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Senate Bill 173 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Senate Committee: Government Operations
House Committee: Redistricting and Elections

PUBLIC ACT 269 of 2001

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CONTENT

The bill amended the Michigan Election Law to do the following:

- **Prohibit electors from voting a straight party ticket.**
- **Require the Secretary of State to perform certain duties in regard to the training of election officials.**
- **Provide that the ballots of voters who are not on registration lists must be processed as challenged ballots.**
- **Require unlisted voters to present pictured identification in order to cast a vote, if they do not have a registration receipt.**
- **Require a voter who has moved within a city or township to verify his or her change of residence, or vote in his or her former precinct, and submit an address correction before being permitted to vote.**
- **Require that electronic tabulating equipment be programmed to reject ballots containing certain types of errors; and require that voters be given an opportunity to correct the errors.**
- **Specify that a stray mark made in a predefined area on a ballot is not a valid vote; require election inspectors to determine whether a mark is a stray; and require the Secretary of State to issue instructions relevant to stray marks.**
- **Require an expedited canvass if unofficial results for a U.S. presidential election show a vote differential under 25,000 votes.**
- **Add misdemeanor offenses concerning campaign yard sign theft and paid election advocacy by local employees who perform election-related duties.**

A more detailed description of the bill follows.

Straight Party Ticket

The bill prohibits an elector from voting a straight political party ticket in an election to choose the officeholders for more than one elective office. The bill states, "...that is, [an elector is prohibited] from voting for all of the candidates for elective office who are on the ballot representing a single political party by a single selection on the ballot." A ballot that would violate this prohibition may not be produced, printed, or distributed.

The bill deleted language pertaining to straight party voting in sections that deal with the official ballot form, the way voters should mark their ballots, emergency ballots, electronic voting systems, different parts of a ballot, and vote counting.

Election Official Training

Under the bill, the Secretary of State (SOS) must require each local jurisdiction to report a detailed plan for the instruction of its precinct inspectors. The report must include the dates and times of scheduled precinct inspector training sessions, and be submitted through the qualified voter file system as prescribed by the SOS.

Section 33 of the Election Law requires the Director of Elections to conduct training schools for county clerks and their representatives with respect to conducting elections, and to train all county, city, and township clerks who are involved in the training of precinct inspectors. Under the bill, the SOS must require each county, city, and township election commission that conducts

precinct inspector training sessions to submit a biennial report listing the individuals who attain accreditation to conduct training schools under Section 33.

The Law also requires the SOS to establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school election officials, and to establish and require attendance by each new election official at an initial course of instruction within six months after the official's election or appointment. Under the bill, the SOS must require each county, city, township, and village election commission and each school board to submit a biennial report attesting that the local unit's clerk or the school board's secretary is accredited under these provisions. If that election official is not accredited, the election commission's or school board's report must explain why not and specify the date by which the official will be accredited.

In addition, the bill requires the SOS to request an appropriation of sufficient money to produce a comprehensive training video for distribution to each precinct chairperson and vice-chairperson.

Challenged Ballots

Unlisted Voters. Under certain conditions, the Law requires election inspectors to allow a person to vote if he or she has applied to register to vote and appears at a polling place on election day, but is not listed in the registration records or precinct voting list. The bill extends these provisions to someone not listed in the qualified voter file. Also, under the bill, if an individual complies with the requirements so that the election inspectors are required to allow him or her to vote, the person's ballot must be considered a challenged ballot and processed as described in Section 745 of the Law. (Under Section 745, when a person has been challenged as an unqualified voter and has taken an oath provided by law, an election inspector must endorse on the ballot, before depositing it in the ballot box, the number corresponding to the number placed after the voter's name on the poll lists.)

Under the Law, an unlisted person must be allowed to vote if he or she presents a receipt verifying the acceptance of an application,

completes a new application, and otherwise meets the qualifications to vote in that city or township. If the person cannot present a receipt but otherwise meets the qualifications to vote, the person must be allowed to vote if he or she signs an affidavit affirming that he or she submitted an application, and completes a new application. Previously, the person also had to provide proof of identification sufficient to satisfy the clerk as to the voter's identity and residence. Under the bill, instead of providing proof of identification satisfactory to the clerk, the voter must provide picture identification sufficient to verify his or her identity and residence.

Absent Voters. Under the Law, if an absent voter did not receive an absent voter ballot that he or she applied for, or lost or destroyed an absent voter ballot he or she received, and wishes to vote in person in his or her precinct on election day, the absent voter must sign an affidavit to that effect before an election inspector. Previously, the voter had to be allowed to vote but was subject to challenge as provided in Section 727 of the Law. The bill provides, instead, that if the elector signs the affidavit, he or she must be allowed to vote a ballot that must be considered a challenged ballot and processed as required in Section 745.

