



# Bureau of Elections - Legislative Update

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July 17, 2012

Governor Snyder signed several election and campaign finance-related bills into law on July 3, 2012. Note that the full text of all new Public Acts can be found at the Michigan Legislature's website at [www.michiganlegislature.org](http://www.michiganlegislature.org). (Simply type in the bill number at the center left portion of the screen.) The final posted versions of House or Senate *concurring* bills will display the bill language in a manner that clearly highlights the law changes; the House or Senate *enrolled* bills will not display changes in this manner.

Pertinent Michigan Election Law changes of interest to Michigan election officials are summarized below. Note that no changes are required prior to the August 7, 2012 primary. Additional Campaign Finance Act changes have also been enacted; a summary of these changes as they relate to the clerk community will be provided in a separate update.

The Bureau of Elections will continue to provide additional implementation details as they are finalized. Also note that additional legislative changes that were signed into law prior to July 3 have already been communicated to clerks via other *Legislative Updates*, which may be found at the Bureau of Elections website at [www.michigan.gov/elections](http://www.michigan.gov/elections) (under "Information for Election Administrators"; then "Legislative Updates").

## MICHIGAN ELECTION LAW CHANGES

### **SB 751 (PA 270 of 2012): Inactive Voter File** **Effective: August 15, 2012**

- Requires the Secretary of State to establish an *inactive voter file*.
- Defines an *inactive* voter as one who has not voted for 6 consecutive years or has failed to respond to a confirmation notice.
- Restores the voter to *active* status if he or she votes, responds to a confirmation notice, or engages in another voter registration transaction (such as changing his or her address).
- Stipulates that an *inactive* voter remains eligible to vote, and his or her name shall appear on the precinct list.
- Requires that the AV ballot of an *inactive* voter that has not responded to a confirmation notice shall be prepared as a challenged ballot. These voters are in the cancellation countdown. NOTE: These are not voters who are in the inactive file solely due to their failure to vote in the past 6 years.

- Requires the Secretary of State (NOTE - not the local election official) to send a confirmation notice to registered voters that have surrendered their Michigan driver's license to another state. This will place the voter in the cancellation countdown.
- Allows election officials to set precinct size limits based on the number of *active* voters.
- Mandates the use of the QVF AV ballot tracker feature (for those with access).

**IMPLEMENTATION STATUS:** The majority of the new requirements will be handled programmatically via changes to the QVF system. The Bureau of Elections is currently preparing detailed specifications for all QVF changes that will be needed to implement the required changes. Additional information (including the specific changes to the QVF, other procedural change information, and training information on use of the QVF AV tracker) will be provided as these changes are finalized, and will be communicated to all clerks on or near the August 15 effective date.

**SB 752 (PA 272 of 2012): AVCB Precinct Structure, Ballot Forms, & Reporting  
Immediate Effect**

- **NOTE: These changes are discretionary in 2012 but mandatory for elections conducted after July 1, 2014.** Until July 1, 2014, a jurisdiction that utilizes absent voter counting boards (AVCBs) MAY establish a separate AVCB that corresponds to each Election Day precinct. For elections held on or after July 1, 2014, jurisdictions that utilize AVCBs MUST establish a separate absent voter counting board for each Election Day precinct. This requirement excludes Detroit, where each ballot form that contains identical offices and names will be treated as a separate precinct.
- If an AVCB is used, an AVCB precinct must be established for every precinct in the jurisdiction. A single group of individuals may serve as the AVCB for multiple precincts.
- The ballot form of an AVCB must correspond to the ballot form of the Election Day precinct for which it is established.
- Results must be reported as follows for each pairing of precincts (the AVCB and corresponding Election Day precinct): Election Day precinct results + AVCB results = Total.
- Strikes obsolete references to paper ballots and voting machines.

**IMPLEMENTATION STATUS:** Note that these requirements are not mandatory until 2014, but these changes are already in place in some larger counties (including Oakland and Kent Counties). The Bureau of Elections is already working with voting system vendors to determine implementation options and programming changes that may be necessary. We will provide more detailed procedural guidelines once the approach for each voting system is finalized.

