

MODIFY CANVASS BOARD ELIGIBILITY CRITERIA

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House Bill 5551 (H-3) as adopted on the House floor

Sponsor: Rep. Noah Arbit

Committee: Elections

Complete to 6-23-24

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

(Enacted as Public Act 227 of 2024)

SUMMARY:

House Bill 5551 would amend the Michigan Election Law to prohibit an individual from serving on the Board of State Canvassers (BSC) or on a board of county canvassers if they have been convicted of certain election crimes.

Currently, individuals are appointed to the BSC to serve a four-year term from a list of five nominees from each political party—three from the state party and two from the legislature. Individuals are appointed to county canvass boards for a four-year term from a list of three nominees submitted by each party. (During the appointment process, county boards of commissioners may request a nominee to provide information on whether they have been convicted of a felony or an election crime but are not required to do so.)

Under House Bill 5551, an individual would be disqualified from serving either as a member of the Board of State Canvassers or as a member of a board of county canvassers if they have been convicted of an *elections-related offense*.

Elections-related offense would generally mean a misdemeanor or felony violation of the Michigan Election Law or certain federal election laws. (See **Background**, below, for the full list of qualifying offenses.)

MCL 168.22c and 168.24b

BACKGROUND:

Under House Bill 5551, any of the following would be considered an *elections-related offense*:

- Perjury related to a false statement made on an affidavit of identity.
- Intentionally disclosing an election result from an early voting site before the polls close on election day.
- Violating the Michigan Election Law's regulations for election challengers.
- Making a false statement in an absent voter ballot application, distributing and returning absentee ballot applications without authorization, or forging a signature on an absent voter ballot application.
- Knowingly making a false statement on an absent voter ballot return envelope while voting an absentee ballot or while assisting an absent voter.
- Causing the polls to be closed, disclosing an election result before the polls can legally be closed on election day, or characterizing how a legal ballot has been marked.
- Knowingly subscribing to a false statement in a certificate on a statement of vote returns as an election inspector.

- Making a false statement in a post-election campaign finance statement.
- Willfully committing any act that interferes with a fair and impartial recount as an officer, assistant, clerk, or employee engaged in conducting the recount.
- Giving, lending, or promising valuable consideration to or for any individual to influence the individual's vote relative to a candidate or ballot question or as a reward from refraining from voting.
- Receiving, agreeing, or contracting for valuable consideration for voting, refraining from voting, agreeing to vote or refrain from voting, inducing or attempting to induce another individual to vote or refrain from voting, doing anything prohibited by the Michigan Election Law, or distributing absent voter ballot applications and receiving signed applications for delivery to a clerk without authorization.
- Soliciting any valuable consideration from a candidate for nomination for or election to office, other than regular business transactions.
- Discharging or threatening to discharge an employee for the purpose of influencing the employee's vote.
- Attempting to influence a voter by imposing or threatening to impose a penalty of excommunication, dismissal, or expulsion, or by commanding or advising a voter under pain of religious disapproval.
- Failing to report at a designated polling place after accepting an appointment as an election inspector.
- Willfully failing to perform a duty imposed by the Michigan Election Law or disobeying a lawful instruction or order by the secretary of state, a board of election commissioners, or a board of election inspectors.
- Soliciting votes in a polling place or within 100 feet of an entrance to a building in which a polling place is located.
- Keeping a room or building to record or register bets or wagers or to sell pools upon the result of a political nomination, appointment, or election, or wagering or being the custodian of a wager on the result of a nomination, appointment, or election.
- Participating in a meeting of more than two individuals (other than immediate family) at which an absentee ballot is voted.
- Giving, lending, or promising any valuable consideration to or for an individual with the intention to induce them to distribute absent voter ballot applications to voters and receive signed applications for delivery to a clerk.
- Knowingly making, publishing, disseminating, or circulating an assertion, representation, or statement of fact concerning a candidate that is false, deceptive, scurrilous, or malicious without the true name of the author being ascribed to the assertion, or knowingly causing such an assertion, representation, or statement to be made, published, disseminated, or circulated.
- Attempting to influence or interrupt a voter or deterring an individual from voting by means of bribery menace, or other corrupt means.
- Breaking open or violating ballot box locks or seals before the final votes have been ascertained without legal authorization; willfully damaging or destroying, obtaining undue possession of, concealing, or withholding a ballot box or voting machine; fraudulently or forcibly amending the number of ballots legally deposited in a ballot box or the totals on a voting machine; or aiding or abetting in any of these activities.
- Willfully destroying, mutilating, defacing, falsifying, or fraudulently removing or concealing any vote or other election documents.

