



**House
Legislative
Analysis
Section**

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EARLIER BALLOT PREPARATION

House Bills 4974-4977 as introduced
First Analysis (10-9-89)

Sponsor: Rep. Robert Bender
Committee: Elections

RECEIVED

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THE APPARENT PROBLEM:

The Michigan Election Law requires absent voter ballots to be delivered to local clerks by county clerks at least 42 days prior to the general November election. According to officials from the Department of State, election officials have had an increasingly difficult time meeting this requirement ever since the mid 1970s. They cite the November 1988 election as an example. County clerks are supposed to receive absent voter ballots from printers on the 45th day before the election, which was September 24. No county received ballots by that date. Fifteen counties received ballots between September 27 and September 30, with the most common dates of delivery falling between October 4 and October 7. Five counties did not receive ballots until October 11. One result of the chronic lateness of absentee ballots, say state election officials, is that "Michigan has come under constant criticism by the Department of Defense's Federal Voting Assistance Program" because of the problems faced by Michigan voters serving in the armed forces overseas. While such voters represent just two percent of absent voter ballots cast, they account for about 30 percent of the late ballots. There are various reasons for the lateness of absentee ballots. The lack until recently of provisions for independent candidates to get on the ballot led to lawsuits that delayed ballot printing. Punch card balloting, now more widespread, requires all ballots to be held up (partisan, nonpartisan, and proposals) if one is delayed. Local units of government can put local proposals on the ballot up until 49 days before the election, and local proposals apparently are increasingly common.

In a related matter, the U.S. Department of Justice has sued the state because Michigan's election law only requires that absent voter ballots be delivered to counties 22 days prior to primary elections, which the Department of Justice and the Department of Defense consider insufficient to allow overseas voters to exercise their franchise. Recent amendments to the Federal Uniformed and Overseas Citizens Absentee Voting Act extended franchise protections previously limited to general elections to primaries. The state entered into a consent order for the 1988 election that required overseas absent voter ballots to be counted if received up to ten days after the primary. A permanent solution is required.

The Department of State has identified a number of deadlines that need to be changed if absent voter ballots are to be available on time for both the general November election and the preceding August primary.

THE CONTENT OF THE BILLS:

The bills would alter a number of election deadlines. (Typically, deadlines would be three weeks earlier.) House Bill 4974 would amend the Michigan Election Law (MCL 168.53 et al) and contains most of the changes. The other

bills, which are tie-barred to House Bill 4974, would make related acts. The following are among Michigan changes:

Absentee Ballots. Ballots would have to be delivered to the county clerks 47 days prior to the general November election and the preceding August primary and, in turn, delivered to local clerks 45 days prior to the elections. (Currently, ballots for the November election are due 45 days and 42 days, respectively, prior to the election and ballots for the August primary are due 22 and 20 days, respectively, prior to the election.) The 22- and 20-day deadlines would remain for other primaries and elections.

Primary Filing Deadlines. Nominating petitions for federal, state, county, township, judicial, and some local offices would have to be filed on the 12th Tuesday before the August primary election rather than on the 9th Tuesday. Candidates for delegate to a county convention would have to file by the 91st day preceding the primary rather than the 70th day. (The last day for challenging delegate petitions would be moved from the 63rd day to the 84th day prior to the primary.)

Certification of Primary Candidates. The board of state canvassers would have to determine the sufficiency of petitions and the secretary of state would have to certify candidates no later than 9 weeks before the primary rather than 5 weeks before the primary.

Local Ballot Questions. Ballot wording for county or local questions to be voted on at a state primary or election would have to be certified to the local clerk at least 70 days prior to the election (rather than the current 49 days), and in cases where a local clerk must certify the wording to a county clerk, the deadline would be 68 days prior to the election (rather than the current 47 days).

Elections To Fill Vacancies. If a vacancy occurred in a countywide or township office more than 182 days prior to a general November election that was not the election at which a successor would have been elected, the vacancy would be filled at that election for the remainder of the term. Currently, the vacancy would be filled if it occurred more than 150 days before the election. If a vacancy occurred in a judicial office more than 91 days prior to a primary preceding a general election (and that was not the election at which a successor was to be chosen), the vacancy would be filled at that election. Currently, the vacancy would be filled if it occurred more than 70 days prior to the election.

Withdrawal Of Nominees. Democratic and Republican nominees for state board of education, regents of the University of Michigan, trustees of Michigan State University, and governors of Wayne State University would have until the 3rd day following the convention at which they were nominated to withdraw, just as candidates for lieutenant governor, secretary of state, attorney general, and supreme court justice have. Currently, the education candidates have until the 33rd day preceding the election.

H.B.s 4974-4977 (10-9-89)

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(This shortens the time in which they can decide to withdraw by about a month.)

Challenges To SOS Filings. Although the election law provides a method and time limit for challenging signatures on nominating petitions filed with the county clerk, no such provisions exist for petitions filed with the secretary of state. House Bill 4974 would apply the same requirements that apply to challenges filed with the county clerk to the challenges filed with the secretary of state.

House Bill 4975 would amend the Community College Act (MCL 389.83 et al) to change filing dates for candidates for the office of trustee.

House Bill 4976 would amend the School Code (MCL 380.411a et al) and refers to candidates for school board in first class districts, whose nominating petitions would be due on the 12th Tuesday prior to the primary election rather than the 9th Tuesday, and refers to candidates for boards of certain intermediate school districts, whose petitions would be due on the 9th Monday before the election rather than the 49th day before the election.

House Bill 4977 would amend the charter township act (MCL 42.4) to refer to candidates for township office, who would file nominating petitions on the 12th Tuesday prior to the primary rather than the 9th Tuesday.

FISCAL IMPLICATIONS:

The bills have no fiscal implications for the state, according to the Department of State. (10-5-89)

ARGUMENTS:

For:

State election officials are in trouble with the federal government because of the state's inability to meet absent voter ballot deadlines. Some Michigan voters living overseas (in the military, the diplomatic service, in business, in school, or otherwise) have been disenfranchised due to the lack of time available to file an absent voter ballot. This, as well as new federal regulations requiring the earlier preparation of absent voter ballots for primary elections, makes it imperative that the state revamp its various candidate filing and ballot proposal certification deadlines. For 1988, the state operated under a consent order that required the late counting of primary absent voter ballots up to 10 days after the primary. (This only applied to votes for federal offices.) The bills would rework the election calendar so that primary and general election ballots can be printed in a more timely fashion.

POSITIONS:

The Department of State supports the bills. (10-5-89)

The Michigan Townships Association supports the bills. (10-6-89)

The Michigan Association of Counties supports the bills. (10-9-89)