

ELECTION ADMINISTRATION AMENDMENTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 6054 and 6055 as reported from committee

Sponsor: Rep. Penelope Tsernoglou

Committee: Elections

Complete to 12-7-24

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

SUMMARY:

House Bill 6055 would modify several sections of the Michigan Election Law, many of which pertain to early and absentee voting procedures. House Bill 6054 is a companion bill that would make a complementary change to the Code of Criminal Procedure.

House Bill 6055 would amend the Michigan Election Law to make several changes to current regulations on early voting sites, early voting agreements, absentee ballots, and election equipment and administration.

Early voting agreements

Ballot Proposal 22-2 amended the state constitution to grant Michigan voters the right to participate in early voting for statewide and federal elections.¹ Early voters have the same rights and are subject to the same requirements as voters at polling places on election day. To administer early voting, state law provides that municipalities can choose between offering early voting as a single municipality or as a party to a municipal or county agreement.

House Bill 6055 would allow a municipality that offered early voting at a presidential primary election as a party to a municipal or county agreement to withdraw from the agreement and enter into a different municipal or county agreement for the remaining federal and statewide elections for that year and the following year, and for any other elections included in the agreement. (Such an agreement could be a new agreement or an amendment to an existing agreement that was in effect for the presidential primary if all existing parties agree to the amendment.) The municipality would have to withdraw by April 15 of the year in which the presidential primary is held.²

If a school district is holding an election and is partially or wholly located in a municipality conducting early voting, then the school district election coordinating committee would have to designate the clerk who is responsible for the school district election. The clerk could be designated in the existing school district election coordinating committee report as the clerk responsible for the school district election.

If a municipality that crosses county lines is part of a county agreement, the county that provided early voting for the municipality would have to conduct the canvass, certify that

¹ Most of the legislation implementing early voting in Michigan was enacted by 2023 PA 81. For a summary, see: <https://www.legislature.mi.gov/documents/2023-2024/billanalysis/House/pdf/2023-HLA-0367-4BED7BA9.pdf>.

See also: https://www.house.mi.gov/hfa/PDF/Alpha/Background_Brief_Proposal_22-2_Jan2024.pdf.

² Michigan's presidential primary election is currently held on the fourth Tuesday in the February of a presidential election year.

county's portion of the canvass, and transmit the results of the municipality's canvass to the other county, which would then have to certify its portion of the canvassed results for the municipality.

Early voting agreement amendments and withdrawal

The bill would also allow parties to a municipal or county early voting agreement to change the agreement's early voting coordinator, the clerk responsible for the early voting poll book, the funding structure, and (if originally included in the agreement) the days, hours, and locations for early voting. Amendments would have to be made at least 60 days in advance of an election covered by the agreement, submitted as an addendum to the original agreement, signed by each municipal clerk who is a party to the agreement, and submitted to the secretary of state (SOS). Amendments to a municipal agreement would also have to be submitted to the appropriate county clerk.

Currently, a party to a county early voting agreement cannot withdraw from the agreement within 150 days before a general statewide and federal election until the county canvass is completed. House Bill 6055 would instead prohibit a party from withdrawing during the 180 days before a general election until after the county canvass is completed. (The bill would not change the 150-day window that currently applies for other elections that may be covered by a county early voting agreement.)

The bill would also specify that a municipality that withdraws from a county agreement would have to conduct early voting independently. If a county withdraws, however, the agreement would be terminated, and each affected municipality would have to either enter into a municipal agreement with other municipalities in the county or conduct early voting as a single municipality within 14 days after the agreement is terminated.

Early voting sites

House Bill 6055 would require the clerk of each municipality to notify the Michigan Bureau of Elections (BOE) regarding the days, hours, and location of an approved early voting site, and post that information in a conspicuous place in their office, at least 50 days before the date of an election at which the early voting site will be used.

For each federal and statewide election, each elector in each municipality conducting early voting would have to be served by one or more early voting sites. (Current law instead provides that at least one early voting site must be open to all registered electors of the municipality.)

Additionally, each early voting site submitted for approval under a municipal or county agreement could serve all electors covered by the agreement, the electors in specific municipalities covered by an early voting site, the electors of part of one municipality, or any combination of these options, as long as each elector in each of the municipalities is served by at least one early voting site.

After the close of each day of early voting, boards of election inspectors currently must verify that the number of tabulated ballots equals the number of electors identified in the early voting poll book as being issued ballots at the early voting site that day and note the reason for any discrepancies. The bill would amend this provision to require election inspectors to include the number of absentee ballots that are brought to an early voting site to be tabulated as early voting ballots, in addition to the ballots issued to early voters, when making their verifications.

