

# HOUSE BILL No. 4098

January 23, 2007, Introduced by Rep. Wojno and referred to the Committee on Ethics and Elections.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 559, 561, 562, 568, 570, 572, 575, 576, 582,  
and 795 (MCL 168.559, 168.561, 168.562, 168.568, 168.570,  
168.572, 168.575, 168.576, 168.582, and 168.795), section 561 as  
amended by 2002 PA 163, sections 568 and 570 as amended by 1985  
PA 160, section 576 as amended by 1996 PA 213, section 582 as  
amended by 1980 PA 160, and section 795 as amended by 2004 PA 92;  
and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 559. ~~It shall be the duty of the~~ **THE** board of election  
2 commissioners of each county in this state ~~to~~ **SHALL** prepare and  
3 furnish the necessary official primary election ballots, except  
4 for city offices, ~~which~~ **THAT** may be required for use by the

1 electors ~~of any political party~~ at the August primary.

2       Sec. 561. (1) The ballots prepared by the board of election  
3 commissioners in each county for use by the electors ~~of a~~  
4 ~~political party~~ at a primary election shall include the name of  
5 each candidate of ~~the~~ **EACH** political party for the office of  
6 governor, United States senator, and district offices; for the  
7 county, the name of each candidate of ~~the~~ **EACH** political party  
8 for county offices; and for each township, the name of each  
9 candidate of ~~the~~ **EACH** political party for township offices.

10       (2) If, in a district that is a county or entirely within 1  
11 county, 2 or more candidates, including candidates for  
12 nonpartisan offices, for the same office have the same or similar  
13 surnames, a candidate may file a written request with the board  
14 of county election commissioners for a clarifying designation.  
15 The request shall be filed not later than 3 days after the last  
16 date for filing nominating petitions. Not later than 3 days after  
17 the filing of the request, the board of county election  
18 commissioners shall determine whether a similarity exists and  
19 whether a clarifying designation should be granted. In a district  
20 located in more than 1 county, the board of state canvassers  
21 shall make a determination whether to grant a clarifying  
22 designation upon the written request of a candidate who files  
23 nominating petitions with the secretary of state. The request  
24 shall be filed with the ~~state~~ board of **STATE** canvassers not later  
25 than 5 days after the last date for filing nominating petitions.  
26 The board of state canvassers shall make its determination at the  
27 same time it makes a declaration of the sufficiency or

1 insufficiency of nominating petitions in compliance with section  
2 552.

3       (3) In each instance, the determining board shall  
4 immediately notify each candidate for the same office as the  
5 requester that a request for a clarifying designation has been  
6 made and of the date, time, and place of the hearing. The  
7 requester and each candidate for the same office shall be  
8 notified of the board's determination by first-class mail sent  
9 within 24 hours after the final date for the determination. A  
10 candidate who is dissatisfied with the determination of the board  
11 of county election commissioners may file an appeal in the  
12 circuit court of the county where the board is located. A  
13 candidate who is dissatisfied with the determination of the board  
14 of state canvassers may file an appeal in the Ingham county  
15 circuit court. The appeal shall be filed within 14 days after the  
16 final date for determination by the board. The court shall hear  
17 the matter de novo. Except as provided in subsection (4), in the  
18 case of the same surname or of a final determination by the board  
19 or by the court before the latest date that the board can arrange  
20 the ballot printing of the existence of similarity, the board  
21 shall print the occupation, date of birth, or residence of each  
22 of the candidates on the ballot or ballot labels under their  
23 respective names. The term "occupation" includes a currently held  
24 political office, even though it is not the candidate's principal  
25 occupation, but does not include reference to a previous position  
26 or occupation.

27       (4) If there are 2 candidates with the same or similar

1 surnames and 1 of the candidates is entitled to an incumbency  
 2 designation by section 24 of article VI of the state constitution  
 3 of 1963, no other designation shall be provided for the other  
 4 candidate with the same or similar surname. If there are more  
 5 than 2 candidates with the same or similar surname and 1 of the  
 6 candidates is entitled to an incumbency designation by section 24  
 7 of article VI of the state constitution of 1963, a clarifying  
 8 designation may be given to the other candidates with the same or  
 9 similar surname. Except for an incumbency designation under  
 10 section 24 of article VI of the state constitution of 1963, if 2  
 11 or more candidates with the same or similar surnames are related,  
 12 the board shall only print the residence or date of birth of each  
 13 of the candidates as a clarifying designation. As used in this  
 14 subsection, "related" means that the candidates with the same or  
 15 similar surnames are related within the third degree of  
 16 consanguinity.

