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SFA



BILL ANALYSIS

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Senate Bills 438 through 444 (as introduced 5-1-01)

Senate Bill 760 (as introduced 10-18-01)

Sponsor: Senator Glenn D. Steil (S.B. 438 & 440)

Senator Bev Hammerstrom (S.B. 439)

Senator George A. McManus, Jr. (S.B. 441, 442, & 443)

Senator Loren Bennett (S.B. 444 & 760)

Committee: Government Operations

Date Completed: 10-25-01

CONTENT

The bills would amend several acts to do the following:

- **Remove from school districts the power to administer and operate elections, and require that school elections be conducted by local units of government under the Michigan Election Law.**
- **Require school elections and local elections generally to be held in November of an odd-numbered year; and restrict all elections to four specified dates per year (except for a special election called by the Governor).**
- **Allow a school district to use general operating funds to reimburse local units for school election costs.**
- **Require a school district and an intermediate school district (ISD) to place on the ballot an estimate of the cost of repaying bonds, when submitting a bond question to the electors.**
- **Place in the Michigan Election Law provisions for calling, administering, conducting, and canvassing school elections.**
- **Require all local elected officials, as a rule, to be elected at a November odd-year election.**

Senate Bill 438 would amend the Revised School Code; Senate Bills 439, 440, and 760 would amend the Michigan Election Law; Senate Bill 441 would amend the Home Rule City Act; Senate Bill 442 would amend the Home Rule Village Act; Senate Bill 443 would

amend the General Law Village Act; and Senate Bill 444 would amend the Community Colleges Act. All of the bills would take effect January 1, 2003, except for Senate Bill 439.

All of the bills are tie-barred to Senate Bills 440 and 760. Except Senate Bill 442, all the bills are tie-barred to Senate Bill 439. In addition, Senate Bills 438 and 444 are tie-barred to each other, and Senate Bills 439, 440, 442, and 760 are tie-barred to Senate Bill 438.

Senate Bill 438

The bill would do the following:

- Repeal, on January 1, 2003, parts of the Revised School Code that provide for the administration and operation of elections by school districts.
- Specify that a school district's regular election or a special election would be administered and conducted as provided in the Michigan Election Law (i.e., by local units of government and not by school districts).
- Require regular school elections to be held in November.
- Provide that school bond questions submitted to the voters for approval would have to include an estimate of the cost of repaying the bonds.

Specifically, the bill provides that a school district, local act school district, or ISD regular or special election would have to be administered and conducted as provided in Chapter 14 of the Michigan Election Law.

(Senate Bill 440 would add Chapter 14 to the Michigan Election Law to regulate school elections.) A district could use general operating funds to reimburse local units of government involved in administering and conducting an election.

The bill would repeal parts of the School Code that currently govern school elections, including provisions regarding notification of elections; voter challenges; ballot applications; the casting of ballots; duties of the individual board of school canvassers; recounts; special elections; determination of voter qualification; use of local unit registration records; payment of expenses; voter registration deadlines; school board-appointed election inspectors; nominating petitions; candidate withdrawal; notification of election results; acceptance of office by a person elected to a school board; and board vacancies.

The bill provides that the board of a general powers school district would have to hold its regular school election on the first Tuesday after the first Monday of November in each odd-numbered year. Currently, a regular school election may be held on specified dates in April, June, or November of any year, or on the same date that a school district held its regular elections before July 1, 1996. Further, the Code contains numerous references to "annual" school elections. The bill would delete this term and replace it with "regular" school elections, and provide that "regular school election" or "regular election" would mean an election held in a school district, local act school district, or ISD on the first Tuesday following the first Monday of November in each odd-numbered year. A "special school election" or "special election" would be an election held in a school district at a date other than a regular school election and as provided in the Michigan Election Law.

The members of the board of a general powers school district would have to be elected by the school electors for terms of four years. At each regular school election, members of the board would have to be elected to fill the positions of those whose terms would expire. The term of office would begin January 1, and continue until a successor was elected and qualified. The board of a general powers school district could submit to the school electors of the school

district a measure, proposition, or question that was within the scope of the powers of the school electors and that the board considered "just and proper for the proper management or conduct of the school system or the advancement of education in the schools of the school district". Upon the board's adoption of a measure or question, the board would have to submit the measure or question to the electors of the school district at the next regular school election or at a special election. A special election could be called by the board as provided in the Michigan Election Law.

