, such as Social Security number and date of birth, with court documents that are maintained by the county clerks of court. If this initial review indicates that the voter is ineligible, the subsequent notification informing the voter of this determination should include the opportunity to continue the eligibility determination process by providing a fingerprint. Although supervisors of elections currently have the statutory authority to give voters the opportunity to give voters the opportunity to provide a fingerprint, they are not required to do so. Providing in law that this opportunity is to be afforded in all such cases would provide additional assurance that persons are not prevented from voting due to cases of mistaken identity.

The provisional voting process could be modified to provide individuals who feel they have been wrongly identified as ineligible to vote a final opportunity to prove their eligibility

The Florida Election Reform Act authorized the use of provisional ballots to help ensure that eligible voters are not prohibited from participating in the elections process and that each eligible voter casts only one ballot. Poll workers may issue provisional ballots on election day when workers cannot verify that a person is

registered in the county or when there is evidence that the voter has received an absentee ballot, but the person maintains that he or she is entitled to vote at the poll site. Workers return provisional ballots at the close of the polls to the supervisor of elections, who is responsible for examining the ballots to determine if the person voting that ballot was registered to vote at that precinct and had not already cast a ballot in the election.

A person determined to be ineligible through the initial eligibility determination process may claim that he/she did not provide eligibility determination information for various reasons. These reasons may include not receiving the request for information or not being aware of the need to provide the requested information. However, the provisional ballot process does not allow for a review of a voter's eligibility if he/she has been removed from the voter registration rolls for reasons such as being identified as a convicted felon. Nor does it provide for the voter to be notified as to whether his/her provisional ballot was counted.

The division should monitor these complications in order to ensure that voters are not being denied the right to vote due to a failure to respond during the initial eligibility determination process. If warranted, the division should report to the Legislature on the extent of the problem and provide options for modifying the provisional ballot process to resolve the issue. Solutions could include allowing voters a final opportunity to provide any information needed to determine their eligibility and, if determined eligible, allowing the voter's provisional ballot to be cast. Alternatively, the voter could be given a notice upon completing a provisional ballot of the possible results of the review process, contact information for determining those results, and, in the event the voter is determined ineligible, the voter's options for correcting the situation prior to the next election.¹⁹

¹⁹ Supervisors of elections have expressed concerns regarding their ability to conduct eligibility determinations within prescribed timeframes. Section 102.141(4), *F.S.*, requires county canvassing boards to file unofficial returns by noon of the second day after an election. Section 102.112(2), *F.S.*, requires county canvassing boards to file official returns within 7 days following a primary election and 11 days following a general election.

U.S. Postal Service information could be used to verify change of addresses for persons who are identified as potentially being registered in more than one county

The statewide voter database allows for the identification of voters who are registered to vote in more than one of Florida's counties. The statewide voter database identifies duplicate voter registrations by comparing voter registration information, such as name and date of birth, among each of the county rolls. However, due to the limited amount of voter registration information that is available, it is often difficult to accurately identify duplicate voters. As supervisors of elections are required to automatically remove voters who have been identified by the statewide voter database as having registered in another county, this process could result in an eligible voter being removed from a county's rolls.

The division should monitor this issue to ensure that a voter is not being denied the right to vote due to incorrectly being identified as a duplicate voter. If warranted, the division should report to the Legislature on the extent of the problem and possible solutions. Solutions could include using change of address information supplied by the United States Postal Service (USPS) to help identify duplicate voter registrations in the statewide database. The USPS maintains a database that consists of change of address information for individuals who have moved within the past 36 months. This information could be used to verify that the list of duplicate voters identified through the comparison of county rolls is accurate by confirming that the individual had in fact moved between the addresses supplied in the voter registration rolls.²⁰

Consideration should be given to adopting new federal standards for voting equipment

In 1989, the Florida Legislature passed groundbreaking legislation that required the division to establish minimum standards for all electronic and electromechanical voting systems

used in Florida.²¹ Florida has continued to use its own voting equipment standards because it was generally believed that Florida's standards provided greater assurance that the voting equipment would be accurate, reliable, and dependable.²²

On April 30, 2002, the Federal Elections Commission approved new federal standards for election voting equipment. These standards are designed to provide greater assurances that election equipment certified for purchase by participating states will be accurate, reliable, and dependable. Compared to standards established in 1990, the new federal standards provide new or expanded coverage for voting equipment capability and testing requirements. However, the implications of these new standards are unclear.

Use of state specific standards requires the division to use additional resources to conduct the certification process for each voting system and all subsequent modifications. In addition, unique state standards may increase voting equipment costs for local governments because vendors can increase prices to pass on the additional costs to certify equipment for use in Florida.

