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BILL ANALYSIS



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Senate Bill 513 (as enrolled)
Sponsor: Senator Bev Hammerstron
Senate Committee: Government Operations
House Committee: House Oversight, Elections, and Ethics

PUBLIC ACT 71 of 2005

Date Completed: 10-17-06

CONTENT

The bill amended the Michigan Election Law to do the following:

- **Allow a school district to change its regular election date to various elections other than the odd-year general election.**
- **Require certain information to appear on a petition for a school district to borrow money, increase millage, or establish a bond.**
- **Establish procedures for a school board to obtain a temporary variance regarding board members' terms of office.**
- **Require the qualified voter file (QVF) to contain electors' digitized signatures, and authorize the Secretary of State and local clerks to capture or reproduce signatures for transmission to the QVF.**
- **Require the use of digitized signatures in the QVF for the purpose of signature comparisons or the determination of the genuineness of a signature.**
- **Require published notices of a ballot proposal to include a caption or brief description of the proposal.**
- **Provide for a county clerk, rather than the Governor, to call a special election to fill a vacancy in a township office.**
- **Increase the minimum time between the filing of a recall petition and the election on the question.**
- **Set a deadline for the filing of nominating petitions for village offices.**

-- Expand the offices listed in the nonpartisan section of a ballot.

The bill also repealed Sections 500g and 501a of the Election Law, which pertained to signing a voter registration card and the creation and arrangement of a registration list, respectively.

The bill took effect on July 14, 2005, although the amendments to one section took effect on September 22, 2005, and amendments to several other sections concerning the digitized signatures will take effect on January 1, 2007, as indicated below.

School Elections

Regular Election Date. The Election Law allowed a school board, by January 1, 2005, to adopt a resolution to hold its regular election on the odd-year May regular election; the May regular election in both even and odd years; or the November general election in both even and odd years. After December 31, 2004, if a school district's school board adopted a resolution to hold its regular election on a date other than the odd-year general election, the school board could adopt a resolution to change its regular election to the odd-year general election. Under the bill, a school board may adopt a resolution to change its regular election to the odd-year general election, the general November election, the November regular election in both even and odd years, or the odd-year May regular election date.

Special Election on Borrowing, Millage, or Bond. The Law allows a school district to call a special election to submit a ballot question to borrow money, increase a millage, or establish a bond if an initiative petition, containing the required number of signatures, is filed with the county clerk. Under the bill, the proposed date of the special election must appear beneath the petition heading, and the petition must state clearly the amount of the millage increase or the amount of the loan or bond sought, as well as the purpose for the millage increase or the loan or bond.

Previously, the petition had to be filed with the county clerk by 4 p.m. of the 10th Tuesday before the proposed date of the special election. The bill changed that deadline to the 12th Tuesday.

These amendments took effect on September 22, 2005.

District Precincts & Polling Places. The Election Law assigns certain responsibilities to a "school district election coordinator", who is either 1) the city or township clerk, for a school district whose entire territory lies within a single city or township, or 2) the clerk of the county in which the largest number of registered school district electors reside, for a district with territory in more than one city or township.

The Law allows a school district election coordinator who is a county clerk to delegate specified duties to the city or township clerk. Under the bill, the coordinator also may assign the duty of notifying school district electors of precinct and polling location changes.

The bill provides that, if the county clerk is the school district election coordinator for a school district, the county election commission must establish that district's election precincts and polling places in accordance with the Law.

School Board Members. The Election Law and the Revised School Code govern the election, number, and terms of office of school board members. Under the bill (except as provided below regarding a plan approved by January 1, 2004), if a ballot question changing the number of school board members or changing the terms of office for school board members is proposed,

and a school district needs a temporary variance from the terms of office provisions in the Law and the School Code to phase in or out board members' terms of office, the school board must submit the proposed ballot question language and a proposed transition plan to the Secretary of State (SOS) at least 30 days before the board submits the ballot question language to the school district election coordinator.

The SOS must approve or reject the proposed transition plan within 10 business days of receiving it. The SOS must approve the plan if it provides only temporary relief to the school district from the terms of office provisions of the Election Law and the School Code, until the time that the terms of office for school board members can be made to comply with the Law and the Code. The school board may not submit the proposed ballot question language to the school district election coordinator until the SOS approves the proposed transition plan.

