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SFA**BILL ANALYSIS**

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House Bill 4448 (Substitute S-3 as reported)
Sponsor: Representative Agnes Dobronski
House Committee: Local Government
Senate Committee: Government Operations

Date Completed: 6-23-98

RATIONALE

The Michigan Election Law regulates State and local elections and prescribes the powers and duties of State and local election officials in conducting elections. School elections are conducted under the Election Law and the Revised School Code; the School Code contains provisions for the administration and operation of elections by school districts. Under the Code, schools may conduct their own elections if they choose to do so (without contracting with local units of government for use of their facilities and personnel) and establish polling places other than those used during general elections. Currently, though most school board elections are held in June, the School Code does not specify when a school election must be held.

Some people believe that the current system has the potential to confuse the voters, and has resulted in school districts' holding more elections than are needed. Further, it has been pointed out that the number of millage questions has been reduced since the adoption of Proposal A in March 1994, resulting in many annual school elections at which the ballot only contains candidates for school board, thus decreasing voter interest. It has been suggested that the school election provisions be recodified into the Michigan Election Law in an effort to consolidate all elections; and be modified so as to transfer the administration of school elections to local units, limit the number of school elections, and combine annual school elections with the general November election.

An unrelated issue pertains to absentee ballots. The Election Law contains specific procedures regarding application and qualification for, and the handling of, an absentee ballot. A registered voter who wants to vote by absentee ballot must request one in writing in advance of election day (by 2 p.m. Saturday) indicating the applicable justification. A

voter may make the request in person or by mail. (An application may be for a primary election only or for both the primary and subsequent general election.) A ballot is then mailed to the voter, although it may be handed over personally. The voter may return the ballot by mail or in person, or may ask a member of his or her immediate family or a person residing in the same household to return the ballot. It is a felony for an unauthorized person to be in possession of an absentee ballot or for an unauthorized person to return, solicit to return, or agree to return an absentee ballot.

In addition, to vote by absentee ballot, a voter must be 60 years old or older, or file a form with the election clerk claiming one of the following reasons: the voter is absent, or expects to be absent, from his or her township or city for the entire time the polls are open on election day; the voter cannot attend the polls without assistance because of a physical disability; the voter is confined to jail awaiting arraignment or trial; the voter cannot attend the polls because of the tenets of his or her religion; or the voter is an election inspector in another precinct. It has been claimed that many people do not vote because they are faced with long lines at the polls, or simply find it too hard to get to the polls during open hours; others have stated that many persons obtain an absentee ballot by lying about their circumstances. It has been suggested that the application process and handling requirements be maintained, but that local units be given the opportunity to allow qualified voters to obtain absentee ballots without having to give a reason.

CONTENT

The bill would amend the Michigan Election Law to provide for the conduct of school elections by local units of government. Further,

the bill would allow a local unit of government to permit a voter to vote by absentee ballot, without having to give a reason.

The bill is tie-barred to Senate Bill 202, which would repeal parts of the Revised School Code that provide for the administration and operation of elections by school districts; and specifies that a school district's annual election or a special election would be administered and conducted as provided in the Michigan Election Law.

School Elections

The bill would recodify in the Michigan Election Law several provisions proposed to be repealed from the Revised School Code (by Senate Bill 202), regarding school district elections. House Bill 4448 (S-3) states that the provisions of the Election Law applicable to the conduct of elections would have to be "applicable as near as possible in all respects" to a general or special election conducted under Chapter 14 (School Elections) of the Law, unless otherwise specifically provided. Further, the bill would require that at least one school board member in each school district be elected in each "November school election", that is, the election held to elect members to school boards and the State Board of Education, to be held on the first Tuesday following the first Monday in November of each odd-numbered year.