The division should conduct a comparison of Florida's voting equipment standards with the new federal standards to determine whether unique voting equipment standards continue to be needed. Should the division find that the new federal standards provide equal or greater assurance that voting equipment will be accurate, reliable, and dependable, the division should advise the Legislature of the need to adopt rules that use the federal voting equipment standards in Florida's voting equipment certification process. This should reduce the costs associated with equipment certification, at the state and local levels, as well as aid in reducing allegations of partisanship in the administration of Florida's election laws when the head of the Department of State becomes an appointed position.

²⁰ We estimate the cost to use USPS change of address information in the duplicate voter identification process to be less than \$800 per year. This estimate is based on the identification and comparison of 10,000 duplicate voters with USPS address information each calendar quarter.

²¹ Chapter 89-348, *Laws of Florida*, created s. 101.015, *F.S.* The 1990 Florida Legislature, in Ch. 90-215, *Laws of Florida*, passed additional legislation regarding voting system standards.

²² Florida's standards were most recently revised in November 2001 to incorporate changes resulting from Florida's Election Reform Act.

The administration and enforcement of Florida's election laws can be improved by preventing simultaneous rulings on the same case by the Division of Elections and the Florida Elections Commission

The Division of Elections is responsible for issuing advisory opinions relating to any provisions or possible violations of Florida election laws.²³ Advisory opinions are similar to declaratory statements issued by agencies under the Florida Administrative Procedures Act.²⁴ Any organization engaged in electoral activity can request a division advisory opinion relating to election law. An opinion is only binding on the person or organization that sought the opinion.

The division and the Florida Elections Commission have concurrent jurisdiction over some of Florida's elections laws. The division is responsible for obtaining and maintaining the uniformity of Florida's election laws and for providing technical assistance to the supervisors of elections. The Florida Elections Commission has responsibility for enforcing specific areas of the election laws and can levy civil penalties of up to \$1,000 per count for violations.²⁵

There have been several instances in the past in which the division has issued an advisory opinion on a case pending before the Florida Elections Commission that did not conform to the dispute determination issued by the commission.²⁶ To ensure that Florida's election laws are uniformly administered and enforced, the division should refrain from issuing advisory opinions on cases that are pending before the Florida Elections Commission. Specifically,

²³ Section 106.23(2), *F.S.*, provides authority for the Secretary of State to issue advisory opinions relating to Florida's election laws, Ch. 97-106, *F.S.*

²⁴ Section 120.565, *F.S.*, provides that "a substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency."

²⁵ The Florida Elections Commission is responsible for enforcement of Chs. 104 and 106, *F.S.* Violations of Ch. 104, *F.S.*, are commonly related to the administration of elections, while violations of Ch. 106, *F.S.*, are commonly related to campaign finance issues.

²⁶ In 1997, the Legislature amended s. 106.26, *F.S.*, by requiring that the dispute determinations of the Florida Elections Commission adhere to the advisory opinions of the division. However, the commission has interpreted this requirement to only pertain to advisory opinions issued by the division prior to referral of a case to the commission for disposition.

upon receipt of a request for an advisory opinion, the division should determine if a case involving the same circumstances is currently before the Florida Elections Commission. However, currently the Florida Elections Commission is prohibited from disclosing this information until a determination of probable cause is made. To allow the division to obtain this information, the Legislature should amend s. 106.25, *Florida Statutes*, to waive the right of confidentiality when an advisory opinion is requested for the specific purpose of determining whether a case involving the same circumstances is currently before the Florida Elections Commission.

Potential Cost Savings —

Potential cost savings could be realized if the following changes were made to the division's operations

- requiring electronic filing of substantially all campaign finance reports;
- using electronic media to educate and inform candidates and committees; and
- encouraging electronic filing of local ordinances by counties.

Electronic filing of campaign finance reports could save \$375,000 every two years and improve the effectiveness of the reporting process

Florida law requires candidates who face opposition, committees, and political parties to provide campaign finance reports every two weeks to the Division of Elections.²⁷ The law also requires that this information be filed electronically unless it would cause a hardship.²⁸ However, most candidates, committees, and political parties continue to file hard copies, claiming a hardship allowed in law. In 2000,

²⁷ Section 106.07, *F.S.*, requires each campaign treasurer designated by a candidate or political committee to file a Campaign Treasurer's Report Summary along with an itemized list of contributions expenditures and fund transfers. These reports must be filed bi-weekly following the last day of qualifying for office until the general election is held.

