

Act No. 216
Public Acts of 1999
Approved by the Governor
December 28, 1999
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999**

Introduced by Rep. Mortimer

ENROLLED HOUSE BILL No. 5054

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 2, 42, 73, 74, 283, 284, 393, 394, 509n, 544b, 662, 686, 686a, 759a, and 879 (MCL 168.2, 168.42, 168.73, 168.74, 168.283, 168.284, 168.393, 168.394, 168.509n, 168.544b, 168.662, 168.686, 168.686a, 168.759a, and 168.879), section 284 as amended by 1990 PA 7, section 509n as added by 1994 PA 441, sections 662 and 759a as amended by 1996 PA 207, section 686a as amended by 1988 PA 116, and section 879 as amended by 1995 PA 261, and by adding sections 30 and 613c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Business day" or "secular day" means a day that is not a Saturday, Sunday, or legal holiday.

(b) "Election" means any election or primary election, at which the electors of this state or of any subdivision of this state choose or nominate by ballot public officials or decide any public question lawfully submitted to them.

CHAPTER II.

BOARDS OF ELECTION COMMISSIONERS, BOARDS OF CANVASSERS, AND CLERKS

Sec. 30. Not later than 30 days after the effective date of this section, each county, township, city, or village shall provide its clerk with a permanent postal mailing address and each county shall provide its clerk with an electronic mailing address. Each clerk shall notify the secretary of state in writing of any address required to be provided under this section. Not later than 3 business days after a change in the postal mailing address of the office of a county, township, city, or village clerk, or the electronic mailing address of a county clerk, the clerk shall notify the secretary of state in writing of the new address.

Sec. 42. In the year in which presidential electors are to be elected under section 43, each political party in this state shall choose at its fall state convention a number of candidates for electors of president and vice-president of the United States equal to the number of senators and representatives in congress that this state is entitled to elect. The

chairperson and the secretary of the state central committee of each political party shall, within 1 business day after the conclusion of the state convention, forward by registered or certified mail a certificate containing the names of the candidates for electors to the secretary of state. The candidates for electors of president and vice-president who shall be considered elected are those whose names have been certified to the secretary of state by that political party receiving the greatest number of votes for those offices at the next November election.

Sec. 73. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for the offices of lieutenant governor, secretary of state, and attorney general. Not more than 1 business day after the conclusion of the convention, the chairperson and secretary of the state central committee shall forward to the secretary of state and to the board of election commissioners of each county, in care of the county clerk at the county seat, a typewritten or printed list of the names and residence, including the street address if known, of candidates nominated at the state convention.

Sec. 74. A person who has been certified by the state central committee of any party as nominated for the office of lieutenant governor, secretary of state, or attorney general may withdraw by filing a written notice of withdrawal with the secretary of state or his or her authorized agent and a copy with the chairperson and the secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention at which the person was nominated.

Sec. 283. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention 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, and the board of governors of Wayne state university. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state and to the board of election commissioners of each county, in care of the county clerk at the county seat, a copy of the vignette adopted by the state central committee and a typewritten or printed list of the names and residence, including the street address if known, of the candidates nominated at the convention for the offices specified in this section.

Sec. 284. A person who is certified by the state central committee of a party as nominated 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 may withdraw by filing a written notice of withdrawal with the secretary of state or his or her duly authorized agent and a copy with the chairperson and the secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention at which the person was nominated.

Sec. 393. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of the convention and determine the nominee or nominees of the convention for the office or offices of justice of the supreme court. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state and to the board of election commissioners of each county, in care of the county clerk at the county seat, a typewritten or printed list of the names and residence, including the street address if known, of the candidate or candidates nominated at the convention for the office or offices of justice of the supreme court. The names of the persons so certified shall be printed upon a nonpartisan judicial ballot containing no party designation together with the names of any incumbent justices filing an affidavit pursuant to section 392a.

Sec. 394. Any person who has been certified by the state central committee of any party as nominated for the office of justice of the supreme court or who filed an affidavit according to section 392a may withdraw by filing a written notice of withdrawal with the secretary of state or his or her duly authorized agent and a copy with the chairperson and secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention.

Sec. 509n. The secretary of state is responsible for the coordination of the requirements imposed under this chapter and the national voter registration act of 1993. The secretary of state shall do all of the following:

(a) Develop a mail registration form and make the form available for distribution through governmental and private entities, with special emphasis on making the form available to voter registration programs established for the purpose of registering citizens of this state to vote.

(b) Instruct designated voter registration agencies; county, city, township, and village clerks; and school officials regarding the voter registration procedures and requirements imposed by law.

(c) By June 15 of each odd numbered year, submit to each member of the committees of the senate and house of representatives with primary responsibility for election matters a report on the qualified voter file. The report shall include, but need not be limited to, both of the following:

(i) Information on the efficiency and effectiveness of the qualified voter file as a voter registration system.

(ii) Any recommendations of the secretary of state for amendments to this act to increase the efficiency and effectiveness of the qualified voter file as a voter registration system.