In an ISD that elected its board members, they would have to be elected at the regular school election of the constituent districts, and every two years thereafter. The bill would require ISD board members to be elected as provided in Chapter 14 of the Michigan Election Law. Further, the bill would eliminate current provisions that: allow an ISD to hold its regular election at other times; prescribe the content and the timing of filing ISD nominating petitions; provide for the distribution of ballots to constituent school districts; provide for the filling of vacancies on an ISD board; provide for the submission of questions at a special ISD election; and prescribe the conduct of an ISD in administering an election regarding a school's consolidation question. Currently, an ISD board must meet each year on or before the fourth Monday in July. The bill would require the meeting to be held on or before the fourth Monday in January.

The bill provides that a school district or ISD could not issue bonds under the Code unless the language on the ballot, used in submitting the question of issuing the bonds, included the estimated annual cost to the school district or ISD of repaying the bonds, expressed in amounts of both per pupil and per classroom costs affected by the project for which the bonds were to be issued. The Department of Treasury would have to develop and distribute to school districts guidelines on calculating the amounts.

Senate Bill 439

The bill would require that beginning January 1, 2003, an election conducted in the State under the Michigan Election Law be held on one of the following dates: the fourth

Tuesday in February; the first Tuesday after the first Monday in May; the first Tuesday after the first Monday in August; or the first Tuesday after the first Monday in November. The Secretary of State would have to direct and supervise the consolidation of all elections held on those dates. An election called by the Governor to fill a vacancy would not have to be held on the specified dates.

Senate Bill 440

School Board Elections

The bill provides that a person would be eligible for election as a school board member if the person were a citizen of the United States and a qualified and registered elector of the school district he or she sought to represent. The term of office for a school board member would be four years, beginning on the January 1 immediately following his or her election. (Currently, under the School Code, the length of board member's terms is not specified.) A school board member would not include a board member of an ISD unless that ISD had adopted Sections 615 through 617 of the School Code. (Sections 615 through 617 allow an ISD to submit to the school electors of its constituent districts the question of providing for the election of ISD board members by the electors within the districts, rather than by a body composed of a member of the board of each constituent district.)

The bill specifies the length of the term of school board member who were serving on January 1, 2003, "to make the transition to November school elections" required by the bill. (November school elections would be elections held to elect board members at the odd-year general election.) The majority of the members on each school board would have to be elected in November 2003, for terms to begin January 1, 2004. A minority of the members of each board would have to be elected in November 2005, for terms to begin January 1, 2006. At least one school board member in each school district would have to be elected in each November school election.

School Board Vacancy

An elected board member would have to continue in office until a successor was elected and qualified, or until the office became

vacant because of an event as described in the bill, such as the member's death, resignation, or conviction of a felony. (The events are the same as those in Section 1103 of the School Code, which Senate Bill 438 would repeal.)

If a vacancy occurred because of such an event, unless it occurred within 90 days of the end of the member's term of office, the vacancy would have to be filled within 45 days by the election of a qualified and registered elector of the district by a majority of the remaining members of the board. The person would hold the office until the next election date. The school board would have to request the appropriate local clerk to call a special election for the next election date, as provided under the bill and as proposed in Senate Bill 439.

If the remaining members of the school board failed to fill the vacancy, the board would have to fill the vacancy by a special election called as provided in the bill. The person elected to fill the vacancy would have to hold the office of school board member for the full remainder of the term of the former member. Until the vacancy was filled, the remaining members of the school board would have all of the powers and duties established by law.

School Board Candidates/Affidavits and Petitions

For the name of a school board candidate to appear on the ballot, the candidate would have to file an affidavit as prescribed in the Michigan Election Law, and nominating petitions signed by a number of registered electors as required under the Law. The bill would require a candidate to file a nominating petition and affidavit with the filing official of the city, township, or county holding the election; require a nominating petition to be filed by 4 p.m. of the ninth Tuesday before the date of the election; and prohibit a candidate from withdrawing from an election unless he or she filed written notice with the filing official by 4 p.m. of the third business day after the last day for filing nominating petitions.