²⁸ Rule IS-2.017, *Florida Administrative Code*, requires all candidates, political parties, political committees, and committees of continuous existence to include a magnetic diskette of the information necessary to complete a campaign treasurer's report. However, this requirement is waived if a statement indicating an inability to include a magnetic diskette is provided to the Division of Elections.

only 33% of the campaign finance reports received by the division included a magnetic diskette containing all of the required information.

It is costly for the division to process campaign finance reports that are filed manually, as it must employ staff to enter the information into its database. This data entry also slows the public accessibility of the information, as the division does not post campaign information for a race until the staff has entered all of the candidate finance information into the database.

The division has recently developed an Internet-based application that allows campaign finance reports to be electronically filed. This application will provide each candidate and committee with a unique user identifier and password, and will use a secure method to transmit all required campaign finance information. Campaign finance information may be entered directly or transferred from a commercial software application onto the division's Internet website.

If the hardship clause were made much more restrictive and substantially all campaign finance reports were to be filed using this Internet application, the division would save an estimated \$375,000 bi-annually and the effectiveness of Florida's campaign reporting process would be improved.²⁹ Electronic filing also would improve the accuracy of the information provided by eliminating the need for division staff to manually input data and through data edits contained in the Internet-based application. These edits also will increase the timeliness of the information provided and improve the compliance with Florida's campaign finance reporting requirements by identifying missing data, which can be added prior to submitting data to the division. Finally, the use of this application will allow the division to identify areas of campaign finance reporting in which improvements in compliance could be realized through candidate workshops.

²⁹ The estimated biennial savings are based on eliminating costs for all but one OPS position and contracted services associated with data entry of campaign finance information filed via hardcopy. The division should continue to require candidates to file hardcopies of the documents associated with the qualifying process.

Candidates for other than statewide offices also are required to file a copy of each campaign finance report with the supervisor of elections in the county where the candidate resides.³⁰ The requirement could be eliminated if except in extreme hardship cases campaign finance reports were filed with the division through the Internet-based campaign reporting application, as the information would be available through the division's website. This action would save candidates, committees, and supervisors of elections costs associated with mailing and storage.

The division could save approximately \$13,500 every two years by using electronic media to educate and inform candidates and committees

Florida's election code requires the division to provide candidates and political committees with information to assist with campaign administration and reporting requirements.³¹ The division currently mails notifications of each reporting requirement to each person required to file statements with the division. In calendar years 2000 and 2001, the division expended \$27,040 performing these activities. OPPAGA estimates that the division can save \$13,500 every two years by providing these services through electronic media via its website and electronic mail.³² The division could continue to provide hard copies of this information when candidates and committees indicate a preference over electronic versions of this same information.

Electronic filing of local ordinances by counties would improve maintenance and accessibility of information

Section 125.66(2)(b), *Florida Statutes*, requires counties to file certified copies of ordinances or amendments with the Department of State within 10 days after enactment by the board of county commissioners.³³ Counties currently file hard copies of ordinances with the division. The division's receipt of these documents provides a

³⁰ As specified in s. 107.07, *F.S.*

³¹ As specified in s. 106.22, *F.S.*

³² Based on 50% of current recipients not requesting hardcopies of this information.

³³ Section 1(i), Article VIII of the Florida Constitution requires that county ordinances shall be filed with the Secretary of State and shall become effective at such time thereafter as is provided by the general law.

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single source for accessing local ordinances and establishes the date these documents take effect.

The division could manage ordinances at a lower cost if it encouraged counties to deliver certified copies of ordinances through electronic mail instead of hard copy. Greater use of the electronic medium of delivery would reduce the agency's need to mail counties confirmation letters and consequently would lower its postage costs. Further, the division could save electronically submitted ordinances on CD-ROM or diskettes, which would free up physical office space that is currently occupied by file cabinets containing hard copies of ordinances. Saving ordinances electronically would also eliminate division costs associated with the manual retrieval, storage, and archiving of these documents.

To improve public access to ordinances as well as reduce the number of requests processed, the division could electronically link its homepage to websites that offer a searchable on-line database. Several counties offer such a database on their websites, while most others contract with private publishing companies for this service. The division could fully cover its linkage cost with money saved from its reductions in postage and storage expenditures.

Recommendations —————

To improve the Division of Election's accountability through its legislative performance measures, the division's measures should be modified. Specifically, we recommend that the Legislature consider eliminating the measure "percentage of campaign treasurer report detail information released on the Internet within seven days" and adopt the following measures:

- percentage of the voting age population which voted in the general election;
- percentage of campaign finance reports filed timely;
- average number of days to process campaign finance reports; and
- percentage of ballots not registering a valid vote for President or Governor in a general election.

The Legislature should consider assigning separate performance standards for the measures "number of campaign reports received/processed" and "number of attendees at training, workshops and assistance events" for years in which a general election is held and for years when a general election is not conducted.

