

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

State

**Bureau name:**

Elections & Campaign Finance

**Name of person filling out RIS:**

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**Rule Set Information:**

**ARD assigned rule set number:**

2025-63 ST

**Title of proposed rule set:**

General Roles and Responsibilities of Election Officials

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

**A. Are these rules required by state law or federal mandate?**

Yes. MCL 168.31(1)(a) uses the mandatory “shall” to state that the secretary of state shall “issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.”

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

The rules do not exceed a federal standard.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

The department is not aware of any rules or standards addressing the same subject area as the proposed rules. However, while no state appears to have compiled a ruleset similar to the proposed rules that addresses delegation of authority and responsibility explicitly and in one place, similarly situated states do recognize that delegation of authority and responsibility is something that occurs and is allowed. For example, a statute in Ohio that specifically allows the secretary of state to delegate to “authenticating officers” the power to use a “facsimile signature.” OH ST § 9.11. In Wisconsin’s Elections Commission administrative code, the term “administrator” is defined as “a person duly appointed by the board or any employee of the agency to whom a lawful function has been delegated by the administrator to administer and manage the agency.” Wis. Adm. Code § EL 20.02. The definition of a role for individuals who have functions delegated to them in the election commission administrative rules suggests that Wisconsin’s approach to election administration similarly allows for delegation of duties and responsibilities like the proposed rules. Illinois, in its administrative code, Title 26, addressing elections, section 219.10 covers implementation of “the electronic canvass (eCanvass).” In this rule, access to the eCanvass system is addressed and the rule recognizes that while it is the election authority that is responsible for submitting the electronic file, it may “delegate this task to a deputy or another jurisdiction employee” by requesting eCanvass access for that person through that person’s voter registration system account. 26 Ill. Adm. Code 219.10. While this recognition of delegation authority in Illinois is tied to a specific function it is another example of a similarly situated state allowing election officials to delegate certain responsibilities to certain individuals. This is in line with the content of the proposed rules. The proposed rules seek to explicitly recognize the authority to delegate authority by various individuals in one rule set to cover all relevant circumstances rather than take a piecemeal or implication-based approach like it appears similarly situated states have taken with respect to delegation of authority and responsibility.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

The rules do not exceed the standards in the other states where relevant rules and regulations were identified, but rather, the proposed rules take a different approach to how inherent delegation authority is recognized. Where other states appear to rely on implied delegation authority or to explicitly address delegation in some situations but not others, the proposed rules deviate from that approach by explicitly laying out delegation authority where it is allowed. There is no cost to this deviation because the only impact arising out of this deviation from other states’ approach is increased clarity around delegation authority. Thus, the benefit arising out of the deviation is increased clarity about delegation authority.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

The rules do not conflict with or duplicate any laws, rules, or other legal requirements. The proposed rules would codify existing procedures that are not currently formally articulated in one place.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The rules have not been coordinated with other federal, state, or local laws as there are none applicable to the same activity or subject matter. Because there are no federal, state, or local laws applicable to the same activity or subject matter as the proposed rules, there was no need for the agency to avoid or minimize duplication as there is no risk of duplication.

**Purpose and Objectives of the Rule(s)**

**4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

The proposed rules are not designed to alter any behavior or the frequency of any behavior. The rules are intended to clarify who may perform certain duties and responsibilities, but should not change any behaviors associated with performance of duty or responsibility.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

It is not anticipated there will be any change in the frequency of any behavior as a result of the proposed rules because the rules are not designed to affect any behavior.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

There would be no difference between current behavior/practice and desired behavior/practice. However, while behavior/practice is currently guided by implicit expectations and procedure, going forward it would be explicitly guided by the Department's administrative rules.

**C. What is the desired outcome?**

The desired outcome is greater understanding and knowledge of existing behavior/practice and greater clarity about who can perform certain duties and responsibilities.

**5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

The rules are not designed to alter any behavior; however, the rules are designed to provide instructions regarding delegation of duty and responsibility in one place and to be explicit about the ability to delegate certain duties and responsibilities to certain individuals. The harm that will occur in the absence of the proposed rules is that there may be some people who do not understand how the secretary or a clerk is able to delegate duties and responsibilities to staff or deputies.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

There are no pre-existing rules to modify, the proposed rules are a new rule set.

**6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The proposed rules are not relevant to health or safety of Michigan citizens and they do not regulate health or safety issues. The proposed rules tangentially promote the welfare of Michigan citizens because they reflect current practice and provide additional clarity and written procedures that are clear and good for everyone. The rules do not impose any new regulatory burdens so they do provide the least burdensome alternative for those required to comply.

**7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are no obsolete or unnecessary rules in the rule set that can be rescinded because these rules create a new rule set and there is no existing rule set.

## **Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

It is not expected that the promulgation of rules will have a fiscal impact on the agency promulgating the rules.

**9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

No agency appropriation has been made, and no funding source has been provided, as it is not anticipated that the Department of State will have any expenditures associated with the proposed rules.

**10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The proposed rules will codify current practice and are not expected to place any additional fiscal or administrative burdens on individuals.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

There are no identified burdens.

