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BILL ANALYSIS



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House Bill 5062 (Substitute H-2 as passed by the House)
Sponsor: Representative Anthony Forlini
House Committee: Redistricting and Elections
Senate Committee: Local Government and Elections

Date Completed: 5-2-12

CONTENT

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

- **Require the Secretary of State (SOS) to establish a continuing election education program for all county, city, township, and village clerks.**
- **Require a clerk to complete the training every two years to maintain accreditation.**
- **Authorize the SOS to audit election precincts after each election.**
- **Require the SOS to develop an election audit program.**
- **Allow the SOS to train county clerks to conduct audits.**
- **Refer to the election commission rather than the legislative body in a provision regarding the appointment of receiving boards.**
- **Revise the retention and release period for certain election records, documents, and equipment.**
- **Make it a misdemeanor to threaten or intimidate a voter at a polling place, or provide election misinformation to an elector.**
- **Extend from two to three years the statute of limitations on prosecution for an Election Law violation.**

Training/Continuing Education

The Law requires the SOS to establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school elections officials. The bill would eliminate the reference to school elections officials, and would refer to all county, city, township, and village officials who are responsible for conducting elections.

The bill would require the SOS to establish a continuing election education program for all county, city, township, and village clerks. The Director of Elections would have to conduct continuing election education courses for clerks to attend. Each clerk would have to attend and complete the training at least once every two years to maintain accreditation as a clerk. The Department of State would be responsible for providing the training at no charge to the clerks, counties, cities, townships, or villages.

Postelection Audit

Under the bill, in order to ensure compliance with the Law, the SOS could audit election precincts after each election. The SOS would have to develop an election audit program that detailed the documents to be inspected and the procedures to be used during an audit.

The SOS could train and certify county clerks and their staffs to conduct election audits of precincts randomly selected by the SOS in their counties. The SOS would have to supervise each county clerk in the performance of election audits. Each county clerk who conducted an election audit would have to give the results to the SOS within 20 days.

Receiving Board

Currently, the legislative body of a city, township, or village may provide by resolution that at an election at which the ballots are counted and certified at the precinct, one or more additional boards of election inspectors must be appointed to serve as boards to receive for review the sealed container containing the voted ballots, poll book, and statement of returns. The bill would refer to the election commission, rather than the legislative body, in this provision. In addition, the bill would require, rather than allow, the election commission to provide that additional boards of election inspectors be appointed to serve as receiving boards.

Preservation of Records & Documents

Under the Law, all election returns, including poll lists, statements, tally sheets, absent voters' applications, absent voters' return envelopes, absent voters' records maintained by the clerk, and other returns made by election inspectors must be carefully preserved, and may be destroyed two years after the primary or election. The bill would delete the reference to absent voters' applications.

Under the bill, all applications executed under Section 523 and all absent voters' applications would have to be carefully preserved and could be destroyed after six years. (Section 523 requires a registered elector to execute an application to vote at an election before being given a ballot.)

Currently, all ballots used at any primary or election may be destroyed after seven days following the final determination of the board of canvassers with respect to that primary or election unless a petition for recount has been filed and not completed, or their destruction is stayed by a court order. The bill would extend the time period to 30 days following the final determination.

Under the Law, subject to certain exceptions, the SOS may authorize the release of all ballots, ballot boxes, voting machines, and equipment after 10 days following certification of an election by the Board of State Canvassers. The bill would extend this time period to 30 days.

The bill also would allow a clerk to destroy the original registration cards of an elector five years, rather than 10 years, after the elector's registration was canceled.

Violations

The bill would prohibit a person from threatening or intimidating an elector while the elector was entering a polling place, applying to vote, entering a voting compartment, voting, or leaving a polling place. The bill also would prohibit a person from giving an elector misinformation regarding an election. A person who violated either of these prohibitions would be guilty of a misdemeanor. (The Law prescribes a maximum fine of \$500 and/or imprisonment for up to 90 days for a misdemeanor.)

Under the Law, an offense other than fraudulent registration may not be prosecuted unless the prosecution is commenced within two years after the offense was discovered. Fraudulent registration may not be prosecuted unless the prosecution is commenced within three years. The bill would apply the three-year time limit to all violations of the Law.

FISCAL IMPACT

State: The bill would result in an indeterminate increase in costs to the SOS associated with the requirements to establish a continuing education program for all local government election clerks. Currently, the SOS provides training to local election clerks; however, the bill would require that clerks be trained every two years, thus increasing the costs for these trainings for the SOS. Local governments would be provided these trainings at no cost to the local governments.

The bill also would require the SOS to develop an election audit program and train local election clerks. In addition, the SOS would be required to supervise each county clerk in the performance of election audits. These requirements would lead to an indeterminate increase in costs for the SOS associated with the development of the audit procedure, the training of county clerks, the oversight of county clerk audits, and the review of those audits.

Finally, requiring poll lists to be preserved for six years instead of the current two years, requiring ballots to be held for 30 days instead of seven days following an election before they are destroyed, could result in an indeterminate cost to the SOS associated with storing these documents.

Local: There would be an indeterminate cost to local units of government associated with the election audit requirements of the bill. Costs that would be incurred by local election clerks' offices include the costs associated with training time, administrative costs for conducting the audits, and the purchase of the equipment needed to conduct the audits.

The additional two misdemeanors proposed under the bill, threatening voters and providing misinformation, would add indeterminate costs to local units of government. The local courts could see marginal increases in caseload, and in the event of a conviction, the local government could see increased cost from incarceration and/or community supervision. Any additional revenue generated by the penal fine of up to \$500 would benefit public libraries.

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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.