Canvassers

The bill would require the appropriate county, city, or township canvassers to canvass the votes for school board candidates in the November school election in each school

district. The number of candidates equal to the number of persons to be elected, who received the greatest number of votes cast at the election (as set forth in the report of the board of canvassers), based upon the returns from the various election precincts or as determined by the board of canvassers as a result of a recount, would have to be declared elected to the office of school board member. Upon completing the canvass, the board of canvassers would have to make a statement of returns and certify the election of school board members to the secretary of the school board, the county clerk, and the local official who held the election. The official would have to file in his or her office and preserve the original statement of returns and certification of the canvassers of the result of the election. The local clerk who was the secretary to the board of canvassers immediately would have to execute and provide to the persons declared elected a certificate of election.

Recount/Recall

The bill specifies that the votes cast for a school board candidate or a question submitted to the voters would be subject to a recount, as provided in the Election Law. A person elected to a school board would be subject to recall, as provided in the Law and the State Constitution.

Special School Elections

A school board could request that a ballot question be submitted to the electors. The board would have to request the appropriate local clerk to submit a ballot question to the vote of the school district electors upon receiving petitions signed by the registered electors of the school district, as required under the Law.

A school board would have to request the appropriate local clerk to call a special election by giving the required legal notice. The question or office to be voted upon would have to be stated in the notice of the election. Upon determination by the filing official that a petition met the lawful signature requirements, or upon the requirement to call a special election to fill a vacancy, the ballot question or office would have to be submitted to the electors at a special election held as provided under the Law.

The bill would eliminate certain provisions that allow school districts to hold elections on various dates, and would require these elections to be held as provided in the bill and as proposed in Senate Bill 439. Senate Bill 440 specifies the county, city, or township clerk or clerks who would be responsible for conducting a special election requested by a school board; this would depend upon the number and type of local units of government in the school district.

A school district that requested a special election would have to pay each county, city, and township that conducted the election. If the special election were held in conjunction with another election held in the county, city, or township, the school district would have to pay to the county, city, or township 100% of the actual costs, including reasonable administrative costs, of conducting the election. If the election were not held in conjunction with another election, the school district would have to pay to the county, city, or township 100% of the actual costs of conducting the special election. The local unit would have to present to the school district a verified account of actual costs of conducting the election by the 90th day after the date of the election. The school board would have to pay or disapprove all or a portion of the verified account within 90 days after it received a verified account of actual costs. If the school board disapproved all or a portion of the verified account, it would have to send a notice of disapproval, along with its reasons, to the local unit. Upon request of the local unit whose account or portion of an account was disapproved, the school board would have to review the disapproved costs with the local unit.

School boards, counties, cities, and townships would have to use specified provisions in the Law as a basis for preparing and evaluating verified accounts. The Secretary of State would have to assist school boards and local units in preparing and evaluating verified accounts.

General Elections

The bill provides that, notwithstanding a law or charter to the contrary, all elective officers would have to be elected at the odd-year general election except those elected at the even-year November general election. (Under

the Law, elections for statewide office and certain other offices as specified in the Law must be held in even-numbered years.)

Under the bill, if the regular election for an elective office were required to be held at the even-year general election, and candidates for the office were nominated at a primary election, the regular primary election would have to be held on the first Tuesday after the first Monday in August.

Unless a regular election for an elective office were required to be held at the even-year general election, the election would have to be held at the odd-year general election. The regular primary election for such an office, if any, would have to be held at the odd-year primary election (the first Tuesday following the first Monday in August). The nomination, election, and term of office would have to be as provided under the Law, the bill, and any other applicable law.

Except for an election called by the Governor to fill a vacancy, a special election for a ballot question or office, including a recall election, would have to be held on one of the election dates provided in Senate Bill 439. Senate Bill 440 specifies that the term of office of an elected official could not be shortened by the provisions of Senate Bill 439.

Currently, upon determining that recall petitions contain sufficient signatures, the county clerk must submit to the county election scheduling committee a proposed date for a special election. Senate Bill 440 would delete this requirement and instead require the county clerk to schedule the special election subject to the bill's requirements and as provided in Senate Bill 439. Further, Senate Bill 440 would remove current requirements for scheduling an election if a recall is successful, and instead require an election to fill a vacancy caused by a successful recall to be held at the next regular or special election date as provided in Senate Bill 439 that was not within 50 days after the recall election.

