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BILL



ANALYSIS

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House Bill 4121 (Substitute H-1 as passed by the House)
House Bill 4122 (Substitute H-1 as passed by the House)
Sponsor: Representative Richard Hammel
House Committee: Redistricting and Elections
Senate Committee: Local Government and Elections

Date Completed: 6-13-12

CONTENT

House Bill 4121 (H-1) would add Chapter XVIIIA to the Michigan Election Law to provide for metropolitan district elections. Specifically, the bill would do the following:

- Provide that a metropolitan district election would be governed by the Law's provisions governing elections generally, unless otherwise specified.
- Require a metropolitan district election coordinator to conduct each regular election requested by the district's legislative body.
- Authorize an election coordinator to delegate certain duties to a city or township clerk.
- Require a county election commission to establish a metropolitan district's election precincts and polling place locations.
- Prescribe eligibility criteria for a metropolitan district officer.
- Require a district officer candidate to file a nominating petition.
- Require the appropriate board of canvassers to canvass the votes at a district election.
- Prescribe procedures for filling a district office vacancy.
- Require a county, city, or township to give a metropolitan district a verified account of the costs of conducting an election, and require the district to pay those costs.

The bill also would revise other provisions of the Law to include references to a metropolitan district election.

House Bill 4122 (H-1) would amend the Metropolitan District Act to do the following:

- Eliminate certain provisions pertaining to metropolitan district elections.
- Provide that such elections would have to be administered and conducted under the Election Law and held on a regular election date.
- Provide for the dissolution of a metropolitan district via an initiated petition.

The bills are tie-barred.

House Bill 4121 (H-1)

Chapter XVIIIA: Metropolitan District Elections

Election Procedures. Under the bill, unless a particular power or duty of an election official or a particular election procedure were governed specifically by the proposed chapter, a metropolitan district election would be governed by the Law's provisions that generally govern elections.

(The bill would define "metropolitan district" as it is defined in the Metropolitan District Act. Under that Act, two or more cities,

villages, or townships or any combination of those local units may incorporate into a metropolitan district consisting of territory within their respective limits for the purpose of acquiring, owning, operating, and maintaining parks or public utilities for supplying sewage disposal, drainage, water, or transportation.)

The metropolitan district election coordinator would have to conduct each regular election requested by the legislative body of a metropolitan district to submit a ballot question or to fill a position or vacancy on the legislative body. The election coordinator would have to do all of the following:

- Receive nominating petitions and affidavits of identity from candidates for officer to the legislative body and petitions for ballot questions.
- Procure the necessary qualified voter file precinct lists.
- Certify candidates.
- Receive ballot proposal language.
- Issue absent voter ballots.

("Metropolitan district election coordinator" would mean the clerk of the county in which the largest number of registered electors of the district resided.)

If the city or township clerk agreed, a metropolitan district election coordinator could delegate all or a portion of his or her duties to that clerk. The election coordinator could not delegate duties to any other person.

A metropolitan district election coordinator could delegate the following duties to the clerk, who would have to perform them:

- Distribute, receive, and process absent voter ballot applications for a metropolitan district election.
- Make voting systems available for the conduct of a metropolitan district election.
- Make available to the metropolitan district election coordinator the list of election inspectors for that city or township.
- Notify metropolitan district electors of precinct and polling place location changes.

The county election commission would have to establish that district's election precincts and polling place locations in accordance with the Law.

An individual would be eligible for election as an officer to the legislative body of a metropolitan district if he or she were a U.S. citizen and a qualified and registered elector of the district he or she sought to represent by the filing deadline.

An officer's term of office would be prescribed by the Metropolitan District Act.

For an individual's name to appear on the official ballot as a candidate, he or she would have to file a nominating petition and the affidavit of identity required by the Law with the election coordinator by 4 p.m. on the 12th Tuesday before the election date. The petitions would have to be signed by a number of qualified and registered electors as determined according to a population-based schedule prescribed in the Law.

The petition would have to be substantially in the form prescribed in the Law for petitions generally except that it would have to be nonpartisan and include an opening paragraph prescribed in the bill.

An elector could not sign petitions for more candidates than were to be elected.

A nominating petition would be subject to the examination and investigation process prescribed in the Law as to its sufficiency and the validity and genuineness of the signatures, and to the other procedures prescribed in that section relevant to a petition.

After a nominating petition was filed, the candidate could not withdraw unless a signed written withdrawal notice were filed with the election coordinator by 4 p.m. of the third day after the last day for filing the petition.