**SB 823 (PA 276 of 2012): Filing Deadline Changes, Replacement Candidate Selection and Name on Ballot, and Other Changes (Omnibus Bill)  
Effective: August 16, 2012**

- Requires the Secretary of State to certify ballot wording at least 60 days before the election.
- Candidate filing deadlines changes (do not become effective until January 1, 2014):
  - The filing deadline for partisan and nonpartisan candidates will move from the 12<sup>th</sup> Tuesday to the 15<sup>th</sup> Tuesday before the August Primary.
  - The filing deadline for precinct delegate candidates is moved to the 13<sup>th</sup> Tuesday before the primary.
- Several revised provisions involving the nomination of replacement candidates if a vacancy leaves the party with no nominee:
  - Specifies that ballots must be printed (or re-printed if necessary) containing the names of the replacement candidates.
  - Changes the process political parties must use for selecting replacement candidates for partisan city/township races (selection moves from city/township to county level).
  - References to “pasters,” “stickers,” or “slips” containing the names of replacement candidates have been deleted.
- Posting initiative and constitutional amendment petition language on the Secretary of State website. This provision takes effect January 1, 2013.
- Requires reprinting of ballots if a mistake or error is found.
- Changes the deadline for waiving the requirement of filing a write-in declaration of intent in the event of a candidate’s death or disqualification, from the Wednesday before the election, to the 2<sup>nd</sup> Friday before the election.
- Prohibits compensating a person for registering voters on a per-registration or similar basis.
- Prohibits impersonation of an election official in the polling place on Election Day.
- Repeals §343a (township political party committees).
- NOTE: SB 825 was tie-barred to SB 823 and is now PA 278 of 2012; this law simply added two new election law crimes to the list of sentencing guidelines (related to compensation for collecting voter registrations, and for impersonating an election official).

**IMPLEMENTATION STATUS:** The Bureau of Elections will develop a summary of filing deadline changes, which will be posted on our website and incorporated into future election calendars. We will also issue reminders to the clerk community prior to the changes going into effect in 2014. A separate summary will also be prepared and communicated regarding changes to the selection of replacement candidates at the local level.

**HB 4656 (PA 280 of 2012): Prohibits Elected or Appointed Official’s Name on AV Ballot-Related Material**

**Effective: March, 2013 (90 days after the final legislative session of 2012)**

- Provides that “[t]he name of an elected or appointed official of this state or a political subdivision of this state shall not appear on any ballot-related material that is provided to an elector.”

- Defines “ballot-related material” as anything distributed with an AV ballot, including the instructions, the envelope in which the AV ballot is mailed, and the AV return envelope.
- Provides an exception that allows election officials to use existing stock on-hand as long as he or she is not a candidate at the election.

**IMPLEMENTATION STATUS:** Clerks must remove their names from AV-ballot related material as defined above. The Bureau of Elections will send a reminder to clerks statewide prior to the March, 2013 effective date

**HB 5062 (PA 271 of 2012): Continuing Education for Clerks; Election Audits; Retention Period Changes for Election Materials; Receiving Boards  
Effective: August 15, 2012**

- Requires the Secretary of State to establish a continuing education program for county, city, township, and village clerks. Clerks must attend and complete this training program at least once every 2 years in order to maintain their accreditation as a clerk.
- Authorizes the Secretary of State to audit any election precinct in the state.
- Requires the Secretary of State to develop an audit program that includes a description of the documents to be inspected and the procedures to be used during an election audit.
- Requires the Secretary of State to train, certify, and supervise county clerks and their staffs in the performance of election audits in precincts randomly selected by the Secretary of State.
- Requires county clerks who participate to report their audit findings to the Secretary of State within 20 days.
- Shortens the minimum retention period for original registration cards to five years (from ten years) after the date of cancellation.
- Lengthens the amount of time that Applications to Vote and AV Ballot Applications must be preserved from two to six years.
- Requires that all Affidavits from Voters not in Possession of Photo ID be retained for six years.
- Extends the retention period for ballots from 7 to 30 days after final certification by the board of canvassers (unless a recount or court order stays destruction).
- Lengthens the time for which ballots, ballot boxes, voting machines, and equipment must be kept secure from 10 to 30 days after certification by the Board of State Canvassers (unless a recount or court order prevents the release of security).
- Mandates the use of receiving boards.
- Establishes a 3-year statute of limitations for Michigan Election Law crimes, measured from the date the violation is discovered.