Sec. 544b. (1) Except as provided in subsection (2), a person shall not qualify as a candidate for any judicial office of this state unless the person files an affidavit with his or her nominating petitions on a form prescribed by the secretary of state stating that he or she possesses the constitutional qualifications set forth in section 19 of article VI of the state constitution.

(2) In cases where candidates for judicial office are nominated at political party conventions, the chairperson and secretary of the party shall file the affidavit with the secretary of state not more than 1 business day after the conclusion of the convention.

Sec. 613c. Notwithstanding any law or charter provision to the contrary, if 2 cities and a village are to be consolidated as a new city in 2000 and the new city is scheduled to elect officers on March 7, 2000, the governing body of any of the local units that are to be consolidated may, by resolution adopted before January 14, 2000, cancel an election of officers of that local unit. If the election is canceled, terms of office that would have expired after that election are extended until the effective date of the consolidation.

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election in the city, village, or township, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax pursuant to section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, "sponsor of a political committee or independent committee" means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, which corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall cause the polling places to be equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section complies with the voting accessibility for the elderly and handicapped act, Public Law 98-435, 42 U.S.C. 1973ee to 1973ee-6.

Sec. 686. Within 24 hours after the conclusion of the state convention prior to any general election, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention. Not more than 1 business day after the state convention, the chairperson and secretary of the state central committee shall forward to the board of election commissioners of each county, in care of the county clerk at the county seat, and to the secretary of state, a typewritten or printed list of the names and residence, including the street address if known, of all candidates nominated at the state convention. In each presidential election year, the state central

committee of each political party shall, at the same time, forward to the board of election commissioners of each county and to the secretary of state the typewritten or printed names of the candidates of such party at the forthcoming election for the offices of president of the United States and vice-president of the United States certified to by the chairman and secretary of the committees. A party is not required to certify nominations made at an official primary election.

Sec. 686a. (1) If a political party entitled to a position on the ballot failed to have at least 1 candidate who polled at least 5% of the total vote cast for all candidates for secretary of state at the last preceding election at which a secretary of state was elected, candidates for that political party shall be nominated as provided in section 532. County caucuses and state conventions for such political parties shall be held not later than the August primary.

(2) County caucuses may nominate candidates for the office of representative in congress, state senator, and state representative if the offices represent districts contained wholly within the county, and for all county and township offices. Not more than 1 business day after the conclusion of the caucus, the names and mailing addresses of all candidates so nominated and the offices for which they were nominated shall be certified by the chairperson and secretary of the caucus to the county clerk. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. If a candidate is so certified with the accompanying affidavit of identity and certificate of acceptance, the name of the candidate shall be printed on the ballot for that election. Candidates nominated and certified shall not be permitted to withdraw.

(3) The county caucus may also select the number of delegates to the state convention to which the county is entitled and shall select its own officers and name its own county committee.

(4) The state convention shall be held at the time and place indicated in the call. The convention shall consist of delegates selected by the county caucuses. The convention may fill vacancies in a delegation from qualified electors of that county present at the convention. The convention may nominate candidates for all state offices. District candidates may be nominated at district caucuses held in conjunction with the state convention attended by qualified delegates of the district. If delegates of a district are not present, a district caucus shall not be held for that district and candidates shall not be nominated for that district. Not more than 1 business day after the conclusion of the convention, the names and mailing addresses of the candidates nominated for state or district offices shall be certified by the chairperson and secretary of the state convention to the secretary of state. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. The names of candidates so certified with accompanying affidavit of identity and certificate of acceptance shall be printed on the ballot for the forthcoming election. Candidates so nominated and certified shall not be permitted to withdraw.

Sec. 759a. (1) Except as provided in subsection (5), each of the following persons who is a qualified elector of a city or township in this state and who is not a registered voter may apply for an absent voter ballot pursuant to section 504:

- (a) A civilian employee of the armed services outside of the United States.
- (b) A member of the armed services outside of the United States.
- (c) A citizen of the United States temporarily residing outside the territorial limits of the United States.
- (d) A citizen of the United States residing in the District of Columbia.

(e) A spouse or dependent of a person described in subdivisions (a) through (d) who is a citizen of the United States and who is accompanying that person, notwithstanding that the spouse or dependent is not a qualified elector of a city or township of this state, as long as that spouse or dependent is not a qualified and registered elector anywhere else in the United States.

(2) A citizen described in subsection (1) other than a person described in subsection (1)(b) or a spouse or dependent of such a person described in subsection (1)(b) shall include, with an application for an absent voter ballot or registration, an affidavit in a form and manner approved by the state director of elections stating either of the following:

(a) His or her qualifications as an elector at the time he or she departed from the United States or began residing in the District of Columbia and affirming that he or she has not relinquished his or her citizenship or established residence for voting in any other place.

(b) That he or she is a spouse or dependent of a person described in subsection (1)(a), (c), or (d), that he or she meets the qualifications as an elector other than residency in this state, and that he or she has not established a residence for voting in any other place.