If a school district's electors, by January 1, 2004, approved a plan to change the number of school board members or their terms of office, and if legislation enacted after that date makes implementation of these changes impossible or impractical, the school board may adopt by resolution at a public hearing a transition plan to bring the district's election schedule back into compliance with the intent of the plan approved by the electors on or before January 1, 2004, without the SOS's approval of the plan or the passage of a ballot question.

Ballot Question Submission. The Election Law allows a school board to submit a ballot question to the school electors on a regular election date; on a date when the city or township within the school district's jurisdiction is holding an election by adopting a resolution to that effect at least 70 days before the election date; or on a special election date as provided in the Law. The school board must certify the ballot question language to the school district election coordinator at least 70 days before the election date.

Previously, a resolution had to be adopted, and ballot language certified, at least 70 days before the election date. The bill deleted those 70-day requirements. Under the bill, a school board must adopt a

resolution, and the school district must certify ballot question language, not later than the time permitted for certification under Section 626a(2) (which sets various deadlines for the certification of ballot wording).

QVF; Digitized Signatures; Voter Registration

Qualified Voter File. The Election Law requires the SOS to establish and maintain the qualified voter file, and states that the QVF is the official file for the conduct of all elections held in this State. The SOS may direct that all or any part of the city, township, or village registration files be used in conjunction with the QVF.

The Law lists specific information for each qualified voter that the QVF must contain. Under the bill, the QVF also must contain the most recent digitized signature of an elector if captured or reproduced by the SOS or a county, city, or township clerk from a voter registration application pursuant to the bill, or captured or reproduced by the SOS pursuant to Section 307 of the Michigan Vehicle Code (which provides for driver license applications).

The bill authorizes the SOS to capture or reproduce the signature of an elector from a voter registration application or pursuant to Section 307 of the Vehicle Code, and transmit the signature to the QVF. A county, city, or township clerk also may capture or reproduce an elector's signature from a voter registration application and transmit it to the QVF.

Under the Law, the SOS, a designated voter registration agency, or a county, city, township, or village clerk may not release a copy of the portion of a registration record that contains specified information. The bill includes an elector's digitized signature in the portion that may not be released.

Electronic Transmission. Under the bill, the SOS may electronically transmit to the QVF voter registration change-of-address information received from a registered elector who is changing the address on his or her driver license or official State personal identification card. The bill states that the SOS is not required to transmit a paper copy of an elector's voter registration change-of-address information if the

elector's signature is already captured or reproduced under Section 307 of the Vehicle Code, and has been transmitted to the QVF. These provisions apply to address changes made within a city or township and to address changes made from one city or township to another city or township.

Use of QVF & Digitized Signatures

The following provisions will take effect on January 1, 2007.

Polling Place Comparison. Under the Law, before being given a ballot, a registered voter must identify himself or herself by presenting an official State identification card, a driver license, or another generally recognized picture ID card, and executing an application showing his or her signature or mark and residential address.

If voter registration cards are used in the precinct, the election official in charge of the precinct registration file must compare the signature on the application with the signature on the card. Under the bill, instead, if an elector's signature contained in the QVF is available in the polling place, the election official will have to compare the signature on the application with the digitized signature provided by the QVF. If a voter's signature is not in the QVF, the election official will have to process the application in the same manner as applications are processed when a voter registration list is used in the polling place.

Genuineness of Signature. The Election Law permits the SOS to promulgate rules establishing uniform standards for State and local nominating, recall, and ballot question petition signatures. The bill requires the SOS to promulgate these rules.

Under the Law, the standards for petition signatures may include, among others, standards for determining the genuineness of the signature of a circulator or individual signing a petition. The bill adds, "including digitized signatures".

Under the Law, upon receiving notice that petitions proposing to amend the State Constitution or to initiate legislation have been filed with the SOS, the Board of State Canvassers must canvass the petitions to determine whether they have been signed by the requisite number of electors. The

Law allows the qualified voter file to be used to determine the validity of petition signatures. The bill requires the qualified voter file to be used to determine the validity of petition signatures and the genuineness of signatures on petitions when the QVF contains digitized signatures.

