

Why The Election Assistance Commission Must Not Be Reauthorized Centralization Of Executive Power In The U.S. EAC

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The democratic processes of the American Republic are based on decentralized power and a government of the people, by the people, and for the people.

1. White House Control over Counting the Votes: Current legislative proposals, such as Congressman Holt's Bill¹ or Senator Clinton's election reform bill², extend the power and authority of the Election Assistance Commission (EAC) beyond its existing expiry date, establishing a Presidential Commission authorized to control the counting of votes in U.S. elections.

2. Crony Appointments: The potential for stacking of the EAC with political appointees is evident in the scenario already played out under the current Administration³, putting political appointees into positions of power and authority without the checks and balances of Congressional oversight. Of the eight recess appointments made on January 4, 2006, three were Commissioners to the Federal Election Commission. Two of those interim-appointed Commissioners are known for their opposition to voting rights and clean elections. The third is a political crony of Senate Minority Leader Reid of Nevada. Of Bush's two latest EAC appointees, who were both confirmed by Congress without public hearings, neither has any election experience to speak of, and both follow the same pattern of crony appointments.⁴

3. Regulatory Authority: Federal regulatory authority means the federal entity preempts state and local authorities. In the matter of elections, the US Constitution endows the States with authority over election administration. This enforces decentralization of power, which is a foundational building block for the American democratic processes. HAVA⁵ created the EAC as an advisory commission with one exception: it was granted regulatory authority over the National Voter Registration Act (NVRA). The EAC has been steadily positioning and even suing⁶ to assert regulatory authority in other areas under its domain. **Even if it does not succeed through litigation, the EAC could, with the insertion of a single line of text in ANY congressional act, become regulatory.**⁷ A regulatory EAC means that a Presidential Commission would have legal decision making and enforcement power over the following areas, for every state in the nation:

- Which voting systems are approved for use
- Who counts the votes
- How votes are counted
- How recounts are administered and how election outcomes are determined

An editorial in the New York Times, entitled "*Strong Arming the Vote*" (August 3, 2006)⁸ describes how the Department of Justice under the Bush Administration has been heavily involved in partisan ploys to negate checks and balances in election practices.

*Any legislation that makes permanent the EAC would establish a new arm of executive power with dangerous authority to subvert the democratic process of elections that supports our system of government, and could result, in effect, in a bloodless coup. The EAC's functions would be better accomplished if they were reallocated.*⁹

¹ HR811 <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:h.r.00811>:

² S804 <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:h.r.01381>: and
<http://thomas.loc.gov/cgi-bin/bdquery/z?d110:s.00804>:

³ In early 2006, the Bush White House made numerous recess appointments
http://www.sourcewatch.org/index.php?title=Recess_appointments_made_by_President_George_W._Bush

⁴ March 8, 2007 Hunter & Rodriguez Appointed as New EAC Commissioners
http://www.eac.gov/news_030807.asp

⁵ http://www.fec.gov/hava/law_ext.txt

⁶ *Statement of EAC Chairman Paul DeGregorio regarding the EAC's Tally Vote of July 6, 2006, involving the request from the Arizona Secretary of State to change the instructions on the Arizona Federal Voter Registration Form.*

<http://www.eac.gov/docs/DeGregorio%20comments%20of%20July%206%2006%20Tally%20Vote%20regarding%20AZ%20%20final%20pd.pdf>

⁷ *This is how the FEC gained regulatory powers.*

⁸ http://www.nytimes.com/2006/08/03/opinion/edit-1-thu.html?_r=1&oref=slogin

⁹ See Ellen Theisen "Evidence Indicates EAC's On-Going Failure Will Continue"
<http://www.votersunite.org/info/TestimonyTheisen03-13-07.pdf>

and Kathy Dopp "Critical Changes Needed to Holt HR811" item #11
<http://electionarchive.org/ucvInfo/US/ChangesNeeded2HR811.pdf>