House Bill 4443 (Substitute H-1)
First Analysis (4-10-89)

RECEIVED

Sponsor: Rep. Nick Ciaramitaro
Committee: Elections

MAY 2 3 1989

THE APPARENT PROBLEM:

A utility worker from Macomb County told the House Elections Committee during the 1987-88 session that on a recent election day he was required to work overtime in response to what his employer, Detroit Edison, considered an emergency, and, as a result, worked very nearly the entire time the polls were open and was unable to vote. While this may be an isolated incident, the state's election laws contain no requirement that an employer allow employees time off to vote if they would not otherwise have the opportunity.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to require an employer to release an employee from work for a reasonable amount of time, with or without pay, to vote in a local, state, or national public election under certain circumstances. The release from work would be required if all of the following are true:

- the employee is qualified to vote and would not otherwise have a reasonable opportunity to vote;
- the employer required the employee to be at the job site, in transit, or otherwise on duty during the entire time the polls were open; and
- either (1) the employee provided 24 hours notice of the intention to take time off to vote, or (2) the employee was provided with less than 36 hours notice that job requirements would prevent voting in person and the employee's absence would not endanger the health or safety of other individuals.

An employee released from work under this procedure with pay could not use the time to engage in any political activity other than voting.

An employer who violated the provision would be subject to a civil penalty of up to $500 per violation. The attorney general or the prosecuting attorney of the county in which the employer was located could enforce the requirement. The bill would define "employer" to refer to an individual, sole proprietorship, partnership, corporation, association, state or local unit of government, or other legal entity with one or more employees.

MCL 168.931a

FISCAL IMPLICATIONS:

The House Fiscal Agency described a similar bill in the 1987-88 legislative session as having no fiscal implications. (5-4-88)

ARGUMENTS:

For:

This bill protects the right of people to vote by requiring employers to give employees time off on an election day to vote if the employees otherwise would not have the opportunity. It does not require time off to be granted if

employees have a reasonable opportunity to vote outside of working hours. While most employers probably do this now, there is no law that requires it. The bill addresses those rare cases when a worker's schedule is changed at the last minute in a way that prevents him or her from getting to the polls on election day. No one should be relegated to the status of second-class citizen and denied the chance to participate in the democratic process because of unreasonable demands by an employer.

Against:

Perhaps workers who occasionally are called upon to work extraordinary hours should vote by absentee ballot as a precaution. There could be times when the conflict between a job that has to be done and a vote that ought to be cast needs to be resolved in favor of the job. Further, there are in current law circumstances that entitle a person to an emergency absentee ballot, and it might make more sense to add this kind of case to the circumstances that permit emergency absentee voting than interfere in employer-employee relations.

Response: Traditionally, Michigan has said that its citizens have the right to vote in person on election day. While absentee ballots are available as an alternative and a convenience, no one should be required to vote by absentee ballot if they prefer to vote in person.

POSITIONS:

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

The Michigan State AFL-CIO supports the bill. (4-5-89)