Currently, the Board may have any doubtful signatures checked against the registration records by the clerk of any political subdivision in which the petitions were circulated. Under the bill, the Board may do so if it is unable to verify the genuineness of a signature on a petition using the digitized signature contained in the QVF.

The Election Law also provides for the verification of signatures on nominating petitions, and permits the QVF to be used to determine the validity of petition signatures by verifying the registration of signers. The bill requires that QVF be used to determine the genuineness of a petition signature, and that signature comparisons be made with the digitized signatures in the QVF. The county clerk or the Board of State Canvassers will have to conduct the signature comparison using digitized signatures contained in the QVF for their respective investigations. If the QVF does not contain a digitized signature of an elector, the city or the township clerk will have to compare the petition signature to the signature contained on the master card.

Under the Law, a county clerk must begin an investigation if he or she receives a sworn complaint questioning the registration or genuineness of the signature of the circulator or of a person signing a petition filed with the clerk for an office, or if the clerk is in doubt as to the validity or genuineness of a signature upon examining the petitions on his or her own initiative. The county clerk must have the petition forwarded to the proper city or township clerk to compare the signatures appearing on it with the signatures on the registration records. The bill permits the county clerk to conduct the signature comparisons using the digitized signatures on the QVF in lieu of requesting the local clerk to conduct the comparison.

Under the Law, when nominating petitions are filed with the SOS, he or she must notify the Board of State Canvassers, which must canvass the petitions to determine if they

have been signed by the requisite number of electors. For the purpose of determining the validity of the signatures, the Board may have a doubtful signature checked against the registration by the clerk of a political subdivision where the petitions were circulated. Under the bill, the Board also may have a doubtful signature checked against the QVF.

The Law requires the Board to begin an investigation if it receives a sworn complaint questioning the registration or genuineness of the signature of the circulator or of a person signing a nominating petition filed with the SOS. Under the bill, the Board will have to verify the registration or the genuineness of a signature as required above. Currently, the Board must have the petition forwarded to the proper city or township clerk to compare the signature on the petition with those on the registration record, or in some other manner determine whether the signature on the petition is valid and genuine. The bill requires the Board to do so if it cannot verify the genuineness of a signature on a petition using digitized signatures contained in the QVF.

"Master File". The Election Law requires original voter registration cards to be filed by precincts arranged either alphabetically or according to the numerical order of the houses located on each street. This file is called the "precinct file". Duplicate registration cards must be filed alphabetically in a "master file". In townships, cities, and villages with only one precinct, the duplicate master registrations may be dispensed with. The bill deletes these provisions.

Under the bill, original registration cards will have to be filed alphabetically and termed the "master file". The master file will have to contain the signature of each elector registered in the city, township, or village, unless the clerk of the jurisdiction has access to the QVF and the elector has a digitized signature in it.

Transfer of Registration. Under the Election Law, if a registered voter has moved from one election precinct of a township, city, or village to another precinct of the same local unit and has not recorded the move with the local clerk, the voter must execute a transfer of registration request, listing the new address over his or her signature, with

the election board in the precinct in which he or she is registered.

The Law requires the election inspector in charge of the registration records to compare the signature with the signature on the voter's registration record and, if they correspond, to certify that fact by initialing the request. Under the bill, instead, if an elector's signature contained in the QVF is available in the polling place, the election inspector in charge of the records will have to compare the digitized signature provided by the QVF with the signature and, if they correspond, to certify that fact by initialing the request. If a voter's signature is not contained in the QVF, the election official will have to process the transfer of registration request in the same manner as such requests are processed when a voter registration list is used in the polling place.

Recall Petition; Challenged Signature. The bill requires the QVF to be used to determine the genuineness of a challenged signature on a recall petition. Signature comparisons must be made with the digitized signature in the QVF. If the QVF does not contain an elector's digitized signature, the official with whom the recall petition was filed will have to compare the challenged signature with the signature on the master card.

Absent Voter Ballot; Signature Comparison

When the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that local unit, the clerk must forward or deliver a ballot (or set of ballots, if there is more than one kind to be voted on) to the applicant, if the signature on the application agrees with the signature on the registration card or, under the bill, the signature contained in the QVF.