While the 2001 and 2002 Legislatures made several important reforms to the election system, the Legislature could strengthen the system further. Specifically, we recommend that the division monitor each of the areas below and report to the Legislature, if warranted, on the extent of the problem and possible solutions.

- The division is to report to the Legislature on the effectiveness of the education programs funded by recent appropriations. If the division finds the programs to be ineffective, it should identify options for improving the effectiveness of any future voting education efforts funded by the Legislature. Options could include allocating a portion of any appropriation to the division to develop education materials that can be incorporated by supervisors of elections into their voter education programs.
- The division should monitor eligibility determination procedures to determine if voters who believe they have been wrongly identified as convicted felons are prohibited from voting due to system's inability to confirm their identity. If warranted, the division should report to the Legislature on the extent of the problem and offer options for resolving the issue. Solutions could include giving voters the opportunity to provide a fingerprint in order to prove their eligibility to vote.
- The division should monitor the provisional voting process to ensure that a voter is not being denied the right to vote due to a failure to respond during the initial eligibility determination process. If warranted, the division should report to the Legislature on the extent of the problem and options for modifying the provisional ballot process to resolve the issue. Solutions could include allowing voters a final opportunity to provide any information needed to determine their eligibility and, if determined eligible, allowing the voter's provisional

ballot to be cast. Alternatively, the voter could be given a notice upon completing a provisional ballot of the possible results of the review process, contact information for determining that results, and in the event the voter is determined ineligible options available to the voter for correcting the situation prior to the next election.

- The division should monitor the process of removing duplicate voter registrations to ensure that a voter is not being denied the right to vote due to incorrectly being identified as a duplicate voter. If warranted, the division should report to the Legislature on the extent of the problem and possible solutions. Solutions could include using change of address information supplied by the United States Postal Service to confirm that an individual identified as being registered in more than one county has in fact moved.
- The division should conduct a comparison of Florida's voting equipment standards with the new federal standards to determine whether unique voting equipment standards continue to be needed and, if the comparison is favorable, adopt rules that use the federal voting equipment standards in Florida's voting equipment certification process. Adopting new federal standards for voting equipment would reduce the costs associated with equipment certification at both the state and local levels.
- The Legislature should amend s. 106.25, *Florida Statutes*, by waiving the right of confidentiality when an advisory opinion is requested for the specific purpose of determining whether a case involving the same circumstances is currently before the Florida Elections Commission. This will ensure that Florida's election laws are

uniformly administered and enforced by allowing the division to refrain from issuing advisory opinions on cases that are pending before the Florida Elections Commission.

We also identified several opportunities for potential cost savings in other areas of the division's operations. Our related recommendations are discussed below.

- If the Legislature wishes to save \$375,000 every two years, it could amend s. 106.07, *Florida Statutes*, to restrict the hardship clause and require substantially all candidates and committees to file campaign finance reports using the division's Internet-based application.
- The division should use electronic media to educate and inform candidates and committees. Providing these services through its website and electronic mail could save approximately \$13,500 every two years.
- The division should encourage counties to deliver certified copies of ordinances through electronic mail instead of hard copy. Electronic filing of local ordinances by counties would improve maintenance and accessibility of information.

Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of State for his review and response.

The director of the Division of Elections provided a written response to our preliminary and tentative findings and recommendations. The division's response is reprinted herein and, where necessary and appropriate, OPPAGA comments have been inserted (see Appendix D, pages 21-24).

OPPAGA provides objective, independent, professional analyses of state policies and services to assist the Florida Legislature in decision making, to ensure government accountability, and to recommend the best use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475).

Florida Monitor: <http://www.oppaga.state.fl.us/>

Project supervised by Debbie Gilreath (850/487-9278)

Project conducted by Chuck Hefren (850/487-9249) and Lyndon Rodgers (850/487-3805)

John W. Turcotte, OPPAGA Director

Appendix A

Statutory Requirements for Program Evaluation and Justification Review

Section 11.513(3), *Florida Statutes*, provides that OPPAGA Program Evaluation and Justification Reviews shall address nine issue areas. Our conclusions on these issues as they relate to the Department of State, Division of Elections are summarized in Table A-1.

