



INSTRUCTIONS TO VOTERS

House Bill 4351 (Substitute H-3) First Analysis (5-15-01)

Sponsor: Rep. Cameron Brown
Committee: Redistricting and Elections

THE APPARENT PROBLEM:

The most recent Presidential election rather dramatically focused the nation's attention on the mechanics of conducting elections. The closeness of the election, particularly in the pivotal state of Florida, brought extraordinary attention from the news media and created a heightened public awareness of the relationship between the apparatus and procedures involved in conducting elections and the sense of legitimacy of the election results. Included among the many stories that came out of the election were those of confused voters who spoiled their ballots for one reason or another and thus ultimately did not have a say in the election outcome. Voters in Michigan can request assistance of election inspectors when they do not understand the ballot and can obtain a new ballot when they believe they have made a mistake in voting. While this is said to be current practice, the election laws do not specifically address how voters are to be notified of these opportunities. Legislation has been introduced that would require specific printed notices, on ballots and on placards of instructions at the polling place, informing voters of their ability to get assistance and replacement ballots.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to require, generally speaking, that instructions to voters state the following, as applicable:

- If the elector [meaning the voter] does not understand the ballot or needs assistance, the elector may ask an election official for assistance. Election officials are required to provide electors with assistance on request.
- If the elector believes he or she has made a mistake in voting the ballot, the elector may return the spoiled ballot to an election official and the election official shall provide the elector with a new ballot.

[NOTE: Section 706 sets out the specific language for instructions appearing on the ballot. The instructions required by this bill would appear as

follows: *“If you do not understand the ballot or need assistance, you may ask an election official for assistance. Election officials are required to provide voters with assistance upon request. If you believe you have made a mistake in voting your ballot, you may return your spoiled ballot to an election official and the election official shall provide you with a new ballot.”*]

The statements described above would have to be included in the instructions on the official primary election ballot (Section 560); in the instructions on the two placards that must be conspicuously displayed in each polling place at a federal, state, district, or county primary election, special election, or general election (Section 666); in the instructions to be included with paper ballots (Section 706); and in the instructions that accompany ballots to be used with voting machines (Section 777).

MCL 168.560 et al.

BACKGROUND INFORMATION:

The sections of the Michigan Election Law being amended by House Bill 4351 currently require that instructions be provided to voters but typically do not specify the wording of the instructions. For example, Section 560 requires that the official primary ballot “contain the instructions as to the method of voting.” Section 666 requires the secretary of state “to furnish uniform printed instructions to electors printed in large type upon cards [placards], containing any information that will assist electors in marking their ballots and correctly designating their choices. Two such placards of instructions shall be conspicuously displayed in each polling place.”

The election law contains provisions regarding the assistance that can be provided to voters at several places, including Section 736 (assistance by election inspectors as to the manner of voting); Section 751 (assisting the voter in marking a ballot and marking a ballot on behalf of the voter); and Section 797a (instruction in voting on an electronic voting

machine). Section 740 deals with the inadvertent spoiling of a ballot by a voter, and requires the board of inspectors to deliver the voter a new ballot.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on state or local government. (Fiscal note dated 5-14-01)

ARGUMENTS:

For:

This is a voter-friendly bill that will require information at polling places and on ballots and ballot instructions, where appropriate, so that voters will know that they can ask election officials (e.g., precinct workers) for help if they do not understand the ballot or need other assistance, and that they can get a new ballot if they make a mistake while voting. While this is said to be the current practice, there is nothing specific in statute that requires election officials to notify voters of these things. The bill will help educate voters at the polls and make voting more convenient for some voters without adversely affecting the integrity of the election system. State election officials have said they believe the bill's provisions will apply to all elections conducted under the state election law.

Response:

While there can be little disagreement with the aim of this bill, some have questioned whether it is necessary to put these provisions in statute or whether the same ends could be achieved instead by having state election officials issue rules, instructions, or directives.

POSITIONS:

The Department of State supports the bill. (5-10-01)

The Michigan Association of Municipal Clerks has indicated support for the bill. (5-10-01)

Analyst: C. Couch

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