(Section 727 requires an election inspector to challenge a person applying for ballots if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. An inspector also may challenge a person who has previously applied for an absent voter ballot and claims that he or she lost or destroyed it or never received it. When a challenge is made under this section, the inspector must identify any ballot voted by the individual, make a written report including specific information, and make the report a part of the election record.)

Change of Residence

Previously, the Law required a clerk to update the registration of a voter upon receiving reliable information that the voter had changed his or her residence within the city or township. The clerk also had to mail the voter

a notice of the transfer informing the voter that he or she was registered at the new address, and include a postage prepaid and preaddressed return card on which the voter could verify or correct the address information. The bill deleted these requirements.

Under the bill, upon receiving reliable information that a registered voter has moved his or her residence within a city or township, the clerk must send to the voter, by forwardable mail, all of the following:

- A notice that the clerk has received information indicating that the voter has moved his or her residence within the city or township.
- A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

The clerk also must send the voter, by forwardable mail, a notice explaining that, if the address information is correct and the voter has moved his or her residence within the city or township, the voter should complete and return the card to the clerk with a postmark of at least 30 days before the date of the next election. If the voter has moved his or her residence within the city or township and does not complete and return the card within that time limit, he or she will be required to vote in his or her former precinct of residence in the city or township. The voter also will be required to submit an address correction before being permitted to vote.

Electronic Voting Systems

Tabulating Equipment. Under the Law, an electronic voting system must permit each elector to vote for all persons and offices for whom and for which the elector is entitled to vote, and to vote for or against any question upon which the elector is entitled to vote. In addition, an electronic voting system must permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice.

Previously, electronic tabulating equipment that could detect and inform an elector voting in person that he or she had made too many choices, had to give the elector an opportunity to correct the error before rejecting the recorded choices. Also, electronic tabulating

equipment that could detect and inform an elector voting in person that he or she had voted for candidates of more than one political party in a primary, had to give the elector an opportunity to correct the error before rejecting the ballot. The bill deleted these provisions.

Under the bill, electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceed the number that the elector may vote for, or detect that an elector in a primary has voted for candidates of more than one political party, must be programmed to reject a ballot containing that type of an error.

The bill requires an electronic voting system to reject a ballot on which no valid vote is cast. Also, electronic tabulating equipment must be programmed to reject a ballot on which no valid vote is cast.

If electronic tabulating equipment rejects a ballot due to the required programming, the elector must be offered an opportunity to correct the error by voting a replacement ballot. If the voter refuses to accept this opportunity, the rejected ballot must be accepted and tabulated as voted.

In addition, if electronic tabulating equipment rejects an absent voter ballot due to the required programming, the rejected ballot must be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed may not be counted.

Stray Marks. Previously, if an electronic voting system required an elector to cast a vote by marking or stamping a predefined area on the ballot, the vote could not be considered valid unless there was a mark or stamp within that area, and it was clearly evident that the intent of the voter was to cast a vote. In determining the voter's intent, the board of canvassers or election official had to compare the mark or stamp subject to recount with other marks or stamps appearing on the ballot.

The bill deleted reference to the voter's intent (as well as references to a stamp). The bill specifies that a stray mark made within the predefined area is not a valid vote. In

determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official must compare the mark subject to recount with other marks appearing on the ballot.

The bill also requires the Secretary of State to issue instructions relevant to stray marks to ensure the fairness and uniformity of determinations made under these provisions. An instruction relevant to stray marks may not be applied to a ballot unless the SOS issued it at least 63 days before the election.

The bill made the same changes in the rules that govern counting and recounting votes.

U.S. President Vote Differential

Under the bill, when the official election results show that the election of President and Vice President of the United States is determined by a vote differential between the first and second place candidates of less than 25,000 votes, the Secretary of State must direct the boards of county canvassers to canvass returns on an expedited schedule. The SOS must direct the boards to complete the statements required by the Law and certify them by the seventh day after the election or by a date before the 14th day after the election. (Under the Law, after canvassing returns, a board of county canvassers must prepare a statement containing specified information, and the clerk of the board must deliver to the Secretary of State a certified copy of the statement and a certificate of authenticity.)

The bill also requires the SOS to appoint the day for the Board of State Canvassers to conduct the expedited canvass of the returns and determine the results of the election. The day appointed must be as soon as practicable after the receipt of the returns from the county boards, but not later than the 20th day after the election.

Misdemeanors

The bill makes it a misdemeanor to promise or give valuable consideration in exchange for stealing a campaign yard sign or for a stolen campaign yard sign; or to steal, or receive valuable consideration for stealing, a campaign yard sign.