Special and General Elections. Currently, Sections 1031 and 1032 of the School Code prescribe the powers and duties of a school board in holding a special election, including requiring a special election if 10% of the district's electors petition the school board to vote upon a question; and provide three dates (in April, June, or November) that a district may hold its annual or biennial regular election. (Senate Bill 202 would repeal these provisions and require a district, beginning January 1, 2002, to hold its annual school election on the first Tuesday after the first Monday of November in each year.) House Bill 4448 (S-3) would require a school board to submit a question to the vote of the district's electors upon receipt of petitions signed by 5% or more of the registered electors of the district, but not less than 25 electors. Further, the bill would allow a school board to submit a question to a vote of the electors. Upon a decision to submit a question to the vote of the registered electors of the district, or a determination by the school board that a petition met the lawful signature requirements, the question would have to be submitted at a special election held on the first Tuesday following the first Monday in April, August, or November.

A school board could not submit a question to the electors of the district unless the question to be voted upon was within the lawful authority of the qualified electors of that school district to decide. A school board also could not submit a question unless it was stated in the notice of the election.

If a school board called a special election to submit a question to the electors, the school district would have to pay to each county, city, and township conducting the election an amount determined as follows: If the special election were held in conjunction with another election held in the county, city, or township, the school district would have to pay to the county, city, or township 100% of the actual costs of conducting the election called by the school board. If the special election called by the school board were not held in conjunction with any other election held in the county, city, or township, the school district would have to pay to the local units 105% of the actual costs of conducting the special election. The county, city, or township would have to present to the school district a verified account of actual costs of conducting the special election, by the 90th day following the date of the election. The school board would have to pay or disapprove all or a portion of the verified account within 90 days after the school district received it.

If the school board disapproved all or part of the verified account, the board would have to send a notice of disapproval along with the reasons for the disapproval to the local unit. Upon request of the local unit, the school board would have to review the disapproved costs with the local unit. School boards and local units would have to use an agreement made pursuant to the Election Law, on what constitutes valid costs of conducting a Statewide special election, as a basis for preparing and evaluating verified accounts under the bill. The Secretary of State would have to assist school boards, counties, cities, and townships in preparing and evaluating verified accounts.

School Board Candidates/Affidavit and Petitions.

The bill would place in the Election Law provisions that are similar but not identical to those proposed to be repealed from the School Code regarding candidates' affidavits and petitions. To have a person's name printed as a school board candidate upon the official ballots in the various election precincts of a school district, the candidate would have to file an affidavit (as required under the Election Law), and nominating petitions signed by a number of registered electors residing in the school district equal to at least 1% but not more

than 2% of the total number of votes cast in the district for the member who received the greatest number of votes at the last election in which a member was elected. The number of signatures on the petition could not be less than 20.

If the school district comprised more than one county, city, or township, the candidate would have to file the nominating petitions and affidavit with the county clerk of the county of that candidate's residence. If the school district comprised one city or township or less, the candidate would have to file the nominating petitions and affidavit with the clerk of that city or township. The nominating petitions would have to be in a form prescribed in the Election Law. A county, city, or township clerk would have to receive nominating petitions for filing up to 4 p.m. of the 30th day before the date of the election. If the 30th day before the election fell on a Saturday, Sunday, or legal holiday, the clerk would have to receive petitions up to 4 p.m. of the next business day.

Canvassers. The bill would require the board of canvassers (as prescribed in the Election Code) to canvass the votes for candidates for the office of school board member in the general November election in each school district. The number of such candidates equal to the number of persons to be elected who received the greatest number of votes cast at the election (as set forth in the report of the board of canvassers), based upon the returns from the various election precincts or as determined by the board of canvassers as a result of a recount, would have to be declared elected to the office of school board member. Upon completion of the canvass, the board of canvassers would have to make a statement of returns and certify the election of school board members to the appropriate filing official who received the nominating petitions in that school district. The official would have to file in his or her office and preserve the original statement of returns and certification of the board of the election result. The official immediately would have to execute and cause to be delivered to the persons declared elected a certificate of election, certified by the official.

School Board Vacancy. If a vacancy occurred in the office of school board member, it would have to be filled within 45 days by election of a qualified and registered elector of the school district, by a majority of the remaining members of the school board. The person elected by the school board would hold the office until the next general November election. The school board would have

to cause the remainder of the term of the vacancy to be filled by special election held in conjunction with the November school election. If the remaining members of the school board failed to fill a vacancy as required, the board would have to cause the vacancy to be filled at the next November school election by special election held in conjunction with that election. The person elected at the November election to fill the vacancy would hold the office of school board member for the full remainder of the term of the former member. Until a vacancy was filled, the remaining members of the school board would have all of the powers and duties established by law.

