

Legislative Analysis



ELECTION LAW AMENDMENTS & PENALTIES

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Senate Bill 823 (S-2, with House committee amendments)

Senate Bill 825 (reported without amendment)

Sponsor: Sen. Dave Robertson

House Committee: Redistricting and Elections

Senate Committee: Local Government and Elections

Complete to 5-28-12

A SUMMARY OF SENATE BILLS 823 & 825 AS REPORTED BY THE REDISTRICTING AND ELECTIONS COMMITTEE 5-22-12

Senate Bill 823 (S-2, as amended) would amend the Michigan Election Law (MCL 168.198 et al) to do the following:

- Go into effect June 1, 2012, except where indicated otherwise.
- Update the requirement that the state Director of Elections, with the approval of the State Board of Canvassers, prepare a statement for designation on the ballot, in not more than 100 words, to explain a proposed constitutional amendment or ballot question, consisting 'of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question,' to reference the four sections of the Michigan Constitution that contain this requirement.
- Require the Secretary of State to certify the statement of the purpose of the proposed amendment or question to be submitted to the electors not later than 60 days before the date of the election.
- Require that the sponsor of a petition to amend the State Constitution or to initiate legislation must file the petition with the Secretary of State (SOS) prior to its being circulated for signatures. This would apply beginning January 1, 2013.
- Require the SOS to make the most recent submission of filed petition language available to the public on the Department of State's website. This would apply beginning January 1, 2013.
- Require the SOS to certify to county clerks, at least 60 days before an election, all proposed constitutional amendments or other special questions. (Now the deadline is 49 days before an election.)
- Make it a felony to compensate a person based on the total number of individuals that the person registers to vote or the total number a person registers to vote in a particular political party. A violation would be punished by imprisonment for up to five years and/or a fine of up to \$1,000.
- Make it a felony to intentionally misrepresent oneself as an election official in a polling place on Election Day.
- Revise provisions related to the withdrawal of a candidate for a county office.

- Eliminate references to the use of slips or pasters in the provisions that allow electors to fill in blank spaces on a primary ballot under certain circumstances.
- Require primary ballots to be reprinted with the replacement candidate's name when a vacancy is left by a candidate who dies after the filing deadline. (The act currently calls for the use of gummed labels or stickers.)
- Refer to a county executive committee, rather than a city or township committee, in provisions regarding the death of a political party's candidate for local office.
- Refer to a county executive committee, rather than a county committee, in provisions regarding the nomination of a candidate to fill a vacancy left by a recall.
- Move the deadline for a candidate to file required nominating petitions or an affidavit of identity to the 15th Tuesday (until 4 p.m.) before the primary, beginning January 1, 2014. (The current deadlines are on either the 12th or 14th Tuesday before the primary election, depending on the office.)
- Move the deadline for a public officeholder to file for delegate to a political party county or district convention, by submitting an affidavit of identity with the county clerk, to the 13th Tuesday before the primary (beginning January 1, 2014).
- In the case of a city, district, or ward or township office, provide that a candidate vacancy must be filled by the county executive committee members who reside in that unit, if at least three members reside in that unit.

The bill also would repeal four sections of the Michigan Election Law, including: (1) Section 343a, which concerns providing for township party committees; (2) Section 474, which concerns the preparation of the 100-word statement of purpose for proposed constitutional amendments and ballot questions; (3) Section 649, which concerns the certification of proposed constitutional amendments or special questions by referendum; and (4) Section 707, which concerns both (a) the form of the ballot for proposed constitutional amendments or ballot questions and (b) the requirement that cities with a population greater than 500,000 submit a city ordinance to a vote of the people, if that ordinance has been subject to referendum.

Senate Bill 825 would amend the Code of Criminal Procedure (MCL 777.11d) to add to the sentencing guidelines the felonies proposed by Senate Bill 823 (S-2). Two violations—providing compensation to a person for registering individuals to vote, and intentionally misrepresenting oneself as an election official in a polling place—would be Class E felonies against the public trust, punishable by a statutory maximum of five years' imprisonment.

Senate Bill 825 is tie-barred to Senate Bill 823, meaning it could not go into effect unless Senate Bill 823 is also enacted into law.

FISCAL IMPACT:

Senate Bill 823 would have no fiscal impact on the Department of State. Any costs incurred under the provisions of the legislation would be absorbed by current appropriation levels. Local governments may realize increased costs due the requirement

that they reprint ballots when required under the provisions of the bill (upon the death of a candidate after the filing deadline).

The bills create new felony offenses within the Michigan Election Law. To the extent the bill's provisions result in additional felony convictions, they could increase costs on state and/or local correctional systems. Local county jail and misdemeanor probation supervision costs vary by jurisdiction. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,200 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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■ 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.