

MICHIGAN ELECTION LAW (EXCERPT)

Act 116 of 1954

CHAPTER XVIIIA

JUDGES OF THE COURT OF APPEALS

168.409 Office of judge of court of appeals; eligibility.

Sec. 409. A person is not eligible for the office of judge of the court of appeals unless the person is a registered and qualified elector of the appellate court district in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and, at the time of election or appointment, is less than 70 years of age.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2018, Act 120, Eff. Dec. 31, 2018.

Popular name: Election Code

168.409a Candidates for appeals court judge; nomination at general nonpartisan primary election; omission.

Sec. 409a. A general nonpartisan primary election shall be held in every appellate court district of this state on the Tuesday succeeding the first Monday in August preceding every general November election in which judges of the court of appeals are to be elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of the court of appeals: Provided, however, That if, upon expiration of the time for filing petitions for the primary election of said judge of the court of appeals in any appellate court district, it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the secretary of state shall certify to the county board or boards of election commissioners the names of such candidates for court of appeals judge whose nominating petitions, filing fee or affidavit of candidacy have been properly filed, and such candidates shall be the nominees for judge of the court of appeals and shall be so certified. As to such office there shall be no primary election and this office shall be omitted from the judicial primary ballot.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409b Judge of court of appeals other than incumbent; candidate; nominating petitions; validity of filed petitions; using petition specifying new or existing judgeship to qualify candidate for another judicial office of same court prohibited; filing for election to more than 1 judgeship; incumbent judge as candidate in primary election; affidavit of candidacy; contents; primary and general election for 2 or more judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (8).

Sec. 409b. (1) To obtain the printing of the name of a qualified person other than an incumbent judge of the court of appeals as a candidate for nomination for the office of judge of the court of appeals upon the official nonpartisan primary ballots, there must be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the appellate court district as determined under section 544f. The provisions of sections 544a and 544b apply. The secretary of state shall receive nominating petitions up to 4 p.m. on the fifteenth Tuesday before the primary.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with subsection (8):

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

(3) Nominating petitions specifying a new or existing court of appeals judgeship may not be used to qualify a candidate for another judicial office of the same court in the same judicial district. A person who files nominating petitions for election to more than 1 court of appeals judgeship has not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state must be included in the heading of all nominating petitions. Nominating petitions

containing an improper office designation are invalid.

(5) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position subsequent to the deadline must bear an office designation of nonincumbent position. All signatures collected before the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

(6) An incumbent judge of the court of appeals may become a candidate in the primary election for the office of which he or she is the incumbent by filing with the secretary of state an affidavit of candidacy not less than 134 days before the date of the primary election. However, if an incumbent judge of the court of appeals was appointed to fill a vacancy and the judge entered upon the duties of the office less than 137 days before the date of the primary election but before the fifteenth Tuesday before the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office. The affidavit of candidacy must contain statements that the affiant is an incumbent judge of the court of appeals, is domiciled within the district, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the court of appeals.

(7) In the primary and general November election for 2 or more judgeships of the court of appeals in a judicial district, each of the following categories of candidates must be listed separately on the ballot, consistent with subsection (8):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for the judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(8) If the death or disqualification of an incumbent judge triggers the application of section 409d(2), then for the purposes of subsections (2) and (7), that judgeship must be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 409d(2).

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2018, Act 120, Eff. Dec. 31, 2018.

Popular name: Election Code

168.409c Candidates for nomination; withdrawal; notice.

Sec. 409c. After the filing of a nominating petition or affidavit of candidacy by or in behalf of a proposed candidate for the office of judge of the court of appeals, the proposed candidate is not permitted to withdraw unless he or she serves a written notice of withdrawal on the secretary of state or his or her duly authorized agent. The notice must be served not later than 3 days after the last day for filing nominating petitions if a nominating petition was filed for the proposed candidate, and not later than 3 days after the last day for filing affidavits of candidacy if an affidavit of candidacy was filed for the proposed candidate. If the third day falls on a Saturday, Sunday, or legal holiday, the notice of withdrawal may be served on the secretary of state or his or her duly authorized agent at any time on or before 4 p.m., eastern standard time, on the next secular day.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

Popular name: Election Code

168.409d Candidates for judge of court of appeals; declaration of nominees; certification of nomination; death or disqualification of candidate.

Sec. 409d. (1) In each appellate court district the candidates for office of judge of the court of appeals receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers and election precincts, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominees for the office at the next general November election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 409b, there are fewer candidates for nomination or nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days

before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 409b. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 409b, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners of each county in the appellate court district for the general November election.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

Popular name: Election Code

168.409e Judge of court of appeals; election; death or disqualification of nominee; term of office.

Sec. 409e. (1) Except as otherwise provided in this section, a judge or judges of the court of appeals shall be elected in each appellate court district at the general November election in which judges of the court of appeals are to be elected as provided by law.

(2) If there are fewer nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the court of appeals for which there is no nominee.

(3) The term of office for judge of the court of appeals shall be 6 years, commencing at 12 noon on January 1 next following his or her election and shall continue until a successor is elected and qualified.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

Popular name: Election Code

168.409f Appeals court judges; certificate of determination by board of state canvassers.

Sec. 409f. The board of state canvassers shall determine which candidate or candidates for the office of judge of the court of appeals in each district received the greatest number of votes and shall declare such candidate or candidates duly elected. The board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver it to the secretary of state.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409g Appeals court judges; certificate of election.

Sec. 409g. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the office of judge of the court of appeals a certificate of election certified by him and under the great seal of the state.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409h Appeals court judges; oath of office, filing.

Sec. 409h. Every person elected to the office of judge of the court of appeals before entering upon the duties of his office shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with the court administrator.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409i Appeals court judges; resignation, notice.

Sec. 409i. Any person duly elected to the office of judge of the court of appeals who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and the secretary of state.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409j Appeals court judges; vacancy, creation.

Sec. 409j. The office of judge of the court of appeals shall become vacant upon the happening of any of the

following events before the expiration of the term of office: the death of the incumbent; his resignation; his removal from office for cause; his ceasing to have his domicile in the district from which he was elected; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit it in the manner and within the time prescribed by law.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409k Appeals court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.

Sec. 409k. Any person holding the office of judge of the court of appeals may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any judge of the court of appeals upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in section 25 of article 6 of said constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy occurs in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator, with a copy to the governor.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409l Judge of court of appeals; appointment to fill vacancy; election of successor; term.

Sec. 409l. (1) If a vacancy occurs in the office of judge of the court of appeals, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 409b(8), the person appointed by the governor shall be considered an incumbent for purposes of this act. The person appointed by the governor shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 409d(2), if the vacancy occurs more than 7 days before the nominating petition filing deadline as provided in section 409b for the general November election that is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided for in this chapter for the election of judges of the court of appeals. The person elected shall hold office for the remainder of the unexpired term.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 31, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2014, Act 94, Imd. Eff. Apr. 3, 2014.

Popular name: Election Code

168.409m Appeals court judges; primary or election, recount of votes.

Sec. 409m. The votes cast for any candidate for judge of the court of appeals at any primary or election shall be subject to recount as provided in chapter 33 of this act.

History: Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

Popular name: Election Code

168.409n Appeals court judges; not subject to recall.

Sec. 409n. Judges of the court of appeals are not subject to recall as provided by section 8 of article 2 of the state constitution.

History: Add. 1964, Act 228, Eff. Aug. 28, 1964.

Popular name: Election Code