

# Legislative Analysis



## ELIMINATE LOCAL BOARDS OF CANVASSERS AND MODIFY RECOUNT PROCEDURES

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### House Bill 4169

Sponsor: Rep. Dave Pagel

### House Bill 4170

Sponsor: Rep. Kevin Cotter

### House Bill 4171 (Substitute H-2)

Sponsor: Rep. Bradford C. Jacobsen

Committee: Elections and Ethics

### First Analysis (3-5-13)

**BRIEF SUMMARY:** The bills would eliminate city and township boards of canvassers and transfer their functions to county boards of canvassers.

**FISCAL IMPACT:** House Bill 4171 would have an indeterminate, but positive, fiscal impact on state and local government, while House Bills 4169 and 4170 would have no fiscal impact on the state, and do not appear to have any significant local fiscal impact. See *Fiscal Information* for greater detail.

### **THE APPARENT PROBLEM:**

Under Michigan law, all elections are certified and sometimes recounted by a board of canvassers. The members of the board carefully review--or 'canvass'--all the votes cast to ensure there are no discrepancies between the number of ballots returned and the number of tabulated votes. The law specifies that half the members of a board of canvassers represent each of the two political parties (with one member of each of the political parties appointed to a term of four years, while the second serves a term of two years).

There is also a board of state canvassers to canvass the votes cast in statewide contests. Further, a four-member board of canvassers is established in each of Michigan's 83 counties. In addition, the law requires that each city and township having more than five precincts also have a local board of canvassers.

In practice, the 83 county boards of canvassers review all local elections. Few cities and townships have local boards of canvassers. Those that do appoint local boards of canvassers because their charters require that they do so. For example, according to committee testimony, in Oakland County there are 51 cities and townships, but only nine cities have local boards of canvassers. On Election Day, those nine city boards canvass their local elections, and then submit their tallies to the county board of canvassers whose members repeat the process. This duplication of effort--which exists across the state--is costly, and sometimes confusing.

To eliminate the duplication and unnecessary cost, legislation has been introduced that would retain the board of state canvassers, and also each of the 83 county boards of

canvassers, but eliminate all boards of city and township canvassers, and assign their duties to the county boards of canvassers.

### ***THE CONTENT OF THE BILLS:***

The bills would eliminate city and township boards of canvassers and transfer their functions to county boards of canvassers. To that end, the bills replace references to the local boards of canvassers with references to the county boards of canvassers.

House Bill 4171 (H-2) is the main bill in the package. It is tie-barred to House Bills 4169 and 4170, and they are tie-barred to House Bill 4171, meaning that none of the bills could go into effect unless all of the bills are enacted into law.

Boards of canvassers conduct all recounts of elections in cities, townships, villages, school districts, metropolitan districts, or any other districts, such as community college districts. Currently Michigan's election law establishes a four-member board of county canvassers in each of the state's 83 counties. In addition, the law now provides for boards of city and township canvassers if a city or township has more than five precincts. House Bill 4171 (H-2) would eliminate this provision and require that county boards of canvassers conduct recounts. Then, once the board of county canvassers determined the results of the election, the local clerks would deliver to the people elected a properly certified certificate of election.

Numerous other sections would be amended or repealed to reflect this overall change, as described later.

A more detailed description of each bill follows.

House Bill 4169 would amend the General Law Village Act (MCL 74.18a) to specify that the results of an election on a proposed disincorporation must be canvassed by the board of county canvassers, in the county in which the village is located. Currently under the law, those results are canvassed by the board of canvassers of the village, and the board of canvassers of each township in which the village is located.

House Bill 4170 would amend the Community College Act (MCL 389.21, 389.37, and 389.57) to specify that an election to annex land in a community college district would be canvassed by the appropriate board of county canvassers, as provided under the Michigan Election Law. Further, House Bill 4170 specifies that the appropriate board of county canvassers would conduct a canvass of the results of an election and must do so within three days of that election. Currently the law refers to "the appropriate board of canvassers" and does not specify the appropriate board of *county* canvassers.

