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BILL ANALYSIS



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House Bill 4904 (as passed by the House)
Sponsor: Representative Edward McBroom
House Committee: Elections
Senate Committee: Elections and Government Reform

Date Completed: 10-23-15

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Specify that a section of the Law governing local ballot deadlines would apply to and control the filing deadlines for candidates for local offices to be elected at the general November election and for local ballot questions at any regular election, primary election, or special election.**
- **Include the date of a statewide presidential primary election as a regular election date.**

Also, the bill includes a statement that it "is curative and intended to correct any misinterpretation of legislative intent by the Michigan court of appeals..." and expresses legislative intent that the section governing local ballots supersedes any conflicting provisions of law or charter prescribing filing deadlines for local candidates and ballot questions.

Local Ballot Deadlines

Section 646a(1) of the Election Law sets deadlines for filing petitions or affidavits for candidates for local office, and Section 646a(2) sets deadlines for the certification of wording of a local, school district, or county ballot question, and filing petitions to place a county or local ballot question on the ballot.

Section 646a(3) states that the provisions of Section 646a 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.

Under the bill, instead, the provisions of Section 646a 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 the State at any regular election, primary election, or special election notwithstanding any provisions of law or charter to the contrary.

Also, in Section 646a(2), the bill would refer to a ballot question of a political subdivision of this State including, but not limited to, a county, city, village, township, school district, special use district, or other district--rather than a local, school district, or county ballot question.

The bill states, "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."

Presidential Primary

Under Section 641 of the Election Law, except as otherwise provided in that section and Section 613a, an election held under the Law must be held on one of the following "regular election dates":

- The May regular election date, which is the first Tuesday after the first Monday in May.
- The August regular election date, which is the first Tuesday after the first Monday in August.
- The November regular election date, which is the first Tuesday after the first Monday in November.

The bill would delete the reference to Section 613a as an exception, and would add to the list of regular election dates, in each presidential election year when a presidential primary election is held, the date of the statewide presidential primary election as provided in Section 613a.

(Section 613a requires a statewide presidential primary election to be conducted under the Election Law on the second Tuesday in March in each presidential election year.)

MCL 168.641 & 168.646a

BACKGROUND

The decision of the Michigan Court of Appeals in *Meridian Charter Township v. Ingham County Clerk* involved the annexation of property in Meridian Charter Township to the City of East Lansing. The plaintiffs claimed that actions taken by the Ingham County Clerk in verifying the annexation petition and ordering a referendum on the question were in violation of the Michigan Election Law and unconstitutional, for a number of reasons.

Among other things, the plaintiffs argued that the clerk violated Section 646a(2) of the Law by failing to certify the ballot language at least 70 days before the election, and that he was required to do so according to the language of Section 646a(3). Although the Court agreed that the clerk failed to comply with Section 646a(2), it disagreed with the argument concerning Section 646a(3). Instead, the Court found that Section 646a was in conflict with a section of the Charter Township Act that sets a different deadline for a county clerk to order a referendum on a question of annexation. The Court held that Section 646(2) of the Election Law "provides certification procedures for ballot questions *in general*", while the section of the Charter Township Act "contains provisions *specific* to annexations by petition and referendum" (emphasis added). Therefore, the Court held that the Charter Township Act section was controlling.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Adding the presidential primary election date to the list of "regular election dates" would not result in new costs to the State, because the State incurs costs in years in which a presidential primary is held, regardless of whether it is considered a special, primary, or regular election, and the Law already requires a presidential primary to be held. The estimated cost for an election is approximately \$2,000 per precinct. With 5,200 precincts across the State, the

estimated total cost is \$10.4 million. For FY 2015-16, \$10.0 million is appropriated to the Treasury Department for the 2016 presidential primary; however, the appropriation could fall short by approximately \$400,000 based on the costs of the May 2015 election for Proposal 1.

The bill could result in cost savings for local units of government as a presidential primary election would be considered a regular election date, which would allow a local unit to add any questions to that election. If the Legislature continued to appropriate funds for the primary election as has been done in the past, and for the upcoming 2016 primary election, local units could potentially realize savings of an estimated \$2,000 per precinct. There also could be a cost to local units for printing a third ballot (for local issues added to the election, in addition to the ballots for Republican presidential primary candidates and for Democratic presidential primary candidates; however, those costs would be negated by the savings.

The other amendments in the bill would have no fiscal impact on State or local government

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.