Absent military and overseas voter ballot applications

House Bill 6055 would require city and township clerks to place an absent military or overseas voter on the permanent mail ballot list upon receiving an application from such an individual to receive an absentee ballot for all future elections. Every year, the SOS would have to send a mail or electronic notice, in accordance with the voter's requested method of contact, to confirm their absentee voter status.

The voter would remain an absent military or overseas voter and would remain on the permanent mail ballot voter list if the voter responds to the notice to confirm their status as an absent military or overseas voter, the voter responds to confirm their status and change their address or method of transmission, or the notice is not returned as undeliverable.

A voter would no longer be considered an absent military or overseas voter and would have to be removed from the list if the voter responds and states that they are no longer an absent military or overseas voter, the notice is returned as undeliverable, or the city or township clerk otherwise determines that the voter is no longer an absent military or overseas voter.

An absent military or overseas voter who submits an absentee ballot application for all future elections would be a permanent mail ballot voter until they are removed from the permanent mail ballot voter list as provided above.

Absentee voter lists

House Bill 6055 would require an application created by the SOS or a city or township clerk for an individual to be placed on a permanent absent voter list to be in substantially the same form as that prescribed for the Michigan Election Law for absentee ballot applications.

Additionally, individuals would be able to complete an application for an absentee ballot for any single election, certain elections, or all elections in a calendar year. (Currently, an absentee ballot application submitted before a primary or presidential primary can be for either that primary only or for the primary and each following election in that year.)

Absentee ballot processing

When processing an absentee ballot approved for tabulation, House Bill 6055 would allow boards of election inspectors to compare the number on a ballot stub with the ballot number recorded for the elector in the Qualified Voter File (QVF), as an alternative to the number on the face of the absentee ballot return envelope.

If the numbers do not match or the ballot stub is missing, and there is no explanation for the discrepancy or missing stub, the ballot would have to be processed as a challenged ballot. (Current law only provides procedures for if the numbers *do* match, in which case the election inspectors must detach the stub, prepare the ballot for tabulation, and enter the voter into the poll book as having cast an absentee ballot.)

Voting booths

The bill would provide that clerks are responsible for determining how many voting booths are needed at a polling place and would remove a requirement that the walls of a voting booth be

at least six feet tall.³ (As is current law, voting booths would have to be built in such a manner that the walls conceal the voters from other individuals.)

Poll book software

The Michigan Election Law currently requires cities and townships to use BOE-approved electronic poll book software to process voters and generate precinct reports. The software must generally be downloaded after 4 p.m. on the day before an election, but clerks of cities and townships with more than 50 precincts can begin the download after 2 p.m. on the Saturday before election as long as supplemental lists are provided to capture any absent voter activity between the Saturday and Monday before the election.

The bill would provide that if the electronic poll book software has live connectivity to the QVF at a polling place or early voting site, then that software must be used to process voters and generate precinct reports, and the software downloaded on the Monday or Saturday before the election, or a paper copy of the download, serves as a backup.

Drop boxes

The bill would require each city or township to establish the absentee ballot drop box locations in that city or township at least 75 days before an election.⁴

Unofficial county-level results

The bill would require, rather than allow, county clerks to conduct unofficial counts to provide for early unofficial returns, which would have to be posted in a conspicuous place in the county clerk's office and (if available) on the county website.

The bill would provide that if it becomes impracticable to count all or part of the ballots with tabulating equipment, the uncounted ballots would be sealed in an approved ballot container and transported to the county to be counted at the canvass. (Currently, a county clerk can require a manual count of the ballots in these circumstances.)

Additionally, the bill would no longer require the sum of election day, absentee ballot, and early voting results for each precinct and contest to be published in the accumulation report of unofficial results. (The information would still have to be reported separately by these three categories.) City, township, and county clerks could choose to report the results using a format that clearly indicates the absent voter ballots processed and tabulated before election day.

Reports

Within seven days after an election, city and township clerks must transmit both of the following to their county clerk:

- A provisional ballot report for each precinct that includes the number of provisional ballots issued, tabulated on election day, forwarded to the clerk to be determined after the election, and tabulated by the clerk after election day, in addition to other information for each precinct.

³ Current law requires that there be at least one voting booth for every 100 individuals people entitled to vote at that polling place, based on the precinct registration book.

⁴ Current law requires each city and township to have a minimum of one absentee ballot drop box and at least one drop box for every 15,000 registered voters.

- An affidavit report that includes the number of affidavits signed by voters stating that they did not bring identification for election purposes.

The bill would instead require both reports to be submitted to the SOS and would require the provisional ballot report to additionally include the number of provisional ballots issued at an early voting site for each precinct.