Senate Bill 440 would repeal provisions in the Law that do the following:

- Allow local elections to be held in April of odd-numbered years.
- Require certain township primary elections

to be held in February.

- Require a county, city, township, village, or school district to submit an election schedule for special elections to the county election scheduling committee and prescribe the membership of the committee.
- Allow home rule cities, school districts, community colleges, cities, and villages to hold elections on various dates as provided in the Law.

Senate Bill 441

The bill provides that, notwithstanding any charter provision, a city holding an election under the Home Rule City Act would be subject to the provisions of the Michigan Election Law, proposed in Senate Bills 439 and 440, that would establish dates for primary and general elections and require compliance with certain nomination, election, and office term requirements. Senate Bill 441 would require that each city charter formed under the Act provide for the time, means, and manner of holding elections and the registration of electors subject to the bill's provisions and other applicable requirements of law. If a city charter adopted before January 1, 2003, provided for a primary election to be held in September to elect city officials, the city could continue to hold a September city primary.

The bill specifies that an election to incorporate, consolidate, or change the boundaries of a city, village, or township under the Act could not be submitted to the voters at a special or general election less than 60 days after the county board of commissioners adopted a resolution to submit the question to the voters, or less than 60 days after the Secretary of State provided notice that the question would be submitted (in instances in which the territory in question would affect more than one county).

The bill would eliminate current provisions that allow a home rule city to hold a city election in February and April.

Senate Bill 442

The bill provides that, notwithstanding any charter provision of a home rule village, an election under the Home Rule Village Act would be subject to the provisions of the

Michigan Election Law, proposed in Senate Bills 439 and 440, that would prescribe dates for elections and require compliance with certain nomination, election, and office term requirements in the Law.

Currently, a village election for the president, clerk, or legislative body may be by partisan, nonpartisan, or preferential ballot. The bill would require these village offices to be filled in a nonpartisan election. If a nonpartisan village election were not provided for in the village charter on the date that the bill took effect, the bill's provision requiring a nonpartisan village election would not apply until January 1, 2004.

Senate Bill 443

The bill provides that an election held under the General Law Village Act would be subject to the provisions of the Michigan Election Law, proposed in Senate Bills 439 and 440, that would prescribe dates for elections and require compliance with certain nomination, election, and office term requirements in the Law.

Currently, the Act requires village elections to be partisan, unless there is a village ordinance to require nonpartisan elections. The bill would delete these provisions and require that beginning January 1, 2003, village elections be nonpartisan. If a nonpartisan village election were not provided by an ordinance adopted before January 1, 2003, the bill's provision requiring a nonpartisan election would not apply until January 1, 2004.

The bill would eliminate provisions that allow annual village trustee elections, and that allow trustee elections in March.

Senate Bill 444

The bill would require that an election under the Community College Act be called, administered, conducted, and canvassed as provided under the bill and the Michigan Election Law. A regular community college election would have to be held at the same time as the November school election under the Michigan Election Law, as it would be amended by Senate Bill 440. A special election under the Act would have to be held on an election date established under the Michigan Election Law, pursuant to Senate Bill 439.

Several different types of community college districts may be established and operate under the Act. Chapter 1 of the Act pertains to community college districts that comprise one or more counties; Chapter 2 deals with community college districts that comprise local school districts; Chapter 3 addresses community college districts that are composed of ISDs; and Chapter 5 regulates an ISD that has a population of more than 1.5 million and is a community college district (i.e., Wayne County Community College). Senate Bill 444 generally would revise election dates for all of them, consistent with Senate Bills 439 and 440. (Senate Bill 444 would not change the election cycle for the board of trustees of Wayne County Community College, which holds elections at the general election in November of even-numbered years.)

Currently, a community college district, or its component ISDs or local school districts, may schedule or call an election for various purposes, including the organization of a community college district, the annexation of another jurisdiction into a community college district, the election of community college district trustees, and propositions put forth by a community college district board of trustees. The bill would require instead that a community college district, ISD, or local school district request the appropriate local clerk to schedule or call an election pursuant to Senate Bill 440. Also, under Senate Bill 444, the final results of community college district elections would have to be canvassed by the appropriate county, city, or township board of canvassers rather than by an ISD's or local school district's board of canvassers.

