

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

House Bill 4974 (Substitute S-1 as reported)  
House Bill 4976 (as reported without amendment)  
Sponsor: Representative Robert Bender  
House Committee: Elections  
Senate Committee: Local Government and Veterans

Date Completed: 12-6-89

**RATIONALE**

The Michigan Election Law requires absent voter ballots to be delivered to local clerks by county clerks at least 42 days before the general November election. According to officials from the Department of State, election officials have had an increasingly difficult time meeting this requirement due to a number of reasons including printing delays. One result of the chronic lateness of absentee ballots, reportedly, is that Michigan has been criticized by the U.S. Department of Defense's Federal Voting Assistance Program because of the problems faced by Michigan voters serving overseas in the armed forces. While such voters represent just 2% of absent voter ballots cast, they account for about 30% of the late ballots. Furthermore, it is reported that the U.S. Department of Justice sued the State in 1988 because Michigan's election law requires that absent voter ballots be delivered to counties only 22 days before primary elections, which the Departments of Justice and Defense considered insufficient time to allow overseas voters to receive their ballots and return them by election day. As a result, the State was ordered to count absentee ballots for 10 days after the August 1988 primary election in order for those ballots to be included in the election totals. In addition, it also is reported that recent amendments to the Federal Uniformed and Overseas Citizens Absentee Voting Act extended to primaries franchise protections

(voting rights), that were previously limited to general elections.

In light of these concerns, some people believe that a number of deadlines 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.

**CONTENT**

**House Bill 4974 (S-1)** would amend the Election Law to change the deadlines for: the filing of nominating petitions for various Federal, State, local, school, and judicial offices; the delivery of absent voter ballots; certification of wording for local ballot questions; and, elections to fill vacancies in office.

**House Bill 4976** would amend the School Code to change the deadline, from the ninth Tuesday to the 12th Tuesday before the primary election, for filing nominating petitions for at-large candidates and district candidates for the board of a first class district. The bill also provides that a candidate for an intermediate school board, to which members are elected in popular elections, would have to file nominating petitions and an affidavit with the secretary of the board prior to

H.B. 4971 &amp; 4976 (12-6-89)

the ninth Monday before the election. Currently, the petition and affidavit must be filed by the 49th day before the election. The bill is tie-barred to House Bill 4974.

A detailed description of House Bill 4974 (S-1) follows.

#### Nominating Petitions

Nominating petitions for various Federal, State, county, township, municipal, and judicial offices would have to be filed with the Secretary of State by the 12th Tuesday before the August primary election, rather than by the ninth Tuesday before the August primary as currently required. In addition, candidates for delegate to a political party's county or district convention would have to file a petition with the county clerk on the 91st day, rather than the 70th day, before the time designated for holding a primary election in the county. Complaints about the validity of such petition signatures could not be acted upon unless received by the 84th day, rather than the 63rd day, before the primary election.

(Offices affected by the proposed changes in the filing deadlines for nominating petitions include: Governor, U. S. Senator, Congressional Representative; State Senator; State Representative; various county officers such as prosecuting attorney, sheriff, county clerk, county treasurer, register of deeds, drain commissioner, coroner, and supervisor as named in the Election Law (MCL 168. 191); county auditor; county road commissioner; city officer; township officer; judge of the court of appeals or circuit, municipal, probate, or district court; county, township, or city clerk; and offices filled in odd-year general elections.)

#### Elections to Fill Vacancies

If a vacancy occurred in an elected or appointed county or township office more than 182 days before a general November election that was not the election at which a successor would have been elected, the person appointed to fill the vacancy would hold the office until a successor was elected at the next general

November election. Currently, the vacancy must be filled by appointment if the vacancy occurs more than 150 days before the general election.

If a vacancy occurred in a judicial office (municipal judge, court of appeals judge, circuit court judge, or probate court judge), candidates to fill the vacancy would have to be nominated at the next fall primary or municipal primary that was held at least 91 days, rather than 70 days, after the vacancy occurred.

#### Local Ballot Questions

Ballot wording for any local or county questions, that were to be voted on at any primary, special, or general election at which State officers were to be voted for, would have to be certified to the local or county clerk at least 70 days, rather than 49 days, prior to an election. If the wording were to be certified to a clerk other than a county clerk, the clerk would have to certify the ballot wording to the county clerk at least 68 days, rather than 47 days, before the election.

