

Legislative Analysis



ELECTION PROCESSES

House Bill 4838 as enrolled
Sponsor: Rep. Phil Green
House Committee: Elections and Ethics
Senate Committee: Elections
Complete to 1-19-22

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

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

(Vetoed by the Governor 10-3-21)

SUMMARY:

House Bill 4838 would prohibit the electronic poll book at each election precinct or absent voter (AV) counting board from being connected to the internet after the polls open on election day and until the results have been tabulated for that precinct and transmitted to the appropriate clerk. It also would specify that an electronic voting system could not be connected to or operated on the internet after the polls open and until after results have been tabulated for that precinct, and then only to upload those results to the appropriate clerk.

MCL 168.668b and 168.795

BRIEF DISCUSSION:

Some individuals expressed concern that HB 4838 would send a confusing message to voters. The bill would codify the prohibition on connecting electronic pollbooks to the internet. However, electronic pollbooks are not currently connected to the internet at any time, and there is concern that specifically prohibiting the practice is not only unnecessary but would imply that the practice is currently employed.

A Michigan Senate report on the November 2020 election¹ found “no evidence of widespread or systemic fraud in Michigan’s prosecution of the 2020 election” but noted some opportunities for improvement. In relevant part, regarding internet connections, the report found:

Internet Connections Many observers insisted the vote tabulators at the TCF Center were connected to the internet. Chris Thomas, who served as the senior elections advisor for the city of Detroit, has asserted that this is simply not true. Other individuals who were at the TCF Center, such as former state Sen. Patrick Colbeck, insist that they were. It is true that every tabulator was connected to a local area network (LAN), which would create the same icon on a computer screen indicating a network connection as is shown by an internet accessible network. This may be a source of some of the confusion. Computers at the central control center, which were not connected to each precinct’s LAN, were connected to a network that was connected to the internet, which may have also contributed to the confusion. Regardless, no evidence has been offered that the tabulators were connected beyond each LAN, and, in fact, the results from the tabulators at the TCF Center were transmitted to the clerk’s office via flash drives, not electronic or cellular connection. Furthermore, and more importantly, there has been no evidence provided that such a purported connection led to alterations to machine

¹ https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport_2.pdf

programming, hardware, or the tabulated results or could have led to such changes. Finally, logic and accuracy tests are conducted on each tabulator prior to the election to confirm that pre-election procedures were followed properly. During the post-election audits, clerks verify that those tests were performed and that the machines and their programming were not tampered with during the election.

Many theories and speculation regarding tabulators not at the TCF Center also include a component that necessitate an internet connection. It is particularly important to note that Dominion voting machines that are not part of an absentee voter counting board do not have built in modems or wireless internet. Reports to the contrary are false, with some falsely labeling non-Dominion machines as Dominion machines to make it appear as if they do have wireless internet capabilities. The secure cellular modems some clerks use to transmit the unofficial results to the county clerk are not even turned on or connected to the tabulators until after the official results are printed by the individual machine.

FISCAL IMPACT:

House Bill 4838 would have no fiscal impact on the state or on local units of government.

Vetoed 10-3-21:

In her veto message,² Governor Whitmer expressed her belief that the bill was one of several election-related bills that were intended to spread disinformation about the 2020 election. Specifically, she pointed to the bill's implication that electronic poll books were connected to the internet and vulnerable to tampering, when they were not.

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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.

² https://content.govdelivery.com/attachments/MIEOG/2021/10/04/file_attachments/1955882/Veto%20Letter%20-%20HB%204528,%204837,%204838,%204492.pdf