17 (5) The board of state canvassers shall issue guidelines to  
 18 ensure fairness and uniformity in the granting of **CLARIFYING**  
 19 designations and may issue guidelines relating to what  
 20 constitutes the same or similar surnames. The board of state  
 21 canvassers and the boards of county election commissioners shall  
 22 follow the guidelines.

23 Sec. 562. The ~~said~~ **PRIMARY ELECTION** ballots shall also  
 24 contain as many lines as there are delegates to be elected to the  
 25 county convention by ~~the~~ **EACH** particular political party. ~~Such~~  
 26 **THE** lines shall be printed under the title "Delegates to county  
 27 convention", and ~~no~~ **A PRIMARY ELECTION** ballot for a delegate to a

1 county convention ~~of any political party~~ shall **NOT** be counted  
2 unless prepared and voted under authority of this act.

3       Sec. 568. The official primary election ballots shall be  
4 prepared in **SUBSTANTIALLY** the ~~following form~~ **PRESCRIBED IN THIS**  
5 **SECTION**. At the top of each ballot shall be printed in large  
6 type, "Official primary election ballot". Underneath the heading  
7 shall be printed the date of the election at which the ballot is  
8 to be used, together with a designation of the political  
9 subdivision, ~~as~~ **INCLUDING, BUT NOT LIMITED TO,** county, district,  
10 city, **OR** ward, ~~et cetera,~~ in which it is to be used. Then shall  
11 follow, in bold-faced type, the name of ~~the~~ **EACH** political party  
12 and vignette, below which shall appear the following instructions  
13 to electors: "Make a cross or a check mark in the square to the  
14 left of not more than the number of names for each office as may  
15 be indicated under the title of each office. **YOU MAY SPLIT YOUR**  
16 **TICKET BY VOTING FOR NOT MORE THAN THE NUMBER OF NAMES INDICATED**  
17 **FOR AN OFFICE UNDER 1 POLITICAL PARTY HEADING AND FOR NOT MORE**  
18 **THAN THE NUMBER OF NAMES INDICATED FOR A DIFFERENT OFFICE UNDER**  
19 **ANOTHER POLITICAL PARTY'S HEADING.**" Under this heading shall  
20 appear the names of the candidates seeking nomination for various  
21 offices on the ticket of ~~the~~ **EACH** political party. The order of  
22 the offices on the ballot shall be the same, as near as may be,  
23 as is required by law in making up the ballot used at general  
24 elections. The title of the office shall be immediately above the  
25 names of the candidate or candidates for the nomination of each  
26 office, and under the title the words "Vote for not more than,"  
27 followed by the word "one" or "two" or ~~such other word as will~~

1 ~~designate~~ **THAT DESIGNATES** the number of candidates for the  
2 nomination to the office that may be voted for. The names of the  
3 different candidates shall be separated from each other by a  
4 light-faced rule with a square at the left of each name. The  
5 spaces devoted to the candidates for nomination to different  
6 offices shall be separated by a black-faced rule ~~so as~~ **IN ORDER**  
7 to separate each office division distinctly. However, the board  
8 of election commissioners in any county or city may, if  
9 considered desirable, arrange the ballots with an identification  
10 numeral to be placed in the same space with the name of each of  
11 the candidates, with the identification numeral to be rotated  
12 with the name of the candidate when rotated, regardless of where  
13 the name may appear upon the ballot.

14       Sec. 570. Paper ballots shall be numbered consecutively and  
15 identified by use of the words "official primary ballot" on the  
16 upper right hand corner upon the front of the ballot with a  
17 perforated line across the corner and underneath the number and  
18 identification so that the corner with the number and  
19 identification may be torn off. The detachable corner stub shall  
20 serve for the several party tickets and the ballot number shall  
21 be printed upon the stub on 1 side only. A political party  
22 designation shall not appear upon a ballot corner so numbered and  
23 identified. After the ballots are trimmed and wrapped in sealed  
24 packages, they shall be distributed for use at the primary  
25 election in the same manner as is now provided by law for the  
26 distribution of ballots to be used at general elections. Ballots  
27 shall be prepared in substantially the following form:

## OFFICIAL PRIMARY BALLOT

No. ....