Table A-1
Summary of the Program Evaluation and Justification Review of
the Division of Elections

Issue	OPPAGA Conclusions
The identifiable cost of the program	The program was appropriated \$4.22 million and 45 FTEs for Fiscal Year 2002-03.
The specific purpose of the program, as well as the specific public benefit derived therefrom	The Division of Elections performs several activities that serve the public by helping ensure uniform compliance with election laws and by increasing voter participation in the election process. The division also serves the public by assisting in the administrative rulemaking process through the dissemination of Florida's administrative records, laws, acts, and rules.
The consequences of discontinuing the program	The division contributes to the integrity of the election process by ensuring that candidates are qualified and file accurate and timely finance reports. The division helps to increase voter participation in the election process by providing guidance and information to candidates, citizens, political organizations, and government entities with regard to Florida's election laws and voter registration process. In addition, the division participates in the administration of elections by tabulating county vote totals for state elections and by certifying the voting systems used in all of the elections held in Florida. The division also serves the public by assisting in the administrative rule development process through the dissemination of Florida's administrative records, laws, acts, and rules.
Determination as to public policy, which may include recommendations as to whether it would be sound public policy to continue or discontinue funding the program, either in whole or in part	The public benefit derived from the statewide coordination and direction for the interpretation and enforcement of election laws and from contribution to the development of government procedures through the dissemination of Florida's administrative records, laws, acts or rules indicates that it is sound public policy to continue funding the division.
Progress towards achieving the outputs and outcomes associated with the program	Based on the results of the inspector general's review of the division's performance measures, the division used an invalid means of collecting data or to calculate its measures for Fiscal Year 2000-01. As the division has not made the necessary corrections to the reported performance information for Fiscal Year 2001-02, we were unable to use the reported performance for either year in our evaluation. To help assess the division's performance, we contacted other state election programs and surveyed division stakeholders, including all of Florida's county supervisors of elections. We found that the division's stakeholders were generally satisfied with the quality of the program's performance for each of the service areas we surveyed.
An explanation of circumstances contributing to the state agency's ability to achieve, not achieve, or exceed its projected outputs and outcomes, as defined in s. 216.011, <i>F.S.</i> , associated with the program	In Florida, general elections are held every two years. The division's annual workload for activities associated with the election process increases significantly during those years in which a general election is held. Consequently, the division's ability to meet some of its performance standards is affected by whether a general election is held during the reporting period.

Issue	OPPAGA Conclusions
<p>Whether the information reported pursuant to s. 216.031(5), <i>Florida Statutes</i>, has relevance and utility for the evaluation of the program</p>	<p>While most of the current legislative performance measures can assist in the evaluation of specific activities performed by the division, they do not provide sufficient information to assess whether the division’s mission and objectives are being effectively accomplished. To assist the Legislature in its evaluation of the division’s effectiveness, we recommend that the Legislature adopt the two recommendations below.</p> <ul style="list-style-type: none"> ▪ A new measure should be adopted to show the percentage of the voting age population who voted in the general election. ▪ A new measure should be adopted to show the percentage of ballots not registering an undervote for President or Governor in a general election. <p>We further recommend the elimination of the legislative performance measure “the percentage of campaign treasurer report detail information released on the Internet within seven days’ and adopt the following two new measures:</p> <ul style="list-style-type: none"> ▪ the percentage of campaign finance reports filed timely and ▪ average number of days to process campaign finance reports.
<p>Whether state agency management has established control systems sufficient to ensure that performance data are maintained and supported by state agency records and accurately presented in state agency performance reports</p>	<p>The department’s inspector general is required to conduct an analysis of each legislative performance measure to determine the validity of the measure and accuracy of the associated data. This analysis determined that the actual amount differed from the reported amount for each of the measures identified in the department’s Fiscal Year 2002-03 Long Range Program Plan due to the program’s use of estimates. In addition, the division used an invalid means of collecting data or calculating its measures for Fiscal Year 2000-01. Based on the results of this review, OPPAGA has no assurances that the performance for each of the legislative measures for Fiscal Year 2001-02 was accurately reported.</p>
<p>Alternative courses of action that would result in administering the program more efficiently and effectively</p>	<p>While the 2001 and 2002 Legislatures made several important reforms to the election system, the Legislature could consider additional steps to strengthen the system. We recommend the division monitor each of the areas below and report to the Legislature, if warranted, on the extent of the problem and possible solutions.</p> <ul style="list-style-type: none"> ▪ The division is to report to the Legislature on the effectiveness of the education programs funded by recent appropriations. If the division finds the programs to be ineffective, it should identify options for improving the effectiveness of any future voting education efforts funded by the Legislature. Options could include allocating a portion of any appropriation to the division to develop education materials that can be incorporated by supervisors of elections into their voter education programs. ▪ The division should monitor eligibility determination procedures to determine if voters who believe they have been wrongly identified as convicted felons are prohibited from voting due to system’s inability to confirm their identity. If warranted, the division should report to the Legislature on the extent of the problem and offer options for resolving the issue. Solutions could include giving voters the opportunity to provide a fingerprint in order to prove their eligibility to vote. ▪ The division should monitor the provisional voting process to ensure that a voter is not being denied the right to vote due to a failure to respond during the initial eligibility determination process. If warranted, the division should report to the Legislature on the extent of the problem and options for modifying the provisional ballot process to resolve the issue. Solutions could include allowing voters a final opportunity to provide any information needed to determine their eligibility and, if determined eligible, allowing the voter’s provisional ballot to be cast. Alternatively, the voter could be given a notice upon completing a provisional ballot of the possible results of the review process, contact information for determining that results, and in the event the voter is determined ineligible options available to the voter for correcting the situation prior to the next election. ▪ The division should monitor the process of removing duplicate voter registrations to ensure that a voter is not being denied the right to vote due to incorrectly being identified as a duplicate voter. If warranted, the division should report to the Legislature on the extent of the problem and possible solutions. Solutions could include using change of address information supplied by the United States Postal

