

PRESIDENTIAL PRIMARIES AS REGULAR ELECTIONS; CLARIFY FILING DEADLINES FOR BALLOT QUESTIONS

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House Bill 4904 as enacted

Public Act 197 of 2015

Sponsor: Rep. Edward McBroom

House Committee: Elections

Senate Committee: Elections and Government Reform

Complete to 6-15-16

BRIEF SUMMARY: The new act clarifies the filing deadlines for local candidates and ballot questions, and also classifies the Michigan presidential primary election as a 'regular' election (instead of a 'special election'). In addition, the act requires the Board of State Canvassers to canvas the returns and determine the result of an election on a ballot question submitted to the electors of more than one county under the Regional Transit Authority Act.

FISCAL IMPACT: The act will have a fiscal impact on state and local government in years the Presidential primary election is held. For FY 2015-16, Treasury was appropriated \$10.0 million GF/GP to cover this cost.

THE APPARENT PROBLEM:

The act clarifies two distinct policy matters, both governed by provisions of Michigan's Election Law.

First, during the 2015-2016 legislative session, new statutory law was adopted to eliminate Michigan's customary February 'regular' election date. Additionally, new statutory law was adopted to set March 8, 2016, as the date of the Michigan Presidential Primary. The new law designates the presidential primary election as a 'special election' rather than a 'regular' election. Unlike a statewide 'regular' election ballot, a statewide 'special' election ballot cannot be expanded to include local ballot questions or to vote for local candidates. Having eliminated the February 'regular' election, local governments are now without an option to vote during the winter months.

This new act would address this problem by designating the March presidential primary election as a 'regular' election, instead of a 'special' election, so that the ballot may be expanded to accommodate local matters of some urgency.

Second, petition filing deadlines—both for candidates and ballot questions—are set in Michigan's Election Law, to ensure an orderly and uniform process statewide that allows local election clerks plenty of time to print and mail ballots to distant (indeed, sometimes overseas) absentee voters. When local charters or ordinances, or other state statutes impose filing deadline dates that conflict with those in the Michigan Election Law, the Michigan Bureau of Elections (located in the Department of State) rules that the petition filing

deadlines stated in the Election Law supersede any deadlines found in local charters, resolutions, or ordinances, or other state statutes.

In 2009, the Michigan Court of Appeals ruled otherwise. In a case known as *Meridian Twp v Ingham County Clerk* (a case concerning the annexation of land by the City of East Lansing from adjacent Meridian Township), a three-judge panel from the Michigan Court of Appeals ruled, in part, "*While the Michigan Election Law, specifically MCL 168.646a(2), provides certification procedures for ballot proposals in general, the CTA [Charter Township Act] contains provisions specific to annexations by petition and referendum. Accordingly, MCL 42.34(6) [of the CTA] controls.*" 285 Mich App 581 (2009)

This ruling, and several others like it, have caused confusion among state and local elections clerks. Further, clerks fear they may deny overseas voters their right to vote if alternate filing dates found in conflicting ordinances and statutes preclude timely preparation of the absentee ballots that must be mailed. This act is intended to resolve that confusion.

Additionally, an amendment was added during the legislative process the address a lacuna in the law and allow for the canvassing of a regional transit ballot proposal, should one occur.

THE CONTENT OF THE ACT:

Public Act 197 (House Bill 4904) amends the Michigan Election Law to clarify the filing deadlines for local candidates and ballot questions, and also to classify a presidential primary election as a 'regular' election in Michigan. Additionally, it extends the responsibilities of the Board of State Canvassers. A more detailed description of the new act follows.

Presidential Primary as Regular Election Date

Now under Michigan law, all Michigan elections must be held on the 'regular election date' during one of three months—May, August, and November. All elections occur on the first Tuesday after the first Monday of that month. Public Act 197 retains this provision, and expands it to designate as a regular election date, the date of the statewide presidential primary election that is held in a presidential election year.

Filing Deadlines

Further, Michigan Election law now specifies the filing deadlines by which ballot questions and candidates' names must be submitted to local clerks, to ensure the timely printing and distribution of ballots. Currently, a local, school district, or county *ballot question* must be certified no later than 4 p.m. on the 12th Tuesday before the election. Public Act 197 retains this requirement, and clarifies that this filing deadline applies to ballot questions of *a political subdivision of the state including, but not limited to, a county, city, village, township, school district, special use district, or other district.*

The law now specifies that the provisions of this section apply notwithstanding any provisions of law or charter to the contrary, unless an earlier date for the filing of affidavits or petitions (including nominating petitions) is provided in a law or charter, in which case the earlier filing date is controlling. Public Act 197 eliminates this language, and specifies,

instead, that *the provisions of this section would apply to and control the filing deadlines for candidates for local office to be elected at the general November election and for all ballot questions of a political subdivision of this state at any regular election, primary election, or special election, notwithstanding any provisions of law or charter to the contrary.*

Responsibilities of Board of State Canvassers

In addition to the policy changes described above, the act would state that, in addition to canvassing returns and reporting results for national and statewide elections, and statewide ballot questions and constitutional amendments, the Board of State Canvassers would also have that responsibility *for ballot questions submitted to the electors of more than one county under the Regional Transit Authority Act.*

Act Intends to Correct Misinterpretations on Filing Deadlines

Finally, Enacting Section 1 of the act reads: "This amendatory act is curative and intended to correct any misinterpretation of legislative intent by the Michigan Court of Appeals in Meridian Charter Township v Ingham County Clerk, 285 Mich App 581 (2009). It is the intent of the legislature that this amendatory act expresses the original intent of the legislature that MCL 168.646a(3) supersedes any and all conflicting provisions of law or charter prescribing the filing deadlines for candidates for local office to be elected at the general November election and for all ballot questions of a political subdivision of this state at any regular election, primary election, or special election."

MCL 168.641, 168.646a, and 168.841

BACKGROUND INFORMATION:

To read the Court of Appeal opinion in *Meridian Township v Ingham County Clerk* 285 Mich. App. 581 (2009), please visit:

<https://casetext.com/case/meridian-twp-v-ingham-co-clerk>

ARGUMENTS:

For:

These changes in Michigan's Election law are necessary for three reasons. First, they make the law more workable for local units of government, by allowing local questions and candidates to appear on the March 2016 presidential primary election ballot. Second, they make the election process—an interconnected system comprising local and state election officials—more coherent and fair by standardizing the petition filing deadlines so voters can be mailed their ballots in a timely manner. And third, they provide clear authority for the Board of State Canvassers over ballot questions submitted to the electors of more than one county under the Regional Transit Authority Act.

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