In addition, various provisions of the Act require the secretary of an ISD or local school district to schedule an election on a community college district matter at the ISD's or school district's annual election, if the ISD or school district board is notified of the matter within a certain period before the election. The bill, instead, would require that elections be scheduled at the November school election, as provided in Senate Bill 440. Currently, if the board is notified before or after the prescribed period, the secretary must call a special election on a specified date. Senate Bill 444 would require instead that a school board request that the appropriate local clerk call a special school election as provided under Senate Bill 440.

Senate Bill 444 also would repeal sections of the Act that require community college boards of trustees to pay election expenses to local units or school districts upon the presentation of statements for those costs. Under these sections, the statement may not include charges for use of equipment or services of regular personnel unless otherwise agreed upon by the parties (MCL 389.20, 389.40, and 389.60).

Senate Bill 760

The bill would eliminate a number of provisions in the Michigan Election Law that pertain to elections by and within school districts; and would allow certain candidates for office to pay a filing fee rather than submit nominating petitions. The bill would delete provisions that do the following:

- Require a city or township clerk to send to a school district information on the application of a person registering to vote.
- Allow a voter to sign a registration card at the office of the secretary of a school district.
- Allow a school district or ISD to use a voter registration list.
- Require a local election clerk to notify a school district of canceled voter registrations.
- Require the Secretary of State to instruct school officials about voter registration procedures and election requirements.
- Require the Secretary of State and local clerks to record in the qualified voter file voter registration applications taken by the secretary of a school board.
- Require the secretary of a school board to release certain registration records.
- Allow recall petition signers to not be registered electors.

The bill provides that instead of filing nominating petitions, an individual could become a candidate to replace a recalled official for a school board member or other nonpartisan office by paying a \$100 nonrefundable fee to the local election clerk. (A candidate could continue to file nominating petitions, as prescribed in the Law.)

The bill also would repeal Section 758c of the Law, which provides that a qualified and registered elector of a community college, whose election precinct contains fewer than 50

registered electors, must be considered an absent voter and must receive a ballot mailed by the local clerk.

- MCL 380.4 et al. (S.B. 438)
- Proposed MCL 168.644 (S.B. 439)
- MCL 168.3 et al. (S.B. 440)
- 117.3 et al. (S.B. 441)
- 78.4 et al. (S.B. 442)
- 62.1 et al. (S.B. 443)
- 389.2 et al. (S.B. 444)
- 168.30a et al. (S.B. 760)

Legislative Analyst: G. Towne

FISCAL IMPACT

State. The bills would have no fiscal impact on State government. The Bureau of Elections serves primarily in an advisory capacity for election administration.

Local. The result of election date consolidation would be overall savings for local jurisdictions, although the savings would be divided between the various school districts, community college districts, cities, townships, and villages. The consolidation of election dates would mean efficiencies in the administration of each election. The savings would likely be in the following administrative areas: lower costs for election workers, fewer public notifications requirements, and possibly lower ballot printing costs overall.

The magnitude of these savings would vary between jurisdictions. Since each local jurisdiction maintains its own records, the savings cannot be accurately quantified. For school and community college elections, responsibility for conducting elections would be shifted from the secretary of the school board to the local clerk. The clerk's office would be reimbursed for approved costs in school elections. The salaries of permanent employees, the cost of reusable supplies and equipment, and costs attributable to local special elections held in conjunction with statewide special elections would not be approved costs.

Community Colleges. The bills would result in savings for community colleges. Currently, community colleges pay local units or school districts for their election expenses. When their elections coincide with other elections (city, school district, etc.), the colleges share

the costs of those elections with the other participants. Senate Bill 444 would repeal the sections of law that require community colleges to pay election expenses to local units of government.

School Districts. Local or intermediate school districts would incur the additional costs of any special elections held to fill a vacancy on a school board. Currently, vacancies are filled by appointment by the remaining school board members. Senate Bill 440 would require a special election to be held to fill any vacancies; thus, the local or intermediate school districts would be responsible for the costs associated with holding that special election.

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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.