Issue	OPPAGA Conclusions
	<p>Service to confirm that an individual identified as being registered in more than one county has in fact moved.</p> <ul style="list-style-type: none">▪ The division should conduct a comparison of Florida’s voting equipment standards with the new federal standards to determine whether unique voting equipment standards continue to be needed and, if the comparison is favorable, adopt rules that use the federal voting equipment standards in Florida’s voting equipment certification process. Adopting new federal standards for voting equipment should reduce the costs associated with equipment certification at both the state and local levels.▪ To ensure that Florida’s election laws are uniformly administered and enforced, the Legislature should amend s. 106.25, <i>F.S.</i>, by waiving the right of confidentiality when an advisory opinion is requested for the specific purpose of determining whether a case involving the same circumstances is currently before the Florida Elections Commission. This will allow the division to refrain from issuing advisory opinions on cases that are pending before the Florida Elections Commission <p>We also identified several cost-savings opportunities in the division’s operations.</p> <ul style="list-style-type: none">▪ If the Legislature wishes to save \$375,000 bi-annually, it could amend s. 106.07, <i>F.S.</i>, to require all candidates and committees, except in extreme hardship cases, to file campaign finance reports using the division’s Internet-based application.▪ The division should use electronic media to educate and inform candidates and committees. Providing these services through its website and e-mail could save approximately \$13,500 bi-annually.▪ The division should encourage counties to deliver certified copies of ordinances through electronic mail instead of hard copy. Electronic filing of local ordinances by counties would improve maintenance and accessibility of information.

Appendix B

The Division's Fiscal Year 2000-01 Performance Measures Were Not Accurately Reported

Measure	2000-01 Performance Standard	2000-01 Actual Performance ¹	Comment
Percentage of campaign treasurer report detail information released on the Internet within seven days	94%	73%	Methodology used to calculate performance is invalid because the date that the report was created was used as the start date rather than the date received.
Percentage of survey respondents satisfied with services	90%	99%	Method used to collect data is invalid due to bias in the survey distribution process.
Percentage of training session/workshop attendees satisfied	90%	100%	Results of survey are not meaningful because less than 1% of attendees responded to survey.
Number of campaign reports received/processed	14,000	11,336	Standard was not established to reflect biennial election year. During off-election years it is unlikely that the division could meet the standard due to a significant decrease in the filing of campaign reports.
Number of attendees at training, workshops and assistance events	500	408	Standard was not established to reflect biennial election year. In addition, the method used to collect data is invalid as it does not ensure complete reporting.
Number of Internet website hits	750,000	6,747,514	Standard is too low. The division has requested an increase in the standard to 3,250,000.

¹ The inspector general determined that the amounts reported in the Fiscal Year 2002-2003 Long Range Program Plan were based on estimates. Amounts reported here are those corrected by the inspector general using actual amounts. Please note that the actual amount for the "Number of campaign reports received/processed" differs from the amount in Exhibit 2 of the report because the amount in Exhibit 2 is for the 2001 calendar year, while the amount in this table is for Fiscal Year 2000-01.

