

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

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House Bill 4904 (reported from committee as amended)

Sponsor: Rep. Edward McBroom

Committee: Elections

Complete to 9-29-15

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: The bill would clarify the filing deadlines for local candidates and ballot questions, and also classify the Michigan presidential primary election as a 'regular' election (instead of a 'special election').

FISCAL IMPACT: The bill would 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 bill clarifies two distinct policy matters, both governed by provisions of Michigan's Election Law.

First, earlier during this 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.

Now legislation has been introduced to designate 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 during the winter months of next year.

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.

Consequently, an amendment has been introduced to ensure that the Michigan Election Law petition filing deadlines take precedence over all others.

THE CONTENT OF THE BILL:

House Bill 4904 would amend 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.

A more detailed description of the bill 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. House Bill 4904 would retain this provision, and expand 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. House Bill 4904 would retain this requirement, and clarify 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. House Bill 4904 would eliminate this language, and specify, 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.*

Bill Intends to Correct Misinterpretations on Filing Deadlines

Finally, Enacting Section 1 of the bill 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

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 two 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. And 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.

POSITIONS:

The Secretary of State supports the bill. (9-24-15)

The Michigan Municipal League supports the bill. (9-24-15)

The Michigan Townships Association supports the bill. (9-24-15)

The Michigan Association of Municipal Clerks supports the bill. (9-24-15)

The Michigan Association of County Clerks supports the bill. (9-24-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.