

Senate Bill 51 (as enrolled)
House Bill 4408 (as enrolled)
Sponsor: Senator Ken Sikkema (S.B. 51)
Representative Mickey Mortimer (H.B. 4408)
Senate Committee: Government Operations
House Committee: Constitutional Law and Ethics

Date Completed: 6-22-99

RATIONALE

For the past two decades, the form of the presidential primary in Michigan has been in a state of flux, changing from an open primary method of selection, to a caucus system, to a closed primary system, to a split system. (See **BACKGROUND** for a brief recent history of Michigan's presidential primary.) How delegates (who support a particular candidate) are chosen is typically a matter dealt with in state election law, but when party rules conflict with state law, generally speaking, the national party rules take precedence. Thus, currently, Republicans select their delegates to the Republican National Convention in the Michigan presidential primary, which under current law is an "open" primary. Democrats use a caucus system to select delegates, as an open primary is contrary to national Democratic Party rules.

Regardless of the different methods used to select delegates, both parties have always adhered to the date of the Michigan presidential primary (the third Tuesday in March) as prescribed in the Michigan Election Law. Members of both parties, however, have expressed dissatisfaction with the current date. In recent years some states have advanced the date of their presidential primary to earlier in the election year. In the 2000 presidential primary, over half of the states (including large states such as California, New York, Florida, and Texas) will have held their elections before Michigan's scheduled primary. It has been pointed out that because of this development, the candidates for the office of U.S. President might already be chosen before Michigan holds its primary. In response, Michigan Democrats recently voted to adopt a new caucus plan that sets their 2000 caucus for February 12, which will be preceded only by the Iowa caucus of February 7. It has been suggested that the Michigan Election Law be amended to advance the date of the presidential primary, so that Michigan Republicans also could make their choice earlier in the nominating process.

CONTENT

Senate Bill 51 and House Bill 4408 would amend the Michigan Election Law to change the date of the statewide presidential primary election from the third Tuesday in March to the fourth Tuesday in February in each presidential election year. (In 2000, for example, the primary would be held on February 22, rather than March 21.)

House Bill 4408 also would advance related dates regarding the submission of nominating petitions and other required filings. The bill would change from the second Friday in December to the second Friday in November, the year before a presidential election, the deadline for the Secretary of State to issue a list of the individuals generally advocated by the national news media to be potential candidates for each party's nomination; and for the State chairperson of each political party for which a primary will be held to file a list of individuals whom he or she considers to be candidates. Further, the bill would change the deadline for candidates to file nominating petitions and an affidavit of candidacy with the Secretary of State from the second Friday in January to the second Friday in December of the year before a primary. In addition, the bill provides that a signature on a nominating petition would not be valid if obtained before October 1 (instead of November 1) of the year preceding a presidential election year.

House Bill 4408 is tie-barred to Senate Bill 51.

MCL 168.613a (S.B. 51)
168.613a et al. (H.B. 4408)

BACKGROUND

In 1972, provisions were inserted in the Michigan Election Law to establish an "open" presidential primary, meaning that while voters could vote only for the candidates of one party, they did not need to be

registered members of that party in order to do so, and in fact could be members of another party. This presented the possibility that members of one party could temporarily "cross over" to cast votes for candidates of another party, so that any voters might not necessarily be the most popular choices among their own party members. Indeed, many Democrats believe that this is exactly what happened in 1972, when George Wallace won the Michigan Democratic presidential primary. To help ensure that Democratic winners in presidential primaries were chosen by Democrats only, prior to the 1980 presidential election, the National Democratic Party adopted a rule that prevented its members from recognizing the results of open presidential primaries in making their selection of delegates to the national nominating convention. Michigan Republicans then decided prior to 1984 not to use the presidential primary as a means of selecting delegates in 1984. In effect, this meant that the results of an open presidential primary in Michigan were not binding in any way on delegates to the Democratic convention in 1980 or to either the Democratic or the Republican convention in 1984. As a result of these actions, the Michigan Election Law was amended in 1983 to eliminate the presidential primary.

Eliminating the presidential primary resulted in both parties in Michigan choosing their nominee for President through party caucuses that selected delegates to their respective national conventions. This delegate selection process caused a great deal of negative publicity, particularly in the Republican party where competition for delegates among various candidates' supporters sparked a series of lawsuits and much ill will. There were numerous complaints that the caucus system in both major parties had become so complicated and confusing that it prevented the average person from effectively participating in the choosing of presidential candidates, and left the selection process open to manipulation by party officials.

This series of events preceded the adoption of Public Act 275 of 1988, which established a closed presidential primary system that required voters to register their party preference before voting. Great dissatisfaction with this method inspired both parties to modify their procedures for the 1992 primary, by party rule. The Democrats allowed voters to vote in the Democratic primary if the voters registered as Democrats on election day; the Republicans allowed persons to vote in the Republican primary without making a party declaration. While the changes in party rules made it less likely that a registered voter would be turned away at the polls, an examination of voting records still would reveal the party's primary in which the person voted. In response to further widespread dissatisfaction, Public Act 87 of 1995 removed the statutory requirement that a voter declare a party preference, and thus returned the

presidential primary to an open primary.

ARGUMENTS

BILL ANALYSIS

(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

Michigan is a large industrial state that is crucial to the success of a presidential candidate in the general election; as such, the State should have significant influence over the selection of presidential candidates. Because so many states have now scheduled their presidential primary elections before Michigan's primary, the influence of Michigan voters is in danger of being rendered irrelevant. If the candidates for president have already been chosen by the time Michigan's primary is held, the State's voters have in effect been disenfranchised. By making Michigan the first large state to conduct a primary, the bills would generate greater voter interest, encourage candidates to spend more of their time and resources campaigning here in an attempt to influence this State's voters, and ensure that Michigan's voters had a more important voice in the question of selecting presidential candidates.

Opposing Argument

The bills would make Michigan one of several states in recent years to advance the date of their presidential primary. It must be questioned when the leapfrogging will end. Frontloading the nominating process means that more states will have their primaries within a smaller time period, thus compressing the time available for campaigning and increasing the need for earlier, and more substantial, campaign funding. This could mean that only well-financed candidates with significant name recognition would be able to attempt to participate in the nomination process, thus reducing the pool of viable choices for President.

Opposing Argument

Advancing the date of the primary could result in lower participation by the voters. Senior citizens comprise a significant percentage of those who vote in primary elections. In February, many of them are in a warmer climate or unable to venture out in inclement weather.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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.