House Bill 4171(H-2) would amend 19 sections of the Michigan Election Law (MCL 168.24a et al) and repeal parts of the act, in order to eliminate references to local boards of canvassers in cities, villages, and townships.

The sections of the law that are amended to remove the references to city and township boards of canvassers, and to replace them with references to the county boards of canvassers concern primary and general elections (Sections 323 & 347); school elections (Sections 307 & 308); township elections (Section 355); non-partisan primary judicial elections (Sections 426c, 426f & 426l); procedures in the event of a discrepancy in the returns of any election district (Section 792); procedures that are followed by election inspectors and boards of canvassers (Sections 806 & 809); and also procedures that are followed by county boards of canvassers and the board of state canvassers (Section 822) if elections cannot be certified within 14 days.

Now under the law, the local board of canvassers corrects obvious mathematical errors in the tallies and returns, and when necessary for a proper determination, can summon the election inspectors and require them to count any ballots they failed to count, and make correct returns, if in the judgment of the board of canvassers (after examining the returns, poll lists, and tally sheets) the returns are incorrect or incomplete. House Bill 4171 (H-2) would retain these provisions but make them the responsibility of county boards of canvassers. In doing so, the bill would allow the board of county canvassers to designate staff members from the county clerk's office to count any ballots that the election inspectors failed to count. Then, the board of county canvassers would canvass the votes from the corrected returns.

Currently under the law, recount petitions for an office or proposition (other than those filed with the board of state canvassers) are filed with the clerk of the board of local canvassers that originally conducted the canvass. House Bill 4171 (H-2) would specify that all recount petitions for an office or proposition (other than those filed with the secretary of state) be filed with the clerk of the board of county canvassers that originally conducted the canvass. The bill then transfers to county clerks (from local clerks) the protocols that must be followed by recount petitioners, counter-petitioners, and county clerks regarding the filing and notice of recount petitions.

Finally, House Bill 4171 (H-2) would repeal Sections 30a through 30e, and also Section 360 of the Michigan Election Law (MCL 168.30a to 168.30e, & MCL 168.360). Those sections all provide for city and township boards of canvassers, and concern, among other things, the boards' powers and duties; appointment and terms of office; eligibility and selection; applications and vacancies; meetings; compensation and expenses; determining election results; and issuing certificates of election.

### ***FISCAL INFORMATION:***

House Bill 4171 would have an indeterminate, but positive, fiscal impact on state and local government. The provisions of the bill would eliminate all boards of city and township canvassers and assign their duties to the county board of canvassers. Local units of government would realize some savings due to the elimination of the local boards. The local government would still pay the costs of canvass for any school, city, township, and village elections done by the county board of canvassers. Much of the

savings to the local unit of government will come in the form of administrative savings associated with forming and operating a local board of canvassers.

House Bill 4170 would have no fiscal impact on the state, local units of government, or the 28 community colleges.

As written, House Bill 4169 would have no state fiscal impact and does not appear to have any significant local fiscal impact.

***ARGUMENTS:***

***For:***

These bills would eliminate duplication among local boards of canvassers who are appointed by election clerks to review the votes cast in local elections. Most local election outcomes are carefully reviewed by Michigan's 83 county boards of canvassers. However, in some cities and townships--for example, in nine of the 51 local jurisdictions in Oakland County--the local charter also requires a city or township board of canvassers. In those instances, the results of a local election are canvassed by both boards of canvassers--first the city or township board, then the county board. This duplication of effort is both costly and confusing. These bills would streamline the local election canvassing process, and increase both government effectiveness and efficiency.

***POSITIONS:***

The Secretary of State supports the bills. (2-26-13)

The Michigan Townships Association supports the bills. (2-26-13)

The Michigan Association of County Clerks supports the bills. (2-26-13)

The Michigan Association of Municipal Clerks supports the bills. (2-26-13)

The Oakland County Clerk supports the bills. (2-26-13)

The Kent County Clerk supports the bills. (2-26-13)

The Lansing City Clerk supports the bills. (2-16-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.