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BILL ANALYSIS

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House Bills 4169 and 4170 (as passed by the House)
House Bill 4171 (Substitute H-2 as passed by the House)
Sponsor: Representative Dave Pagel (H.B. 4169)
Representative Kevin Cotter (H.B. 4170)
Representative Bradford C. Jacobsen (H.B. 4171)
House Committee: Elections and Ethics
Senate Committee: Local Government and Elections

Date Completed: 5-15-13

CONTENT

House Bill 4171 (H-2) would repeal provisions of the Michigan Election Law requiring the establishment of city and township boards of canvassers, delete references to those boards throughout the Law, and transfer their canvassing duties to county boards of canvassers.

House Bill 4169 would amend the General Law Village Act to require the results of an election on the proposed disincorporation of a village to be canvassed by the applicable board of county canvassers, rather than the board of canvassers of the village and the board of canvassers of each township in which the village is located, as required currently.

House Bill 4170 would amend the Community College Act to eliminate references to boards of city and township canvassers, and refer to boards of county canvassers, in provisions regarding community college district elections. Specifically, the bill would require the appropriate board of county canvassers to canvass the results of annexation elections in community college districts that consist of counties, and all elections in community college districts made up of school districts and intermediate school districts.

House Bill 4171 (H-2) is tie-barred to House Bills 4169 and 4170, which are both tie-barred to House Bill 4171.

House Bill 4171 (H-2) is described below in further detail.

The Election Law requires that a four-member board of canvassers be established in every county in the State, as well as in every city and township having more than five precincts. The bill would repeal Sections 30a through 30e, which contain the requirement for the city and township boards, and prescribe eligibility criteria, appointment procedures, meeting requirements, and compensation for board members.

All of the powers granted to and duties required by law to be performed by all boards of canvassers established by law, other than the Board of State Canvassers and the boards of canvassers in cities and townships with more than five precincts, are granted to and

required to be performed by the board of county canvassers. The bill would eliminate the references to the boards of city and township canvassers (effectively transferring their duties to the applicable board of county canvassers).

The bill also would eliminate references to boards of city and township canvassers, as applicable, and refer to county boards of canvassers in provisions related to the following:

- The appointment of members if a quorum is not present due to illness or absence of members.
- The canvassing of votes in school district elections and elections for city office.
- Recounts for primary elections and the certification of political party candidate nominations for general elections in townships.
- General nonpartisan primary elections to elect judges in a city with a population of at least 1.0 million and a municipal court of record having jurisdiction over felonies.
- Procedures to be followed in the case of discrepancies in an election district's returns, including those related to the recanvassing of votes, the examination and testing of voting machines, and the filing of a petition for a recount.

The bill also would repeal Section 360, which requires a township clerk to file in his or her office the township board of canvassers' original statement and determination of election results, and deliver to elected township officers a certificate of election.

Under the Law, immediately upon closing the polls, the board of election inspectors in each precinct must canvass the vote. After the ballots are counted, they must be packaged and sealed in a ballot container and delivered to the township, city, or village clerk, as applicable. Then, the election inspectors must prepare duplicate statements of the returns regarding votes cast for all offices voted that are to be canvassed by the board of county canvassers. The election inspectors also must prepare duplicate statements of the results on any proposed constitutional amendment or other propositions submitted to the voters that are to be canvassed by the board of county canvassers.

The Law requires that separate duplicate returns also be completed for all offices, propositions, or questions that are to be canvassed by a city or township board of canvassers. The bill would delete this requirement.

Under the Law, the board of election inspectors must seal a statement of returns and a tally sheet in an envelope and address it to the board of county canvassers in care of the judge of probate. The envelope must be delivered to the township or city clerk, who must deliver it to the judge for delivery to the board of county canvassers when it meets to canvass the returns. Additionally, the board of election inspectors must deliver the other statement of returns, together with the poll list, to the county clerk, who must compile unofficial returns and make them available to the public.

If a city or township election to be canvassed by a board of city or township canvassers is held at a time when no election returns must be forwarded to the board of county canvassers, the board of election inspectors must return all poll books, tally sheets, and returns to the city or township clerk, who must perform the duties required of county clerks. The bill would delete this requirement.

The board of county canvassers must correct obvious mathematical errors in the tallies and returns. If necessary for a proper determination, the board of county canvassers may summon the election inspectors before them, and require them to count any ballots that the inspectors failed to count, and to make correct returns in case, in the county board's judgment after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete. The board must canvass the votes from the corrected returns. Under the bill, in the alternative to summoning the election inspectors, the board of county

canvassers could designate staff members from the county clerk's office to count any ballots that the inspectors failed to count, and to make correct returns. The bill would retain the requirement that the board of county canvassers canvass the votes from the corrected returns under these circumstances.

The Law requires the board of county canvassers to determine and declare the result of the election for county and local officers, and for all county and local ballot questions. The bill would eliminate a requirement that the board of city or township canvassers in a city or township with more than five precincts canvass votes for city or township officer and ballot questions.

Currently, recount petitions for office or propositions, other than those filed with the Board of State Canvassers, must be filed with the clerk of the board of canvassers that originally conducted the canvass. The bill would refer to the Secretary of State, rather than the Board of State Canvassers. The bill also would refer specifically to the board of county canvassers in this provision, as well as other provisions pertaining to recount petitions and counter petitions.

MCL 74.18a (H.B. 4169)
389.21 et al. (H.B. 4170)
168.24a et al. (H.B. 4171)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bills 4169 and 4170

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

House Bill 4171 (H-2)

The bill would have no fiscal impact on the State.

Local units of government could see a potential saving with the elimination of local boards. The amount of potential saving is indeterminate and dependent on the number of local units ultimately affected.

Fiscal Analyst: Joe Carrasco

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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.