Recount/Recall

The bill specifies that the votes cast for a candidate for school board member or on a question submitted to the voters would be subject to a recount, as provided in the Election Law. A person elected to a school board would be subject to recall, as provided in the Election Law and the State Constitution.

Under the Election Law, recall petitions must be signed by registered electors of the electoral district of the official whose recall is being sought; however, in a school district where school electors are not required to be registered, persons who sign the petitions do not have to be registered electors. The bill would eliminate the provision regarding unregistered school electors, meaning that recall petitions for school board members would have to be signed by registered electors. Currently, the Election Law provides for the filing of candidate petitions to fill a school board vacancy created by a recall, and requires that the petitions be filed with the school board's secretary or in the board of education office. The bill would require that the petitions be filed instead with the appropriate county, city, or township clerk.

Other Provisions. The bill provides that a township, city, or village board of election commissioners, in holding an election, would have to cause the ballots for any regular or special school election to be printed and delivered to the appropriate local unit at least 10 days before the election. Currently, the board of election commissioners must complete this task for any regular or special township, village, or city election.

The Election Law allows a community college district or a school district that is wholly or partly within a city or cities to hold an election at times and

in a manner specified. The bill would remove school districts from these provisions.

Currently, regarding the registration of electors, the clerk of a city or township must transmit to the secretary of a school district information on the registration application of persons residing in the district. The bill would eliminate this provision. Further, the bill would eliminate current provisions that allow a voter's registration card to be signed in a school district's or secretary's office; allow a school district or ISD to use a registration list instead of the precinct registration file when a file is required; require the clerk of a local unit to notify a school district of a voter's canceled registration; and require the Secretary of State to instruct school officials regarding voter registration procedures.

The Election Law prohibits a person from signing more nominating petitions for the same office than there are persons to be elected to the office. The bill provides that a person who violated this provision would be guilty of a misdemeanor.

Absentee Ballots

The bill would allow a city, village, or township, by resolution, to implement absent voting with no reason required. The bill provides that if a city, village, or township implemented absent voting with no reason required, "absent voter" would mean a qualified and registered elector who wished to vote without attending the polls on election day.

Under the bill, a local unit that adopted a resolution to implement absentee ballots with no reason required would promptly have to file a copy of the resolution with the Secretary of State, and provide adequate notice to the residents of the local unit. Absent voting with no reason required would not be allowed until January 1, 1999, or until the Secretary of State certified that the qualified voter file had been successfully implemented and used in a statewide general November election, whichever occurred later.

An elector who wished to vote by emergency absent voter ballot would have to comply with the requirements currently in the Election Law for obtaining an emergency absent voter ballot.

MCL 168.30a et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under the current system, school districts are allowed to conduct far too many elections, and can do so just about any time they want. This has resulted, in some areas of the State, in a proliferation of elections held at various times, and in places that may not be the same polling places voters use during a general election. The frequency of elections can have a negative effect on both the voters and a school district; too many elections can result in voter confusion and apathy, and cause school districts to spend far more on elections than is necessary. The bill (in conjunction with Senate Bill 202) would consolidate school elections with the general election and limit their number, thus streamlining the school election process and making it more cost effective. This means that money now spent on elections would be available for education, where it should be spent. Further, by requiring annual school elections to be held with the general November election, the bill would standardize the election process for schools and reduce voter confusion.

Supporting Argument

Moving from the School Code to the Election Law provisions that govern the administration and operation of school elections would, in effect, get school districts out of the election business. The bill would bring all elections under the Election Law, meaning that all elections would be conducted by local election officials under the guidance of the Election Law and State election officials. The bill would assist local election officials to standardize the election process, and increase the likelihood that voters will know what to expect and where to go on election day.

