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Senate Bill 1276 (as reported without amendment)
Sponsor: Senator Michelle A. McManus
Committee: Campaign and Election Oversight

(as passed by the Senate)

Date Completed: 7-15-08

RATIONALE

Under the Michigan Election Law, the Secretary of State is the chief election officer of the State and has supervisory control over local election officials in the performance of their duties under the Law. Because of allegations that the Detroit city clerk was improperly influencing absentee votes during the 2005 Detroit city elections, a Wayne County circuit court judge ordered the State Elections Bureau and the Wayne County clerk to take over the supervision of Detroit's absentee ballots and assigned the task of counting those ballots to State officials. The Secretary of State then asked the Governor for police assistance in securing the absentee ballots. The Governor decided that police assistance was necessary and directed the State Police to assist in protecting the ballots as they were stored and counted.

While the State Police readily assisted election officials in that situation, some people believe that the Department of State Police should be required by law to provide assistance in similar situations in the future, upon the Secretary of State's request.

CONTENT

The bill would amend the Michigan Election Law to require the Department of State Police, at the request of the Secretary of State or his or her authorized agent, to provide assistance to protect the integrity of the election process and enforce provisions of the Law.

Proposed MCL 168.38

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

The Secretary of State is a constitutional officer and the head of elections in Michigan. He or she should have at his or her disposal reasonable means to protect the integrity of the election process and election results, including the ability to obtain law enforcement assistance by making a direct request to the State Police.

Opposing Argument

The Secretary of State should not be granted authority that belongs to the Governor. By giving the Secretary authority over the Department of State Police, the bill would interfere with the established chain of command and could undermine the Governor's duties under the State Constitution. Under Article V, Section 8 of the State Constitution, the Governor must supervise each principal department in the State unless otherwise provided in the Constitution and must take care that the laws are faithfully executed. In law and in practice, the Department of State Police operates under a chain of command that culminates in the Director, who reports to the Governor and serves at the discretion of the Governor and the Legislature. The authority of the Governor to direct the limited resources of the State Police in the execution of State law is vital to the public safety and should not be hampered.

Response: The Election Law already contains a provision similar to that

proposed by the bill, in that it requires the police to assist an election official at his or her request. Under Section 520, if a township, city, or village clerk knows that there is probable illegal or fraudulent registration in his or her township, city, or village, or in any ward or precinct, he or she must investigate the facts concerning that registration and ascertain whether any names have been illegally or fraudulently registered. The section provides, "[S]uch clerk is hereby authorized and empowered to call upon the police department of the city or the sheriff of his county, or both, to assist in making such investigation, and *said police department and said sheriff are hereby required to render such assistance whenever such clerk shall make request therefore...*" (emphasis added).

This provision has not disrupted the chain of command and has not been ruled unconstitutional.

Opposing Argument

There has never been an instance in which the Governor denied police assistance to the Secretary of State or elections officials. During the 2005 Detroit city election, the Secretary requested and received police assistance by first asking the Governor, who decided that police assistance was necessary. Any person is and should be able to request police assistance in protecting the election process. The bill would call into question this ability by suggesting that formal authority is required to exercise it.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

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

Fiscal Analyst: Bruce Baker

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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.