(3) Upon receipt of an application under this section that complies with this act, a city or township clerk shall forward to the applicant the absent voter ballots requested, the forms necessary for registration, and instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall

immediately forward to the applicant the registration forms and instructions, and forward the ballots as soon as they are available. If the ballots and registration forms are received before the close of the polls on election day and if the registration complies with the requirements of this act, the absent voter ballots shall be delivered to the proper election board to be voted. If the registration does not comply with the requirements of this act, the clerk shall retain the absent voter ballots until the expiration of the time that the voted ballots must be kept and shall then destroy the ballots without opening the envelope. The clerk may retain registration forms completed under this section in a separate file. The address in this state shown on a registration form is the residence of the registrant.

(4) The size of a precinct shall not be determined by registration forms completed under this section.

(5) A person described in subsection (1)(a) and (b) and a spouse or dependent of that person who is accompanying that person is registered to vote in a special primary or special general election if he or she was registered to vote under this section in the primary or general election immediately preceding the special primary or special general election. The city or township clerk who received that person's completed registration forms in the primary or general election shall forward to that person at his or her last known address an absent voter ballot for the special primary or special general election immediately upon the clerk's receipt of the absent voter ballots for the special primary or special general election.

(6) Pursuant to the uniformed and overseas citizens absentee voting act, Public Law 99-410, 100 Stat. 924, the state director of elections shall approve a ballot form and registration procedures for electors in the armed services and electors outside the United States, including the spouses and dependents accompanying those electors.

(7) As used in this section, "armed services" means any of the following:

(a) The United States army, navy, air force, marine corps, or coast guard.

(b) The United States merchant marines.

(c) A reserve component of an armed service listed in subdivision (a) or (b).

(d) The Michigan national guard as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

Sec. 879. (1) A candidate voted for at a primary or election for an office may petition for a recount of the votes if all of the following requirements are met:

(a) The office is an office for which the votes are canvassed by the board of state canvassers under section 841 or is the office of representative in congress, state representative, or state senator for a district located wholly within 1 county.

(b) The petition alleges that the candidate is aggrieved on account of fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by the inspectors, or by a board of county canvassers or the board of state canvassers. The petition shall contain specific allegations of wrongdoing only if evidence of that wrongdoing is available to the petitioner. If evidence of wrongdoing is not available, the petitioner is only required to allege fraud or a mistake in the petition without further specification.

(c) Except as otherwise provided in this subdivision, the petition for a recount is filed not later than 48 hours following the completion of the canvass of votes cast at an election. If the recount petition relates to a state senatorial or representative district located wholly within 1 county or to the district of a representative in congress located wholly within 1 county, the petition for a recount shall be filed not later than 48 hours following the adjournment of the meeting of the board of state canvassers at which the certificate of determination for that office was recorded pursuant to section 841. However, for a special election for representative in congress, state senator, or state representative for a district located wholly within 1 county, the petition for recount shall be filed not later than 48 hours after the certificate of determination is filed with the secretary of the board of state canvassers.

(d) The petition is presented to and filed with the secretary of state.

(e) The petition is written or printed and is signed and sworn to by the candidate.

(f) The petition sets forth as nearly as possible the nature and character of the fraud or mistakes alleged and the counties, cities, or townships and the precincts in which they exist.

(g) The petition specifies the counties, cities, townships, and precincts in which the recount is requested.

(h) If the office is the office of state representative, a copy of the petition is filed with the clerk of the house of representatives. If the office is the office of state senator, a copy of the petition shall be filed with the secretary of the senate.

(2) If a state senatorial race is determined by a vote differential of 500 votes or less or a state representative race is determined by a vote differential of 200 votes or less, the chairperson of a state political party may petition for a recount of the votes on behalf of a candidate in that race in the manner prescribed in subsection (1). Notwithstanding subsection (1)(b) and (f), the petition filed under this subsection need not allege fraud or mistake. Notwithstanding subsection (1)(e), the petition shall be signed by the chairperson of the state political party filing the petition under this subsection.

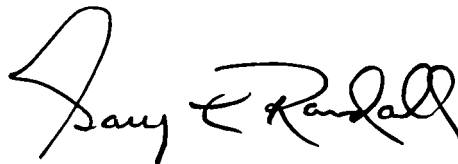
(3) The ballots in a precinct petitioned for recount in a legislative contest shall be recounted for that office by the board of state canvassers and shall be preserved until the contest is disposed of under the rules of the legislative body that takes office beginning in January following the contested general election. In legislative recounts of a special general election, ballots in a precinct petitioned for recount shall be preserved until the contest is disposed of under the rules of the legislative body serving at the time the report in subsection (4) is filed.

(4) Upon the completion of a recount for a legislative office, the board of state canvassers, in addition to the certification required by section 892, shall forward to the appropriate legislative body a report of the results of the recount.

(5) This section does not limit the authority of the legislature under section 16 of article IV of the state constitution of 1963.

Enacting section 1. Section 530 of the Michigan election law, 1954 PA 116, MCL 168.530, is repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.