- Fraudulently making any entry, erasure, or alteration of a vote or other election document or allowing another person to do so.
- Obstructing or attempting to obstruct a voter in the exercise of their duties, including by disclosing the contents of a voted ballot.
- Opening an envelope containing an absentee ballot, marking or altering an absentee ballot, or substituting an absentee ballot with a different ballot without authorization.
- Possessing an absentee ballot that was mailed or delivered to another person or returning or soliciting to return an absentee ballot without authorization.
- Suggesting or otherwise attempting to influence an individual while assisting them with voting an absentee ballot or allowing another person to influence or attempt to influence that individual.
- Suggesting or otherwise attempting to influence an absent voter on how they would vote while they are voting their absentee ballot.
- Planning or organizing a meeting at which absentee ballots are to be voted.
- Falsely impersonating another person at an election, voting or attempting to vote under the name of another person, or inducing or attempting to induce a person to vote under another name.
- Using a false or fictitious name, offering to vote by a false or fictitious name, entering a false or fictitious name in a registration book, offering or causing a false or fictitious name to be entered, or inducing or attempting to induce another person to use or enter a false or fictitious name.
- Willfully offering or attempting to vote if not a qualified and registered Michigan voter.
- Aiding or counseling a person who is not a qualified and registered Michigan voter to vote or offer to vote.
- Offering or attempting to vote in the incorrect precinct without authorization.
- Procuring, aiding, or counseling an individual to enter a township, ward, or precinct to vote at an election while knowing that they are not qualified or registered to vote there.
- Offering or attempting to vote more than once at the same election.
- Intentionally misrepresenting oneself as an election official in a polling place.
- Making a false affidavit or falsely swearing under oath for the purposes of registering to vote, casting a ballot, or qualifying as a candidate for office.
- Knowingly making, filing, or otherwise publishing a false document or a document containing false signatures with the intent to defraud for any purpose under the Michigan Election Law.
- Violating federal prohibitions against conspiring to injure, oppress, threaten, or intimidate an individual in or because of the exercise of their right to vote.
- Violating federal prohibitions against acting under the appearance of legal authority to willfully deprive a person of their right to vote, refuse to allow a qualified individual from voting, or refuse to tabulate, count, or report a qualified individual's vote.
- Violating federal prohibitions against voting-related intimidation, threats, or coercion.
- Knowingly or willfully giving false information for the purpose of establishing voter eligibility or conspiring with another individual to provide false information or encourage illegal voting in a federal election.
- Violating federal prohibitions against knowingly and willfully falsifying or concealing a material fact; making false, fictitious, or fraudulent statements; or knowingly making or using a false document pertaining to an election.
- Voting more than once in a federal election.

- Knowingly and willfully depriving, defrauding, or attempting to deprive or defraud residents of a fair and impartial election process for a federal election by procuring or submitting false voter registration applications or by procuring, casting, or tabulating ballots known to be false or fraudulent.

BRIEF DISCUSSION:

Supporters of House Bill 5551 believe that it would be a common-sense safeguard to protect Michigan's elections from bad actors, which is necessary given the recent challenges to electoral processes. Those who are willing to violate the law to interfere with elections should not be involved in certifying the results; the violations included as election-related offenses in the bill are serious enough to permanently disqualify an individual from overseeing an election. Additionally, the Michigan Election Law prohibits those convicted of a felony or an election crime from serving as election inspectors at precincts, so individuals who serve on canvass boards should meet similar criteria.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bill (3-12-24):

- Department of State
- Voters Not Politicians

Pure Integrity for Michigan Elections indicated opposition to the bill. (3-19-24)

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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.