The appropriate board of canvassers as prescribed in the Law would have to canvass the votes for candidates for metropolitan district officer and votes for and against a ballot question at a regular election in each metropolitan district. The number of candidates equal to the number of individuals to be elected who received the greatest number of votes, as set forth in the

board's report, based upon the returns from the election precincts or as determined by the board as a result of a recount, would be elected to the office of metropolitan district officer. Upon completion of the canvass, the board would have to make a statement of returns and certify the election of officers to the election coordinator and to the secretary of the metropolitan district's legislative body.

The votes cast for a candidate or on a ballot question would be subject to recount as provided in Chapter XXXIII (Recounts).

The election coordinator who received the certification of the board of canvassers would have to preserve and file in his or her office the certified statement of returns and certification of the election result. The election coordinator immediately would have to execute a certificate of election and provide it to the individuals declared elected as officers to the legislative body of the metropolitan district.

Within five business days after certification of an election, each member-elect would have to be notified. Within 10 business days after notification by the election coordinator, each person would have to file with the secretary of the legislative body an acceptance of the office to which the person had been elected or appointed. The secretary would have to forward a copy of the acceptance to the election coordinator.

Vacancy. The office of a metropolitan district officer would become vacant immediately, regardless of declaration by an officer or acceptance by the legislative body or one or more of the district's officers, upon any of the following events:

- The death of a metropolitan district officer.
- The officer's being adjudicated insane or being found to be a legally incapacitated individual by a court.
- The officer's resignation, removal from office, or conviction for a felony.
- The officer's election or appointment being declared void by a competent tribunal.
- The officer's neglect or failure to file the acceptance of office, to take the oath of office, or to give or renew an official bond required by law.
- The officer's ceasing to possess the legal qualifications for holding office.

- The officer's moving his or her residence from the metropolitan district.

If less than a majority of the offices of a metropolitan district officer became vacant, the remaining officers would have to fill each vacant office by appointment. If a vacancy were not filled within 30 days or if a majority of the offices became vacant, the county election commission of the county in which the largest number of registered electors of the district resided would have to fill each vacancy by appointment. An appointed individual would serve until a successor was elected and qualified.

If a vacancy occurred more than 90 days before a regular metropolitan district election, an election would have to be held at that election to fill the office for the remainder of the officer's unexpired term, if any. This requirement would apply regardless of whether an individual was appointed to fill the vacancy.

Within three days after an appointment was made to fill a vacancy, the secretary of the metropolitan district's legislative body would have to notify the election coordinator in writing of the name, address, and office of the person who vacated the office as well as the person filling it.

Ballot Question. The legislative body of a metropolitan district could submit a ballot question to the district electors on a regular election date. The legislative body would have to file the question with the election coordinator as provided in the Law.

Costs of Election. A metropolitan district would have to pay to each county, city, and township that conducted a regular election for the district an amount determined in accordance with the provisions described below.

If a district's regular election were held in conjunction with another election conducted by a county, city, or township, the district would have to pay the county, city, or township 100% of the actual additional costs attributable to conducting the district's regular election. If a district's regular election were not held in conjunction with another county, city, or township election, the district would have to pay 100% of the actual costs of conducting the regular election.

The county, city, or township would have to give a metropolitan district a verified account of actual costs of conducting the district's regular election within 84 days after the election date. The district's legislative body would have to pay or disapprove all or part of the account within 84 days after receiving it.

If the legislative body disapproved all or part of a verified account, it would have to send a notice of disapproval along with the reasons for it to the county, city, or township. Upon request of a county, city, or township whose verified account was disapproved, the legislative body would have to review the disapproved costs with that local unit.

A legislative body of a metropolitan district, county, city, or township would have to use the agreement made between the Department of Treasury and the Secretary of State (SOS), as required by Section 487, as a basis for preparing and evaluating verified accounts. The SOS would have to assist a legislative body of a metropolitan district, county, city, or township in the preparation and evaluation. If a county, city, or township and the district's legislative body could not agree on the actual costs of an election, the SOS would have to determine the costs.

(Under Section 487, if a statewide special election is called to submit a proposed constitutional amendment to electors, the State must reimburse each county, city, and township for the cost of conducting the election. Payment must be made upon presentation and approval of a verified account of actual costs to the Department of Treasury's Local Government Audit Division, after the Department and the SOS agree as to what constitutes valid costs of conducting an election.)

Recall. Each officer on the legislative body of a metropolitan district would be subject to recall by the elections of the district in the manner prescribed in Chapter XXXVI (Recall).