**IMPLEMENTATION STATUS:**

- **Continuing Education:** The Bureau of Elections will finalize its approach to continuing education and will be communicating the details of this program and how the two-year accreditation requirement will be implemented in a separate communication. Calculation of the two-year required timeframe will begin in January

of 2013, when BOE finalizes and begins offering the required *Continuing Education* program.

- **Audits:** The Bureau of Elections will establish guidelines related to the Election Audit program and the corresponding training program for counties. We will update clerks with additional details in a separate communication once the details of the program are finalized.
- **Retention Periods:** The Bureau of Elections will send out additional reminders related to the various retention period changes prior to the November election, when these changes go into effect.
- **Receiving Boards:** The Bureau of Elections is finalizing additional instructional materials and a dedicated web page related to Receiving Board issues, which will be finalized and communicated to all clerks in the next few weeks.

### **HB 5297 (PA 279 of 2012): Extend FWAB to State and Local Races**

**Effective: August 15, 2012**

- Maintains that an AV ballot request received from a military or overseas voter for the first election in a calendar year is a valid ballot request for all elections in that calendar year.
- Authorizes military and overseas voters to use the Federal Write-in Absentee Ballot (FWAB) to vote in federal, state, or local races.
- Requires the Secretary of State to make the ballot format and information regarding the offices to be voted, candidate names, and ballot proposals available on its website.
- Requires city, village, and township clerks to file a report with the county clerk indicating whether absentee ballots were issued timely to military and overseas voters on the 45<sup>th</sup> day before Election Day, and to provide written explanation describing remedial actions taken if the deadline was not met for any ballots requested.
- Requires county clerks to compile the local clerks' reports and file a report with the Secretary of State on the 42<sup>nd</sup> day before Election Day, and to identify jurisdictions that complied and did not comply with the mandated 45-day deadline.
- Allows the Secretary of State to require additional information from jurisdictions that did not meet the mandated 45-day deadline for issuing military and overseas ballots.

**IMPLEMENTATION STATUS:** The Bureau of Elections will send reminders of these new requirements prior to the November general election. NOTE: The 45-day reporting requirement was implemented informally for the August 7 primary, but the Bureau of Elections will develop more detailed guidelines for the collection of this data prior to the general election, when local data collection will be handled by counties.

### **VETOED BILLS**

Note that the Governor also vetoed three election-related bills:

- **SB 754**, which would have:

- Required voter registration applicants who register in person to present a form of photo identification;
  - Required *Third Party Voter Registration Organizations* to register with and receive training from the Secretary of State, a county clerk or a city or township clerk in a jurisdiction with a population of 10,000 or more prior to distributing and collecting voter registration applications.
- **SB 803**, which would have:
    - Mandated use of the *Are You a United States Citizen?* question on Applications to Vote and AV Applications;
    - Stipulated ballot issuance and tabulation procedures related to a “no” answer or non-response to the U.S. citizenship question for voters in the polls;
    - Added new warning language to the AV ballot application related to the U.S. citizenship question.

**SPECIAL NOTE:** Jurisdictions may continue use of available forms that include the U.S. Citizenship question. AV applicants that do not respond to this question should still be issued a ballot. Follow the remaining guidelines from last February’s Presidential Primary with respect to the U.S. citizenship question, which can be found here: [Election News 92 January 20, 2012](#).
  - **HB 5061**, which would have:
    - Required the Secretary of State to provide residential care facilities with posters explaining and prohibiting *ballot coaching*;
    - Stipulated ballot issuance and tabulation procedures for AV voters related to the U.S. Citizenship question;
    - Required photo ID for voters who requested an absentee ballot in person. Voters without photo ID would be issued a ballot after signing the affidavit, and their ballots would be processed as challenged ballots.
    - Required election officials to track and report the number of *no photo ID* affidavits to the Secretary of State.