Upon receiving from a city, township, or village clerk an envelope containing the marked ballot or ballots of an absent voter, the board of election inspectors must verify the legality of the vote by examining the registration record or, under the bill, the digitized signature for the absent voter included in the QVF.

The bill requires the QVF to be used to determine the genuineness of a signature on an application for an absent voter ballot or on the envelope containing an absent voter

ballot. Signature comparisons must be made with the digitized signature in the QVF. If the QVF does not contain an elector's digitized signature, or is not accessible, the signature appearing on the application or the envelope must be compared with the signature on the master card.

Published Notice of Election or Registration

Under the Election Law, when a county clerk receives notice of an election from the SOS, the county clerk must notify the clerk of each city and township within the county. The city and township clerks then must give notice of the time and place of the election, the offices to be filled, and the proposals to be submitted to the voters. The Law also requires the clerk of each township, city, and village to give public notice of when he or she will be at the clerk's office or other designated place for the purpose of receiving registrations before an election or primary election.

Previously, both notices had to be published at least twice in a newspaper published or of general circulation in the city or township, and the first publication had to be made at least 10 days before the last day for receiving registrations. Under the bill, the notices must be published once, and the publication must be made at least seven days before the last day for receiving registrations.

Previously, if either notice pertained to a special election for the purpose of voting on a proposal, the notice had to contain the proposal as it would appear on the ballot. The bill, instead, requires the notice to include a caption or brief description of the proposal or proposals, along with the location where an elector can obtain the full text.

The bill also requires a notice of registration to include the offices to be filled that will appear on the ballot.

Township Office Vacancy

The Election Law prescribes the procedures for filling a vacancy in an elective or appointive township office. As a rule, if a township official submits a resignation, the township board may appoint a person to fill the vacancy. Previously, if the board did not

do so, or if a vacancy occurred in an elective township office and was not filled by the township board or the board of county election commissioners within 45 days after the vacancy began, the county clerk of the county in which the township was located had to notify the Governor of that fact, and the Governor had to call a special election to fill the vacancy.

The bill deleted the requirements for the county clerk to notify the Governor and for the Governor to call a special election. Instead, the county clerk must call a special election within five calendar days to fill the vacancy. By 4 p.m. on the 15th calendar day after the county clerk calls the special election, the township party committee for each political party in the township must submit a nominee to fill the vacancy.

Under the bill, the special election must be held on the next regular election date that is at least 60 days after the deadline for submitting nominees or 70 days after the deadline for submitting nominees if the next regular election date is the even-year August primary or the general November election. Notice of the special election must be given in the manner required by Section 653a (which provides for notification by city and township clerks upon receiving notice of an election from the county clerk, after the county clerk receives notice from the SOS).

Recall Elections

The Election Law provides for a special election to be called if a sufficient petition is filed for the recall of a United States Senator, member of Congress, State Senator or member of the House of Representatives, elective State officer, or county official (except a county commissioner). Previously, the election had to be held on the next regular election date that was at least 70 days after the petition was filed. Under the bill, the election must be held on the next regular election date that is at least 95 days after the petition is filed.

Village Elections

The Election Law allowed villages, by adopting a resolution before January 1, 2005, to make a one-time choice to hold their regular elections at the September primary election (rather than at the general

election in November in even-numbered years). Under the bill, if a village adopted such a resolution, the nominating petitions for village offices to be filled at the September primary election must be filed with the village clerk by 4 p.m. on the 12th Tuesday before that election. (This requirement applies on and after January 1, 2006. Until that date, the bill required the petitions to be filed by 4 p.m. on the eighth Tuesday before the September primary.)

The bill provides that, after a nominating petition is filed for a candidate for a village office, the candidate may not withdraw unless a written withdrawal notice, signed by the candidate, is filed with the village clerk by 4 p.m. of the third day after the last day for filing the nominating petition.

Nonpartisan Offices

Under the bill, at any regular election, the names of the nonpartisan offices to be voted on must appear on a separate portion of the ballot in a particular order. Previously, this requirement applied at the general November election. The bill also added city officers, community college board of trustee members, intermediate school district board members, and district library board members to the prioritized list of nonpartisan offices.

MCL 168.31 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have an indeterminate impact on local units of government related to published notices of ballot proposals.

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.