Other Provisions

The bill would amend several other chapters of the Election Law to include references to a metropolitan district in provisions regarding the duties of a board of county canvassers and the costs of canvassing, information contained in the qualified voter file, the filing

of a nominating petition, the consolidation of election precincts, the order in which nonpartisan offices are placed on the ballot, and petition for a recount.

Under the bill, a petition demanding the recall of an elective metropolitan district officer would have to be filed with the clerk of the county in which the largest portion of the registered voters in the electoral district resided.

House Bill 4122 (H-1)

Beginning on the bill's effective date, notwithstanding any law or charter provision to the contrary, all elections in a metropolitan district would have to be administered and conducted under the provisions of the Michigan Election Law, and all elections in the district would have to be held on a regular election date as established in the Law.

The bill would amend provisions of the Metropolitan District Act related to a metropolitan district's charter and charter commission, to eliminate references to the nomination and qualifications of district officers; the time, manner, and means of holding elections; the recall of officers; and special elections on initiatory petitions to amend the district's charter.

The bill would require the first metropolitan district election to be held on a regular election date as established under the Election Law. Currently, the district's charter commission must publish the proposed charter in at least one newspaper in the district between two and four weeks before the election. The bill would transfer the duty to publish to the clerk of the county in which the largest number of registered electors of the district resided.

A district charter may be amended if approved by the district electors at the next primary, regular, or special election held in the district that occurs at least 30 days after the amendment is proposed by the district's legislative body or at least 40 days after an initiatory petition is filed. Under the bill, the question could be submitted to the electors only at a regular election held at least 84 days after the amendment was proposed or the petition was filed.

Under the Act, within 15 days after an initiatory petition is filed, the secretary or clerk of the metropolitan district must check the names with the registration rolls to

determine whether the petitioners are duly qualified and registered voters of the district. The bill would change the deadline to 14 days after the petition was filed.

Currently, if an initiatory petition conforms to the Act, the clerk of each city, village, and township in the district must call a special election or, under certain circumstances, the proposal may be submitted at a primary, regular, or special election. The bill would delete these provisions. Instead, if the petition conformed to the Act, the legislative body of the metropolitan district would have to submit the ballot question to the district electors as provided in proposed Chapter XVIIIA of the Election Law.

A metropolitan district may be dissolved by resolution of its legislative body if certain requirements prescribed in the Act are met. Under the bill, in addition to that method, the dissolution of a metropolitan district could be initiated by a petition signed by at least 5% of the registered electors residing in the district. The petition would have to be filed with the clerk of the county in which the largest number of registered electors in the district resided as provided in the Election Law. The ballot question proposing dissolution of the district would have to be submitted to the electors at the next regular election held in the district that occurred at least 84 days after the petition was filed.

If a majority of the electors voting at the election approved of the dissolution, the district would have to be dissolved within two years.

If the dissolution were approved, the district's legislative body would be dissolved immediately and its powers and duties would be transferred to a five-member board of trustees (described below). In addition, all of the district's assets and liabilities would be transferred to the board of trustees.

Within 30 days after an election approving dissolution of a metropolitan district, the residing or senior judge of probate in the county in which the largest number of registered electors in the district resided and the prosecuting attorney of that county would have to appoint a board of trustees to dissolve the district. The board would have to consist of the following members:

- Two members who were elected county officers from the county in which the

largest number of registered electors of the metropolitan district resided.

- Two members who were elected officers from a city, township, or village in the district.
- One member who was a citizen residing in the district.

Within two years after the election, the board of trustees would have to do all of the following to dissolve the metropolitan district:

- Prepare or cause to be prepared a financial report of the district's assets and liabilities.
- Prepare a plan for the disposition of the assets and liabilities of the district as provided in the Act.
- Deposit all district records with the county clerk for safekeeping and reference.

MCL 168.24a et al. (H.B. 4121)
119.3 et al. (H.B. 4122)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. The bills would prescribe uniform election procedures for metropolitan districts and require these districts to conform with the Michigan Election Law. Metropolitan districts would be required to hold their elections with normally scheduled elections under the Election Law. These districts would be required to cover their share of the cost of the election.

The Department of State has indicated that it does not foresee any costs associated with the implementation of these bills. Metropolitan districts could potentially see cost savings by holding their elections concurrently with a normally scheduled election as prescribed in the Election Law rather than holding an election on their own as currently may be the case. According to the Department, the cost of holding an election is approximately \$2,000 per precinct.

Fiscal Analyst: Joe Carrasco

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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.