

## TEMPORARY MODIFICATION OF CITY ELECTION FILING DEADLINE

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**House Bill 4589 (H-3) as reported from committee**  
**Sponsor: Rep. Sheldon Neeley**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bill 329 (H-3) as reported from committee**  
**Sponsor: Sen. Jim Ananich**  
**House Committee: Elections**  
**Senate Committee: Elections & Government Reform**

**Complete to (5-27-15)**

**BRIEF SUMMARY:** The bills would allow a city clerk to adjust the nominating petition filing deadline of candidates for city offices in a case where candidates were notified of the wrong filing deadline by a city clerk (as is the case in Flint, Michigan for the 2015 municipal elections).

**FISCAL IMPACT:** The bills would not have a fiscal impact on state or local government.

### **THE APPARENT PROBLEM:**

The City of Flint (population 102,434), located in Genesee County, will hold municipal elections during 2015. In Flint, citizens expect to vote for mayor, as well as city councilmembers. Generally, 500 volunteers work in Flint's elections, their efforts in the city's nine wards coordinated by the Office of the City Clerk. In Flint, the city clerk is appointed by the elected city council.

To be included on the ballot, aspiring candidates circulate nominating petitions, seeking the signatures of electors. Those signed petitions are then submitted to the Office of the City Clerk, where the signatures are verified as being those of registered voters. If an adequate number of signatures is verified, the candidate's name is placed on the printed ballot for the upcoming election.

Throughout Michigan, the deadline to file nominating petitions for municipal posts was April 21, 2015—15 full weeks before the August 4 primary election.

An employee in the Flint City Clerk's office told aspiring candidates that the deadline to file their nominating petitions was April 28, 2015—a week later than the April 21 deadline. Consequently, none of the candidates who submitted nominating petitions qualified to appear on the ballot since all missed the filing deadline. (One candidate who did file petitions before April 21 had an insufficient number of signatures, and was declared ineligible to appear on the ballot.)

Without verified candidates, no August primary election will be held. And, without candidates' names on a printed ballot, voters must "write-in" the names of their preferred candidates during the November general election.

Legislation has been introduced, in both the House of Representatives and the Senate, to allow for a temporary exception to the 15-week filing deadline, thereby enabling city officials to print an election ballot having the names of candidates who properly filed nominating petitions a week late.

### ***THE CONTENT OF THE BILLS:***

House Bill 4589 and Senate Bill 329 are identical, and would amend Section 168.644f of the Michigan Election Law. A description of each bill follows.

#### **House Bill 4589**

House Bill 4589 (H-3) would allow a city clerk to adjust the nominating petition filing deadline of candidates for city offices in a case where candidates were notified of the wrong filing deadline by a city clerk. A more detailed description of the bill follows.

The bill specifies that until December 31, 2015, the nominating petition filing deadline for candidates running for city offices may be adjusted, if all of the following occurred:

- The city clerk published a nominating petition filing deadline that was different than the 15th Tuesday before the odd year primary election, and that the filing deadline published was between the 15th Tuesday and the 12th Tuesday;
- The city clerk did not publicly correct the filing deadline error at least two weeks before the 15th Tuesday; and
- One or more candidates for city office relied upon the incorrect filing deadline, and failed to file by the 15th Tuesday before the odd year primary election or the odd year general elections, and filed nominating petitions that contained a sufficient number of valid signatures.

Under the bill, if the Bureau of Elections (located within the Michigan Department of State) confirms all of the conditions noted above, then the bureau may authorize the city clerk to adjust the nominating petition filing deadline for that odd year primary or odd year general election from the 15th Tuesday to the incorrectly published filing deadline.

Further, under House Bill 4589 (H-3), a city that falls under these subsections of the law would be subject to all of the following:

- Until December 31, 2017, the city clerk would be required to attend, at least once annually, an election training school conducted by the state director of elections;
- Until December 31, 2017, the city clerk would be required to submit a) nominating petitions to the Genesee county clerk for final approval as to form, before those

petitions are circulated for signatures, and b) any election filing deadline calendars (and correspondence related to those calendars) to the Genesee county clerk, before providing them to the public;

- In 2015, 2016, and 2017, the secretary of state would be required to conduct a post-election audit after each November election;
- No later than October 1, 2015, the secretary of state would be required to conduct an administrative audit of the city clerk's election operations, and report the results to the House and Senate committees dealing with elections;
- Until December 31, 2015, the secretary of state would be required to conduct pre-election precinct election inspector training for those acting as precinct election inspectors at any August or November election held in the city; and
- Beginning January 1, 2016 and continuing until December 31, 2017, those acting as precinct election inspectors at any August or November election would be required to attend a pre-election training school for election inspectors conducted by the Genesee county clerk.

Finally, the bill specifies that the requirements listed above would not apply to a new city clerk.

#### Senate Bill 329

Like House Bill 4589 (H-3) which is identical, Senate Bill 329 (H-3) would allow a city clerk to adjust the nominating petition filing deadline of candidates for city offices in a case where candidates were notified of the wrong filing deadline by a city clerk. A more detailed description of the bill follows.