Supporting Argument

Prior to the passage of Proposal A, school districts had the option, or were often required by circumstances, to hold frequent elections to ask the voters for millage renewals or approvals. Now, school districts receive the bulk of their funding from per pupil foundation grants from the State and are, compared with previous times, quite limited in the amount of millage they can ask voters to approve. This has resulted in a reduction overall in the number of school district millage questions placed on the ballot. As a result, in many school elections, the only question on the ballot is the selection of a few school board candidates. This may cause low voter turnout for board elections.

By tying the election of school board members to November elections, the bill would eliminate the problem.

Response: Requiring school board elections in November actually could reduce the attention paid to the election of school board members, or any other school questions appearing on the ballot at that time. In some general elections, particularly those held each even-numbered year in which local and State candidates are elected, the ballots can be long and complicated. Requiring school questions to be added to the ballot, likely at the end of the ballot, could cause important school matters to be hidden amid larger general election questions or, worse yet, cause voters to quit before reaching and completing the school questions.

Supporting Argument

Currently, a voter under 60 years old who wishes to vote by absentee ballot must file an application form with the election clerk, claiming one of the requirements listed in the Election Law as a reason for absentee voting. With proper safeguards, however, absentee voting should be an alternative method of voting open to all qualified and registered voters.

Many voters today, especially busy families with children or people with transportation problems, are frustrated with the election system. While it can be argued that persons should make the time to exercise their important right to vote, the reality is that many people simply cannot find, or are unwilling to make the effort to find, sufficient time to go to the polls and stand in a long line. Those who have turned to absentee ballots as an alternative have found that they must either give a reason for not attending the polls, or not vote at all. Many people believe that this has had the effect of suppressing voter turnout. The bill, by allowing local units to implement absent voting with no reason required, would give honest voters who wanted to vote absentee a chance to do so. This would make it easier for many people to vote and could increase voter turnout. Further, if more people voted by absentee ballot, attendance at the polls, and thus long lines, could be reduced.

Supporting Argument

The Election Law contains specific requirements, and penalties for violation of those requirements, regarding application for and the handling of absent voter ballots. These provisions should ensure that increased use of absentee ballots would not lead to or increase election tampering.

Opposing Argument

The bill would reduce the autonomy and control of local school boards, coming on the heels of School Code revisions in 1995 that purported to give local boards more control by granting school districts "general powers". By fixing the school elections to the general election, reducing the number of elections, and removing the control over school elections from school officials, the bill would reduce school district flexibility. Local school officials know best what is needed in their districts. For instance, some committees may contain large numbers of people who commute to and from work, meaning that they are limited in the time during which they can vote on any particular day. Some school districts have experimented, to increase voter participation, with holding school elections on a Saturday. Under the bill, this option would be eliminated.

Further, forcing school elections to be held in November, which corresponds with other local and State elections, would diminish the chance for school officials to focus voter attention on school issues. In turn, combining school elections with local elections could produce a scenario in which a ballot contained several different millage issues, addressing several different subjects. This could result in competition among local units and their school districts for millage approvals on the same ballot. Instead of consolidating all elections, the bill perhaps should allow for a time during the year when all education questions, both State and local, could appear on one ballot separate from other elections.

Opposing Argument

School districts should not be punished for presenting questions to the voters, by having to pay 105% of the actual costs of holding a special election, if the local unit were not holding an election on that day. Further, there are many technical concerns regarding the consolidation of elections. For instance, a school district may extend into several local units of government. Currently, a school in this situation can hold one election. Under the bill, each of the local units in the district would have to open polling places, regardless of how few voters were residents of both the school district and the local unit. Or, a single township could have more than one or two school districts within its boundaries. This could be quite confusing to the voters if one district held an election but the others did not.

Response: Under Senate Bill 202, the repeal of provisions regarding school elections would not take effect until January 1, 2002. While there may be some technical problems that need to be

worked out, local election officials would have time to react to these matters.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have no fiscal impact on State government. The bill could result in savings to school districts by requiring school board elections to take place at November general elections and encouraging the coordination of special elections with other local units of government. Provisions permitting expanded use of absentee ballots could cause a minimal increase in costs to local units of government. The actual cost is indeterminate, however, because the increase would depend on the number of voters who chose to use absentee ballots.

Fiscal Analyst: E. Limbs
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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.