#### Withdrawal of Nominees

Nominees, certified by the State central committee of a party, for membership on the State Board of Education, the Board of Regents of the University of Michigan, the Board of Trustees of Michigan State University, or the Board of Governors of Wayne State University could file a written notice of withdrawal with the Secretary of State and with the chairperson and secretary of the State central committee by the third day following the convention at which the person was nominated. Currently, these candidates have until the 33rd day preceding the election.

#### Certification of Primary Candidates

The Board of State Canvassers would have to determine the sufficiency of nominating petitions at least nine weeks, rather than five weeks, before the primary election at which candidates were to be nominated. At least nine weeks, rather than five weeks, before the primary election, the Secretary of State would

have to certify to the county boards of election commissioners certain information for each partisan and nonpartisan candidate.

#### Challenges to Nominating Petitions

Under the bill, if the Board of State Canvassers received a sworn written complaint that questioned the validity of the registration or genuineness of the signature of the circulator or of a person signing a nominating petition filed with the Secretary of State, the Board of State Canvassers would have to begin an investigation and forward the petition to the proper city or township clerk to compare the signature on the petition with the signature on the registration record, or in another manner determine whether the signature that appeared on the petition was valid and genuine. Such a complaint could not be acted on unless the complaint set forth the specific signature claimed to be invalid and the specific petition for which the complaint questioned the validity and genuineness of the signature or circulator registration, and unless the complaint was received by the Board of State Canvassers within seven days of the statutory date for the filing of nominating petitions.

#### Absentee Ballots

Ballots would have to be delivered to county clerks at least 47 days, rather than 45 days, prior to the general November election. A county clerk would have to have the ballots delivered to each township and city clerk in the county at least 45 days, rather than 42 days, before the general November election. The bill also would add that these deadlines applied to the August primary preceding the general November election.

#### Additional Township Trustees

Currently, a township may submit to the voters the question of adding trustees. If the voters reject the proposal, the township board may resubmit the question at the first general November election or township annual meeting held at least 49 days after petitions by township electors have been submitted. The bill would move the deadline to 84 days

following the submission of a petition.

#### State Senator or Representative Candidates

Currently, a candidate for the office of State Senator or Representative, after a nominating petition or filing fee has been filed, cannot withdraw unless a written withdrawal notice is filed. Under the bill, if the withdrawal of a candidate resulted in there being no candidates of the same political party for that office, that vacancy would have to be filled according to provisions in the Election Law for filling candidate vacancies (MCL 168.169). The bill also provides that when a candidate who had been nominated for State Senator or Representative had been certified by a party's State convention for a Statewide office, became physically unfit, moved from the district, or became disqualified for any reason, the members of a party's county executive committee residing within the senatorial or representative district would have to meet to fill the vacancy. Currently, a party's county committee must meet to select a replacement candidate.

#### Repealer

The bill would delete current provisions concerning the delivery of absent voter ballots in a special tax or bonding election being held in a city with a population of 1 million or more (MCL 168.640), or in a school district holding a millage election pursuant to the General Property Tax Act (MCL 211.36). The bill also would repeal provisions concerning the county chairman of a political party calling for a fall county convention (MCL 168.604) and on the election of a judge of the common pleas court (MCL 168.646c).

MCL 168.53 et al. (House Bill 4974)  
380.411a et al. (House Bill 4976)

#### SENATE COMMITTEE ACTION

The Senate Committee on Local Government and Veterans adopted a substitute that would make changes concerning the filling of a vacancy of a candidate for State Senator or the State House of Representatives.

## FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

## ARGUMENTS

### Supporting Argument

The State has been criticized by the Federal government because of the State's inability to meet absent voter ballot deadlines. Some Michigan voters living overseas who are in the military, in the diplomatic service, in business, or in school, have had difficulty in applying for, receiving, and returning their absentee ballots due to existing time constraints. Because of this situation, as well as new Federal regulations requiring the earlier preparation of absent voter ballots for primary elections, the State should revamp its various candidate filing and ballot proposal certification deadlines.

### Supporting Argument

The Senate substitute would address the situation in which a Senate or House nominee was certified by a party's State convention for statewide office, became physically unfit, moved from the district, or became disqualified for any reason. Under the bill, members of the party's county executive committee residing in the district, rather than members of the county committee, would have to meet to select a candidate to fill the vacancy. This change would accommodate situations in which there is no county committee.

Legislative Analyst: L. Arasim

Fiscal Analyst: G. Olson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.