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BILL



ANALYSIS

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House Bill 4892 (Substitute H-1 as passed by the House)
Sponsor: Representative Lee Chatfield
House Committee: Elections and Ethics
Senate Committee: Elections and Government Reform

Date Completed: 9-11-17

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Allow an adjustment to be made in the nominating petition filing deadline for candidates for city offices in the 2017 election, if a city clerk published a filing deadline different from the deadline set in the Law, the clerk did not publicly correct the error within a certain time frame, and candidates relied on the incorrect deadline.**
- **Require the Secretary of State to direct the city clerk to include on the general election ballot the names of all eligible candidates who properly filed nominating petitions by the 11th Tuesday before the August primary election.**
- **Require the city clerk who made the error to attend an election training school and submit nominating petitions and other items to the Secretary of State; and provide that the city would be subject to a \$2,500 civil fine.**
- **Require the Secretary of State to conduct postelection audits in the city in 2017, 2018, and 2019, and to conduct an administrative audit of the city clerk's elections operations.**
- **Require the Secretary of State to conduct pre-election precinct election inspector training for inspectors at any August or November election held in the city in 2017.**
- **Require the precinct election inspectors at an August or November election held in the city to attend a pre-election training school conducted by the county clerk in 2018 and 2019.**
- **Provide that, beginning January 1, 2018, a city would be subject to a civil fine of \$5,000 if it published a filing deadline different from the deadline set in the Law, the deadline were not publicly corrected within a certain time frame, and potential candidates relied on the incorrect deadline after 2017.**

Nominating Petition Adjustment; Ballots

The Law requires nominating petitions for offices to be filed at the odd year general election to be filed by 4 p.m. on the 15th Tuesday before the odd year primary election. The bill would make an exception to that requirement.

Until December 31, 2017, the bill would allow the nominating petition filing deadline for candidates for city offices to be adjusted if all of the following occurred:

- The city clerk published a nominating petition filing deadline that was different from the 15th Tuesday before the odd year primary election or the odd year general election, and the published deadline was after the 15th Tuesday but not later than the 11th Tuesday before the applicable odd year primary election or the odd year general election.
- The city clerk did not publicly correct the filing deadline error at least two weeks before the 15th Tuesday before the odd year primary election or the odd year general election.
- One or more candidates for city offices in that city relied upon the incorrect nominating petition filing deadline, failed to file nominating petitions by the 15th Tuesday before the odd year primary or the odd year general election, and filed nominating petitions by the filing deadline published by the city clerk, and the petitions were determined by the city clerk to contain a sufficient number of valid signatures.

If the Bureau of Elections confirmed that all of those conditions were met, the Bureau could authorize the city clerk to adjust the nominating petition filing deadline for that odd year primary election or that odd year general election from the 15th Tuesday before the primary election or the odd year general election to the incorrectly published deadline.

The bill would require the Secretary of State to direct the city clerk to place all eligible candidates who properly filed sufficient nominating petitions by the 11th Tuesday before the primary election on the general election ballot.

City Clerk Requirements

The city clerk of a city that became subject to the bill's provisions in 2017 would be required to attend at least once annually until December 31, 2019, an election training school conducted by the Director of Elections.

Also, until December 31, 2019, the city clerk would be required to submit nominating petitions to the Secretary of State for final approval as to form before the petitions were circulated for signatures. In addition, the clerk would be required to submit to the Secretary of State any election filing deadline calendars and any correspondence relating to those calendars before they were provided to the public.

Secretary of State Audits

The bill would require the Secretary of State to conduct a postelection audit after each November election held in 2017, 2018, and 2019 in a city subject to the bill.

The bill also would require the Secretary of State to conduct an administrative audit of the city clerk's elections operations and to report the results of that audit to the Senate and House committees dealing with elections, by February 28, 2018.

Election Inspector Training

Until August 31, 2018, the bill would require the Secretary of State to conduct pre-election precinct election inspector training for those acting as precinct election inspectors at any August or September election held in a city that was subject to the bill.

Between September 1, 2018, and December 31, 2019, those acting as precinct election inspectors at any August or November election held in the city would be required to attend a pre-election training school for election inspectors conducted by the clerk of the county in which the city is located.

Fines

A city that became subject to the bill in 2017 would be subject to a civil fine of \$2,500.

Beginning January 1, 2018, a city would be subject to a civil fine of \$5,000 if all of the following occurred.

- The city clerk published a nominating petition filing deadline that was different from the 15th Tuesday before the odd year primary election or the odd year general election and the nominating petition filing deadline published by the city clerk was after the 15th Tuesday but before the 11th Tuesday before the odd year primary election or the odd year general election.
- The city clerk did not publicly correct the filing deadline error at least two weeks before the 15th Tuesday before the odd year primary election or the odd year general election.
- One or more candidates for city offices in that city relied upon the incorrect nominating petition filing deadline, failed to file nominating petitions by the 15th Tuesday before the odd year primary election or the odd year general election, and filed nominating petitions by the filing deadline published by the city clerk that were determined by the city clerk to contain a sufficient number of valid signatures.

The civil fines collected under the bill would have to be paid to the State Treasury and credited to the Department of State for enforcement of Section 644f of the Law (the section the bill would amend).

MCL 168.644f

BACKGROUND

Public Act 276 of 2012 amended the Michigan Election Law to, among other things, move the deadline for filing nominating petitions for candidates for city office from the 12th Tuesday before the primary election to the 15th Tuesday before the primary. In 2015, though the 15th Tuesday before the primary election was April 21, the Flint city clerk published an April 28 deadline. As a result of this error, no mayoral candidates met the statutory deadline that would allow them to appear on the ballots. Public Act 43 of 2015 amended Section 644f of the Law to exempt those potential candidates from the 15-week deadline and allow city officials to print their names on the ballots.

In 2017, a similar event occurred when city clerks in the cities of Bessemer, Sault Ste. Marie, and Tecumseh evidently believed, mistakenly, that city charters took precedence over State law and published filing deadlines that were after the deadline set in Election Law. In Lake Angelus, the city clerk evidently misinterpreted the statutory deadline. As a result, a number of potential candidates in those four cities missed the deadline to file to run for office. In Tecumseh, only two people filed nominating petitions for three city council positions before the statutory deadline and qualify to be listed on the ballot in November. In Sault Ste. Marie, two candidates met the correct deadline while seven other potential candidates did not. In Bessemer and Lake Angelus, no potential candidate filed before the correct deadline.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

State: The bill would not have any significant cost to the Department of State. The trainings and audits that would be required by the bill are already in place and currently offered by the

Department. Any additional costs as a result of the bill would be absorbed within current annual appropriations.

Local: The bill would impose a civil fine of \$2,500 on a city that published an incorrect filing deadline and met other conditions described in the bill in 2017. Beginning January 1, 2018, the civil fine would increase to \$5,000 for a city that published an incorrect filing deadline and met other conditions. All fine revenue would be deposited with the State Treasury and credited to the Department of State to pay for any costs associated with enforcement of Section 644f of the Election Law.

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.