The bill would remove provisions that currently require county clerks to transmit provisional ballot reports and affidavit reports to the SOS within 14 days after an election and require the reports to be immediately available for public inspection.

The bill would no longer require the SOS to provide a voter registration application report that includes the number of voter registration applications completed at a clerk's office during the 14 days before an election without providing identification for election purposes to the House and Senate committees dealing with elections.⁵

Additional provisions

The following information, which must currently be posted in a clerk's office and (if available) on the city or township website, would have to be in a conspicuous location in the clerk's office.

- Notice of the establishment and location of an election day vote center.
- Notice of the location where the precinct canvass of early votes will take place and the time the canvass will begin.⁶ (This information currently is only required to be posted on the municipality's website.)
- At least 18 days' notice of the location, dates, and hours of the absentee ballot counting place and the number of election inspectors who will process and tabulate those absent voter ballots. (If this information changes, another notice must be posted as soon as possible, but no later than the eleventh day before an election or by 10 a.m. on the day before the changes occur if processing and tabulation has already begun.)
- Unofficial accumulated returns of election results. (Currently, the Michigan Election Law only provides that the returns must be open to the public.)

The bill would provide that individuals could update their voter registration at their city or township clerk's office beginning on the fourteenth day before an election through the day of the election. (This procedure is currently available for individuals seeking to become registered to vote at their clerk's office on those days.)

After the polls close on election day, the precinct board of election inspectors would have to record the seal number on a ballot container certificate in the poll book or an addendum to the poll book after placing the ballots in the container.

MCL 168.305 et seq.

⁵ If an individual does not provide identification for election purposes, they can still become registered if they provide proof of residency, such as a current utility bill or bank statement, and sign an affidavit.

⁶ Clerks would no longer have to post the time that the precinct canvas will begin but would have to post a notice if the location of the canvass differs from the location of the early voting site.

House Bill 6054 would amend the sentencing guidelines provisions of the Code of Criminal Procedure to update a reference to the Michigan Election Law to reflect a paragraph numbering change that would be made by HB 6055. The bill is tie-barred to House Bill 6055, which means it cannot take effect unless House Bill 6055 is also enacted.

MCL 777.11d

BRIEF DISCUSSION:

According to committee testimony, House Bill 6055 is intended to address questions from clerks, particularly with respect to early voting, that arose with the implementation of Ballot Proposal 2022-2, which was in effect statewide for the first time in 2024. Supporters of the bill argue that it incorporates feedback from clerks to codify what worked well, such as the connected election day poll book, and revise sources of potential issues, such as by ensuring that the permanent voter list accounts for whether an individual is no longer an absentee military or overseas voter. Additionally, the bill intends to address issues that may arise if a county wants to withdraw from an early-voting agreement during an election cycle, since the deadline to withdraw is currently later than the deadline to create an early voting agreement. This can create instances where, if a county withdraws, the affected municipalities may not be able to partner to form a municipal agreement and each would then have to conduct early voting on their own. Supporters note that the bill would solve this problem by providing a 14-day window within which municipalities could partner to create an early voting agreement after a county withdraws.

Opponents of HB 6055 argue that it is too early to change how early voting is administered, since the results of the November general election have not been certified and there has not been enough time to fully evaluate how the new laws have worked. They also raise concerns that the bill would not provide enough clarification on how a city or township determines that an individual is no longer an absentee military or overseas voter and suggest that the fact that a message to an overseas voter was not returned as undeliverable should not be a sufficient reason to assume the individual wants to confirm their placement on the permanent absent voter list.

FISCAL IMPACT:

House Bill 6055 could result in minor reductions in costs to certain local county, city, and township clerk's offices to the extent that it may facilitate various efficiencies in the election administration process by allowing greater flexibility in making early voting site agreements amongst municipal and county clerks. Greater flexibility may result in better uses of resources, including paid staff and existing voting equipment. Potential savings would apply narrowly in only those circumstances in which local units are enabled to achieve such efficiencies in agreements.

House Bill 6054 is a companion bill to HB 6055 and amends sentencing guidelines. The bill would not have a direct fiscal impact on the state or on local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bills (11-12-24):

- Department of State
- Promote The Vote

The following entities indicated support for the bills (11-12-24):

- American Civil Liberties Union of Michigan
- Voters Not Politicians

A representative of Pure Integrity for Michigan Elections testified in opposition to House Bill 6055 and with a neutral position on House Bill 6054. (11-12-24)

Legislative Analyst: Holly Kuhn
Fiscal Analysts: Michael Cnossen
Robin Risko

■ 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.