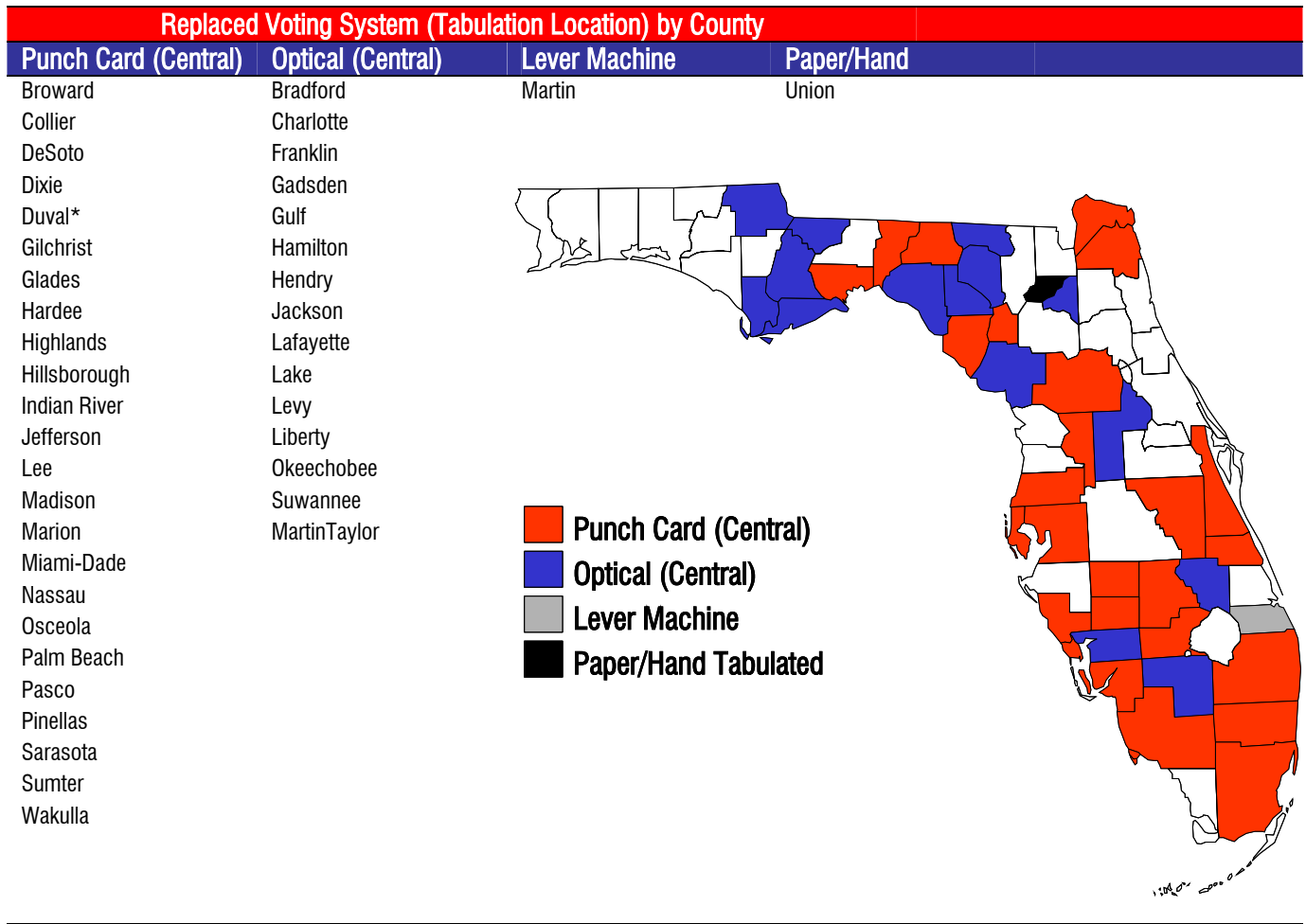
Source: Department of State Fiscal Year 2002-2003 Long Range Program Plan and Office of Inspector General Memorandum.

Appendix C

Forty-One Counties Were Required to Purchase New Voting Equipment

The Florida Election Reform Act specifies that counties must use either electronic or electromechanical precinct-count tabulation voting systems in the 2002 elections. As shown in Table C-1, 41 of Florida's 67 counties were required to purchase new voting equipment; however, every county was allocated funding for voting equipment regardless of whether new equipment was required. Small counties were allocated \$7,500 per precinct and large counties \$3,750 per precinct.

Table C-1
Twenty-Six Counties Were Required to Purchase New Voting Equipment



Source: Florida Association of Counties, February 26, 2001.

Appendix D



FLORIDA DEPARTMENT OF STATE

Jim Smith

Secretary of State

DIVISION OF ELECTIONS

Room 100, The Collins Building

107 West Gaines Street

Tallahassee, Florida 32399-0250

(850) 245-6200

October 18, 2002

Mr. John W. Turcotte
Director
Office of Program Policy Analysis and
Government Accountability
111 West Madison Street, Room 312
Tallahassee, FL 32399-1475

Dear Mr. Turcotte:

Thank you for the opportunity to review and respond to your recent draft Justification Review of the Division of Elections entitled **Most Election Reforms Implemented; Additional Actions Could Be Considered**. We appreciate the work of your staff in amending the report to include our initial concerns.