## OFFICIAL PRIMARY ELECTION BALLOT

Primary election to be held ..... 1920....  
 in the county of .....

.....party.  
 (Vignette)

You ~~cannot~~ **MAY** split your ticket. ~~If you~~ **YOU MAY** vote  
 for candidates **FOR SEPARATE OFFICES** on more than 1 party  
 ticket. ~~, your ballot will be rejected.~~

Make a cross or a check mark in the square to the left of  
 not more than the number of names for each office as may be  
 indicated under the title of each office.

=====

State.

Legislative.

Governor.

State Senator.

..... District.

Vote for not more than one.

Vote for not more than one.

[ ] 1 John Doe

[ ] 7 John Doe

[ ] 2 Richard Roe

[ ] 8 Richard Roe

[ ]

[ ]

Congressional.

Representative in State  
 Legislature.

United States Senator.....

..... District.

Vote for not more than one.

Vote for not more than one.

[ ] 3 John Doe

[ ] 9 John Doe

1  
 2 ☐ 4 Richard Roe ☐ 10 Richard Roe  
 3  
 4 ☐ ☐  
 5 =====  
 6 Representative in Congress. County.  
 7 ..... District. Prosecuting Attorney.  
 8 Vote for not more than one. Vote for not more than one.  
 9  
 10 ☐ 5 John Doe ☐ 11 John Doe  
 11  
 12 ☐ 6 Richard Roe ☐ 12 Richard Roe  
 13  
 14 ☐ ☐  
 15 =====

16 Sec. 572. The **OFFICIAL PRIMARY ELECTION** ballots shall be  
 17 prepared in ~~such-A~~ manner that the electors ~~of each political~~  
 18 ~~party~~ **AT THE PRIMARY** may write, print, or paste the name of a  
 19 candidate ~~thereon~~ **ON A BALLOT**.

20 Sec. 575. After the polls are opened at a primary election,  
 21 ~~any-AN~~ elector who is legally registered and qualified, ~~shall,~~  
 22 before entering the booth or voting compartment, **SHALL** be  
 23 furnished a party ballot, ~~together with any other ballot or ALL~~  
 24 ballots to be voted at that primary election.

25 Sec. 576. (1) An elector, after having received a ~~ballot or~~  
 26 **THE OFFICIAL PRIMARY ELECTION** ballots, shall enter a booth or  
 27 voting compartment and, while there concealed from view, shall  
 28 vote the ballot or ballots by making a cross or a check mark in  
 29 the square at the left of the names of those candidates for whom  
 30 the elector desires to vote, but ~~in no case~~ **SHALL NOT VOTE** for  
 31 more candidates for any office than is indicated under the title

1 of each office. However, an elector may vote for a person whose  
2 name is not printed on the ballot by inserting the name in a  
3 manner that will substitute it for any name that is printed on  
4 the ballot or where no candidate's name appears upon the ballot.

5 ~~(2) The elector shall indicate his or her choice of~~  
6 ~~candidates on 1 party ticket only and, after~~ **AFTER** marking the  
7 ballot **OR BALLOTS**, the elector shall fold it ~~it~~ **EACH BALLOT** for  
8 deposit ~~pursuant to the provisions of~~ **AS PROVIDED IN** this act. A  
9 ~~ballot on which more than 1 party ticket has been voted is void.~~

10 (3) This section is subject to section 736a.

11 Sec. 582. A person who is voted for on a ~~party~~ **PRIMARY**  
12 **ELECTION** ballot for a state, district, township, county, city, or  
13 ward office or for the office of United States senator or  
14 representative in Congress whose name is not printed on the  
15 ballot and who has not filed a nominating petition for the office  
16 voted for, shall not be considered nominated as the candidate of  
17 the party for the office, nor be certified as a nominee unless  
18 the person receives a total vote equal to not less than .15 of 1%  
19 of the total population, as reflected by the last official  
20 federal census, of the district for which nomination is sought,  
21 but not less than 10 votes for the office, or a total vote equal  
22 to 5% of the greatest number of votes cast ~~by the party~~ for any  
23 office at the primary in the state, congressional, or other  
24 district, township, county, city, or ward, for a candidate or for  
25 all candidates for nomination for an office for which only 1  
26 person is to be nominated, whichever is greater. However, for an  
27 office to which more than 1 candidate is to be elected, the 5%

1 limitation shall be based upon the greatest number of votes cast  
2 at the primary for any candidate for the same office.