Also, under the bill, an individual who receives compensation from a county, city, township, village, or school district for performing election-related duties, is prohibited from accepting, directly or indirectly, valuable consideration for performing work to support or oppose the nomination or election of a candidate or the passage or defeat of a ballot proposal. Further, a person may not offer, directly or indirectly, valuable consideration to an individual for performing work to support or oppose the nomination or election of a candidate or the passage or defeat of a ballot proposal if that individual receives compensation from a county, city, township, village, or school district for performing election-related duties. A violation of these provisions is a misdemeanor.

Removal of Name from Ballot

Under the Law, a person holding public office in the State or a municipal subdivision may become a candidate for delegate to county or district conventions. The county clerk must remove a candidate's name from the ballot if a township or city clerk reports that the candidate is not a registered elector or a bona fide resident of the election precinct of the township or city for which the petition shows the candidate is a resident. Under the bill, however, a county clerk may not remove a candidate's name from the ballot if the sole reason that the candidate no longer resides in the precinct is as a result of a division, consolidation, or rearrangement of the precinct under Section 656, 658, or 661 of the Law. (Those sections provide for precincts to divide, consolidate, or be rearranged based on population and whether paper ballots or voting machines are used.)

If a county clerk does not remove a candidate's name for this reason, the clerk must notify the candidate about the change in his or her precinct boundaries, that the candidate remains a qualified candidate, and that his or her name will appear on the ballot for the precinct in which he or she currently resides.

Other Provisions

Name on Ballot. Under the Law, in a primary election, if a candidate for an elective office has the same given name and surname as the person last elected to that office, and if the

person last elected is not seeking renomination, the ballot must indicate that the candidate is not the present officeholder. The bill provides that, for the purpose of this requirement, a candidate's and an officeholder's surnames may not be considered different solely because one or both of them include a generational designation.

Voter Inactivity. Section 509 of the Law required township, city, and village clerks to examine voter registration records each December. This section also provided that if an elector had not voted, continued or reinstated his or her registration, or recorded a change of address within five years preceding the examination, the clerk could consider the five-year inactivity as reliable information that the elector had moved from the township, city, or village, and the clerk had to follow the Law's procedure for canceling the registration. The bill repealed Section 509.

Forwarding Lists. The Law requires officers of the State central committee of each political party, after a party convention, to mail a list of nominees for statewide elections to the Secretary of State. Previously, the central committee officers also had to send the list to the board of election commissioners of each county. Under the bill, the SOS is required to forward a copy of the list to the county boards.

MCL 168.31 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

State. The bill requires that the Secretary of State request an appropriation for the production and distribution of an election worker training video to be distributed to the chair and vice chair of each precinct. Since there are 5,376 precincts in the State, 10,752 videos are required. The Department of State estimates that an appropriation of \$70,000 would be required for initial production and distribution costs, with an additional \$35,000 appropriation required every two years for redistribution.

There will be no fiscal impact on State (or local) government from the enactment of

provisions specifying how a candidate's name is to appear on petitions or a ballot, and specifying the handling of stray marks on a ballot.

Municipal Jurisdictions. An indeterminate fiscal impact on city, township, and village clerks related to the cost of election workers can be expected from three provisions in the bill: (1) the elimination of straight-ticket voting, (2) the requirement for a voter to provide a picture identification and fill out a challenge ballot if the voter's name does not appear on the registration list, and (3) the requirement for electronic tabulating equipment to be programmed to reject ballots with certain errors. These changes will lengthen the time electors spend at a voting location on election day. Some jurisdictions might choose to hire additional election workers in order to alleviate increased congestion within precincts. The salary of election workers is determined by the local jurisdictions and varies across the State. Additionally, those municipal jurisdictions that train their own workers might experience a change in costs depending on the new training and reporting requirements issued by the Secretary of State under this bill.

County Jurisdictions. An indeterminate fiscal impact on county clerks' offices will result from the implementation of additional training and reporting requirements for election workers. While election workers are hired and paid by municipal clerks, the training of election workers for small municipal jurisdictions is handled by the county clerks' offices. The additional costs will depend upon the number of workers being trained, the exact training requirements, the voting systems used, and other factors that vary by county.

Under this bill, the trigger for an expedited canvass of a presidential election changes from 2,000 votes or less to 25,000 votes or less. Under this new standard, in the 2000 presidential election, a vote differential of 0.58% or less of the votes cast would have triggered an expedited canvass. The 25,000 vote trigger is much higher than the previous trigger and more expedited canvasses may be expected; thus potentially increasing expenditures for county canvassing boards.

Corrections. The bill's misdemeanor provisions will have no fiscal impact on the Department of Corrections and an indeterminate impact on local governments. There are no data to indicate how many individuals will be convicted of a misdemeanor for any of the new offenses. Offenders convicted of a misdemeanor are subject to probation or incarceration in a local facility. Local units incur the cost of probation as well as the cost of incarceration, which may vary between \$27 and \$62 per day.

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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.