The bill specifies that until December 31, 2015, the nominating petition filing deadline for candidates running for city offices may be adjusted, if all of the following occurred:

- The city clerk published a nominating petition filing deadline that was different than the 15th Tuesday before the odd year primary election, and that the filing deadline published was between the 15th Tuesday and the 12th Tuesday;
- The city clerk did not publicly correct the filing deadline error at least two weeks before the 15th Tuesday; and
- One or more candidates for city office relied upon the incorrect filing deadline, and failed to file by the 15th Tuesday before the odd year primary election or the odd year general elections, but filed nominating petitions that contained a sufficient number of valid signatures.

Under the bill, if the Bureau of Elections (located within the Michigan Department of State) confirms all of the conditions noted above, then the bureau may authorize the city clerk to

adjust the nominating petition filing deadline for that odd year primary or odd year general election from the 15th Tuesday to the incorrectly published filing deadline.

Further, under Senate Bill 329 (H-3), a city that falls under these subsections of the law would be subject to all of the following:

- Until December 31, 2017, the city clerk would be required to attend, at least once annually, an election training school conducted by the state director of elections;
- Until December 31, 2017, the city clerk would be required to submit a) nominating petitions to the Genesee county clerk for final approval as to form, before those petitions are circulated for signatures, and b) any election filing deadline calendars (and correspondence related to those calendars) to the Genesee county clerk, before providing them to the public;
- In 2015, 2016, and 2017, the secretary of state would be required to conduct a post-election audit after each November election;
- No later than October 1, 2015, the secretary of state would be required to conduct an administrative audit of the city clerk's election operations, and report the results to the House and Senate committees dealing with elections;
- Until December 31, 2015, the secretary of state would be required to conduct pre-election precinct election inspector training for those acting as precinct election inspectors at any August or November election held in the city; and
- Beginning January 1, 2016, and continuing until December 31, 2017, those acting as precinct election inspectors at any August or November election would be required to attend a pre-election training school for election inspectors conducted by the Genesee county clerk.

Finally, the bill specifies that the requirements listed above would not apply to a new city clerk.

#### ***HOUSE COMMITTEE ACTION:***

The members of the House Elections Committee reported out both House and Senate companion bills—House Bill 4589 (H-3) and Senate Bill 329 (H-3). The bills are identical.

The Election Committee members amended the Senate-passed version of Senate Bill 329 to ensure six new accountability measures, as follows:

- First, require the city clerk to attend an election training school conducted by the state bureau of elections;

- Second, for three years, require the city clerk to submit nominating petitions, election filing deadline calendars, and related correspondence to the Genesee county clerk before providing them to the public;
- Third, for three years, require the secretary of state to conduct a post-election audit after each November election;
- Fourth, before October 1, 2015, require the secretary of state to conduct an administrative audit of the city clerk's election operations, and report the results to the House and Senate committees dealing with elections;
- Fifth, until December 31, 2015, require the secretary of state to conduct pre-election precinct election inspector training for the August or November elections; and
- Sixth, during 2016 and 2017, require precinct election inspectors to attend a pre-election training school for election inspectors conducted by the Genesee county clerk.

Finally, the members of the House Elections Committee added a provision to the Senate-passed version of Senate Bill 329 that specifies these requirements would not apply to a new city clerk.

## ***ARGUMENTS:***

### ***For:***

This legislation corrects an unintentional and much-regretted error by an employee in the Office of the Flint City Clerk. The bills' proponents make three arguments:

First, the bill would allow candidates for the offices of mayor and city councilmember who have filed nominating petitions containing a sufficient number of signatures, to appear on a written ballot in both the August primary and the November general elections.

Second, the legislation would preserve the August primary election. Unless the legislation is passed, the August primary election will be cancelled, there being no verified candidates who have filed valid nominating petitions.

Third, the legislation will cancel the need for many costly and confusing 'write-in' campaigns. Without the legislation, voters would have to 'write-in' all the names of their preferred candidates during the November general election.

### ***For:***

The legislation comprises two identical bills—one having originated in the Senate, the other in the House.

The Senate-passed version of the original bill has been amended to strengthen its accountability provisions. Under the amended version, the employees within the Office of the Flint City Clerk, and the city clerk, will be required to attend on-going professional development sessions sponsored by the state Bureau of Elections (located within the Department of State), and the Genesee county clerk. In addition, the state will conduct

audits of the Flint election operations, and report its findings to the election committees of the House and Senate.

***Against:***

Some have questioned whether legislation is necessary, because the law currently provides for a process that corrects this error—that is, the "write-in" election campaign.

***Response:***

A cancelled August primary election, and November general election ballot without any printed names of candidates would cause confusion (at best) and chaos (at worst) for Flint voters.

***POSITIONS:***

The Flint City Clerk supports the bills. (5-20-15)

The Genesee County Clerk supports the bills. (5-20-15)

One mayoral candidate, whose petitions were denied for an inadequate number of signatures, opposes the bills. (5-27-15)

The Michigan Department of State is neutral on the bills. (5-20-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.