



**House
Legislative
Analysis
Section**

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ELECTION MALFUNCTIONS: AMENDMENTS

House Bill 4434 (Substitute H-1)
First Analysis (4-10-89)

Sponsor: Rep. Thomas L. Hickner
Committee: Elections

THE APPARENT PROBLEM:

In August 1986, a countywide tax limitation proposal was on the ballot in Bay County. One of the two voting machines used in a precinct in Fraser Township recorded 125 votes cast on the proposal when only 76 voters had used the machine. Following a written opinion from the local prosecuting attorney, and absent any statutory language addressing machine malfunctions in votes on ballot questions, all the votes cast on the machine for and against the proposal were disallowed. When a problem of this kind occurs in an election involving candidates for office, a special election can be held. The election law provides no similar procedure for ballot questions, however. To prevent this from happening again, amendments have been proposed to the election law.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law in three ways.

(1) The election law allows an aggrieved candidate to petition the county board of canvassers for a special election if a defect in or a mechanical malfunction of a voting machine or other election equipment or material prevents an elector from voting for the candidate of his or her choice. (Such a special election would be held if the number of votes that could not be cast could have affected the election outcome. It would be held by mail and only in the affected precincts.) The bill would allow a special election to be called in much the same way when a defect or malfunction involved a ballot question. An aggrieved registered elector whose name appeared in a poll book at the election involving the ballot question could petition in that case. Also under the bill, if the number of votes for an office or ballot question recorded on a voting machine exceeded the number of people voting, that would count as a defect or malfunction, and a special election could be called if the number of voters who could not cast valid votes was sufficient to affect the election outcome. Further, the bill would eliminate the requirement that a copy of the petition for a special election be served on the local clerk and the candidates involved. The secretary or clerk of the board of canvassers would still have to notify the following people of a meeting of the board to deal with a qualified petition: the appropriate city or township clerk; candidates for the same office in a general or special election; candidates for the same office within a party in a primary election; the filer or sponsor of a ballot question, if known, and any ballot question committee; and the voter who filed the petition.

(2) The bill would require election commissioners (or authorized assistants) to inspect voting machines to determine whether they are properly prepared and then to file a written certificate. (The job of preparing the machines belongs to the clerk and authorized assistants.) The election law currently calls for the commissioners to be afforded an opportunity to inspect the machines after

the filing of the certificate by either the clerk or the commissioners.

(3) The bill would allow the processing and tallying of absent voter ballots to begin at 7 a.m. on the day of an election rather than 8 a.m.

MCL 168.778 et al.

FISCAL IMPLICATIONS:

There are no fiscal implications for the state, according to the Department of State. (4-6-89)

ARGUMENTS:

For:

Due to a defective or mismanaged machine and the lack of a remedy for such problems in the election law, some voters were effectively disenfranchised in a Bay County ballot proposal election held in 1986. To prevent this from happening again, the bill basically would take existing law dealing with voting machine malfunctions in candidate elections and extend it to ballot proposals.

For:

Some areas have large numbers of absentee ballots. There is no good reason to hold off counting the ballots once the polls have opened, and some areas could benefit from having extra time to count absentee ballots at the beginning of a busy election day. The bill would allow the processing of absentee ballots to begin at 7 a.m., rather than at 8 a.m. as now specified.

POSITIONS:

The Department of State supports the bill. (4-6-89)

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