Attached is the Division's official response to the recommendations contained in the report.

If you have any questions, please let me know.

Sincerely,

/s/

Edward C. Kast
Director

ECK/SJB

Enclosure

Justification Review

Division of Elections Response to OPPAGA Justification Review

Performance measures

Recommendation that the division's performance measures be modified to eliminate the measure "percentage of campaign treasurer report detail information released on the Internet within seven days" and include the following:

- *Percentage of the voting age population which voted in a general election*

The division disagrees that this standard is an accurate measure of the division's performance. Although the division promotes voter participation in its activities, the number of persons who actually vote in elections is not a measure over which the division has any control. It is driven by many factors, including such things as a potential voter not liking the candidates and issues, believing that their vote doesn't make a difference, and not having enough time to go vote. Furthermore, using the Voting Age Population as a base number for calculation of such a measure would incorrectly include many people who are not legally entitled to register or vote (resident noncitizens and convicted felons who have not had their voting rights restored), thereby resulting in a flawed voter turnout rate, i.e., one which would be lower than the true rate.

- *Percentage of campaign finance reports filed timely*

The division agrees that this standard may be better than the current standard of "percentage of campaign treasurer report detail information released on the Internet within seven days." However the division disagrees that this standard is an accurate measure of the division's performance. The Legislature has statutorily imposed automatic fines for late filing of campaign reports; however, every reporting period some candidates and committees file late. The late filing are due to various reasons, all of which are out of the control of the Division of Elections.

- *Average number of days to process campaign finance reports*

The division agrees to this performance measure, provided that processing is limited to receiving, entering, releasing to the web and filing the reports.

- *Percentage of ballots not registering a valid vote for president or governor in a general election*

The division disagrees that this standard would be an accurate measure of the division's performance since many voters choose not to vote in certain races. The division will be gathering this information and reporting to the Legislature pursuant to s. 101.595, F.S. The report to the Legislature will be providing information for the purpose of evaluating and identifying problems with ballot design, instructions, or voting system design problems, and will contain recommendations for correcting identified problems.

OPPAGA Comment

While the above measures, along with voting population participation, do not directly assess the division's performance, they are critical to informing the Legislature whether the intended outcomes of the division's activities—citizen's participation in elections—is being achieved.

- *The Legislature should consider assigning separate performance standards for several of the measures for years in which a general election is held and for years when a general election is not held.*

The division agrees with this recommendation.

Other Recommendations

The division should monitor the effectiveness of voter education programs and report to the Legislature.

The division agrees. This recommendation is currently required by s. 98.255, F.S.

The division should monitor eligibility determination procedures to determine if voters who believe they have been wrongly identified as convicted felons are prohibited from voting due to the system's inability to confirm their identity.

The division agrees with this recommendation.

The division should monitor the provisional voting process.

The division agrees with this recommendation.

The division should monitor the process of removing duplicate voter registrations to ensure that a voter is not being denied the right to vote due to incorrectly being identified as a duplicate voter.

The division agrees with this recommendation.

The division should conduct a comparison of Florida's voting equipment standards with the new federal to determine whether unique voting equipment standards continue to be needed and, if the comparison is favorable, adopt rules that use the federal voting equipment standards in Florida's voting equipment certification process.

The division agrees with this recommendation. We disagree, however, with the finding that the adoption of the federal standards will reduce the costs associated with equipment certification. Until such a time as the federal government creates a certification and testing program, individual states will have to continue to examine and certify voting system independently.

The Legislature should amend s. 106.25, F.S., by waiving the right of confidentiality when an advisory opinion is requested for the specific purpose of determine whether a case involving the same circumstances is currently before the Florida Elections Commission.

The division agrees with this recommendation since it would provide the division with important information related to its statutory function of issuing advisory opinions. However, as the Legislature has vested authority in the Division of Elections to issue advisory opinions related to both contemplated and past actions by statutorily covered individuals and entities without regard to the filing of a complaint before the Florida Elections Commission, the division would not be barred from issuing advisory opinions in those circumstances should the matter warrant the issuance of an opinion.

Justification Review

Cost Saving Recommendations

The Legislature should require candidates and committees to file campaign finance reports electronically.

The division agrees with this recommendation.

The division should use electronic media to educate and inform candidates and committees.

The division agrees with this recommendation in concept. However, some candidates and committees do not have access to the Internet or do not have an e-mail account and would require a hard copy.

The division should encourage counties to deliver certified copies of ordinances through electronic mail instead of hard copy.

The division agrees with this recommendation in concept; however, we believe that the Legislature must amend s. 125.66, F.S., to allow such filings.