3       Sec. 795. (1) An electronic voting system acquired or used  
4 under sections 794 to 799a shall meet all of the following  
5 requirements:

6       (a) Provide for voting in secrecy, except ~~in the case of~~ **FOR**  
7 voters who receive assistance as provided by this act.

8       (b) Permit each elector to vote at an election for all  
9 persons and offices for whom and for which the elector is  
10 lawfully entitled to vote; to vote for as many persons for an  
11 office as the elector is entitled to vote for; and to vote for or  
12 against any question upon which the elector is entitled to vote.  
13 Except as otherwise provided in this subdivision, the electronic  
14 tabulating equipment shall reject all choices recorded on the  
15 elector's ballot for an office or a question if the number of  
16 choices exceeds the number that the elector is entitled to vote  
17 for on that office or question. Electronic tabulating equipment  
18 that can detect that the choices recorded on an elector's ballot  
19 for an office or a question exceeds the number that the elector  
20 is entitled to vote for on that office or question shall be  
21 located at each polling place and programmed to reject a ballot  
22 containing that type of an error. If a choice on a ballot is  
23 rejected as provided in this subdivision, an elector shall be  
24 given the opportunity to have that ballot considered a spoiled  
25 ballot and to vote another ballot.

26       (c) Permit an elector, at a presidential election, by a  
27 single selection to vote for the candidates of a party for

1 president, vice-president, and presidential electors.

2 (d) Permit an elector in a primary election to vote for the  
3 candidates in the party primary of the elector's choice. ~~Except~~  
4 ~~as otherwise provided in this subdivision, the electronic~~  
5 ~~tabulating equipment shall reject each ballot on which votes are~~  
6 ~~cast for candidates of more than 1 political party. Electronic~~  
7 ~~tabulating equipment that can detect that the elector has voted~~  
8 ~~for candidates of more than 1 political party shall be located at~~  
9 ~~each polling place and programmed to reject a ballot containing~~  
10 ~~that type of an error. If a choice on a ballot is rejected as~~  
11 ~~provided in this subdivision, an elector shall be given the~~  
12 ~~opportunity to have that ballot considered a spoiled ballot and~~  
13 ~~to vote another ballot.~~

14 (e) Prevent an elector from voting for the same person more  
15 than once for the same office.

16 (f) Reject a ballot on which no valid vote is cast.  
17 Electronic tabulating equipment shall be programmed to reject a  
18 ballot on which no valid vote is cast.

19 (g) Be suitably designed for the purpose used; be durably  
20 constructed; and be designed to provide for safety, accuracy, and  
21 efficiency.

22 (h) Be designed to accommodate the needs of an elderly voter  
23 or a person with 1 or more disabilities.

24 (i) Record correctly and count accurately each vote properly  
25 cast.

26 (j) Provide an audit trail.

27 (k) Provide an acceptable method for an elector to vote for

1 a person whose name does not appear on the ballot.

2 (l) Allow for accumulation of vote totals from the precincts  
3 in the jurisdiction. The accumulation software must meet  
4 specifications prescribed by the secretary of state and must be  
5 certified by the secretary of state as meeting these  
6 specifications.

7 (m) Be compatible with or include at least 1 voting device  
8 that is accessible for an individual with disabilities to vote in  
9 a manner that provides the same opportunity for access and  
10 participation, including secrecy and independence, as provided  
11 for other voters. The voting device shall include nonvisual  
12 accessibility for the blind and visually impaired.

13 (2) Electronic tabulating equipment that counts votes at the  
14 precinct before the close of the polls shall provide a method for  
15 rendering the equipment inoperable if vote totals are revealed  
16 before the close of the polls. Electronic tabulating equipment  
17 that tabulates ballots, including absentee ballots, at a central  
18 location shall be programmed to reject a ballot if the choices  
19 recorded on an elector's ballot for an office or a question  
20 exceed the number that the elector is entitled to vote for on  
21 that office or question ~~,—OR if no valid choices are recorded on~~  
22 ~~an elector's ballot. ,—or if, in a primary election, votes are~~  
23 ~~recorded for candidates of more than 1 political party.~~

24 (3) Beginning January 1, 2006, each jurisdiction in this  
25 state conducting an election shall equip each polling place with  
26 at least 1 accessible voting device as required under subsection  
27 (1)(m).

1 Enacting section 1. Section 564 of the Michigan election  
2 law, 1954 PA 116, MCL 168.564, is repealed.