## **Impact on Other State or Local Governmental Units**

**11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

There are no estimated increases or decreases in revenue to other state or local governmental units as a result of the proposed rules. There are no estimated increases or reductions in cost to other state or local governmental units as a result of the rule. There are no equipment, supplies, labor, or increased administrative costs in either the initial imposition of the rule or any ongoing monitoring as none is required.

**12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

The proposed rules do not change any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

It is not anticipated that governmental units would need to take any additional actions under the proposed rules.

**13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

An appropriation has not been made because additional expenditures associated with the rules are not anticipated.

## **Rural Impact**

**14. In general, what impact will the rules have on rural areas?**

The proposed rules are not expected to impact rural areas.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

The proposed rules are not expected to have any impact on public or private interests in rural areas.

## **Environmental Impact**

**15. Do the proposed rules have any impact on the environment? If yes, please explain.**

The proposed rules will not have an impact on the environment.

## **Small Business Impact Statement**

**16. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

Small businesses will not be governed or impacted by the proposed rules so the agency did not consider small businesses.

**17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

The proposed rules do not apply to small businesses.

**A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

The proposed rules do not apply to small businesses.

**B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

The proposed rules do not apply to small businesses and will not have an impact on their reporting requirements.

**C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses as the proposed rules do not apply to small businesses.

**D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

The proposed rules do not apply to performance, design, or operation standards in relation to small businesses.

**18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

The proposed rules will have no impact on small businesses.

**19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

**20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

The proposed rule set will have no impact on small businesses and require no compliance from small businesses.

**21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

The proposed rule set will have no impact on small businesses and require no legal, consulting, or accounting services on behalf of small businesses.

**22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

**23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

There are no estimated costs to the agency for administration or enforcement against small businesses as the proposed rules do not apply to small businesses.

**24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

The proposed rules do not apply to small businesses so there will be no impact on the standards of compliance.

**25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

The agency has not involved small businesses in the development because the proposed rules do not apply to small businesses.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

No small businesses were involved because the proposed rules do not apply to small businesses.

**Cost-Benefit Analysis of Rules (independent of statutory impact)**

**26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

It is not anticipated that there will be any statewide compliance costs.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

There are no costs to bear from the proposed rules. The rules do not apply to any businesses or specific private groups. The rules do address delegation of authority and responsibility by the secretary of state, director of elections, deputy director of elections, bureau of elections' staff, county clerks, and city or township clerks, and the board of state canvassers to various staff or assistants. The effect the proposed rules will have on these groups is that they will clarify responsibilities and that clarification is also the benefit that these groups will have from the proposed rules because greater clarity is a benefit.

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

There will be no costs imposed as a result of the proposed rules. The rules codify existing procedures and do not impose any additional costs on any business or group.

**27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

There will be no additional statewide compliance cost. The proposed rules codify current practice and would be incorporated into existing training. They are not anticipated to impose any additional training costs, and no additional costs are anticipated.

**A. How many and what category of individuals will be affected by the rules?**

The rules address delegation of authority and responsibility by the secretary of state, director of elections, deputy director of elections, bureau of elections' staff, county clerks, and city or township clerks, and the board of state canvassers to various staff or assistants. An exact number of individuals is not possible to estimate because the department does not have exact numbers of how many people work in each clerk's office, but roughly there are 1,604 county and local clerks and likely hundreds of employees between county and local clerk offices and the employees of the Michigan Secretary of State.

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

Qualitatively, secretary of state, director of elections, deputy director of elections, bureau of elections' staff, county clerks, and city or township clerks, and the board of state canvassers would rely on the rules to understand how responsibilities are delegated by the secretary of state, the director of elections, board of state canvassers, and county and local clerks. It is not anticipated that the rules would have a quantitative impact.

**28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

It is not anticipated that there would be any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

**29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

The primary and direct benefits of the proposed rules are qualitative and are to provide clarity and direction on the sharing of responsibilities by the secretary of state, director of elections, deputy director of elections, bureau of elections' staff, county clerks, and city or township clerks, and the board of state canvassers. The secondary or indirect benefits of the proposed rules is greater clarity to other parties, such as the public, who may also be interested in how work is delegated. The assumption being made is that better clarity and direction improve quality. There is no relevant quantitative information and no assumptions involving quantities.

**30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

The proposed rules will not impact business growth and job creation (or elimination) in Michigan.

**31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

It is not anticipated that individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

**32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

The agency relied upon the Department of State's current practice and on agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

The agency relied upon agency staff and its regulatory and administrative experience to determine the impact of the proposed rules. The agency also sent the rules to the county and local clerk associations—the Michigan Association of County Clerks and the Michigan Association of Municipal Clerks—and relied on their feedback and expertise. Because the proposed rules largely codify current practice, the agency can reasonably assume their implementation will not cause any major changes. The agency assumes that having the administrative rules reflect current law and practice will be beneficial and eliminate any confusion that currently exists, and it assumes that having accurate rules that reflect current practice will promote public confidence in the work of the secretary of state, board of state canvassers, and clerks.

## **Alternative to Regulation**

### **33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

The only reasonable alternative to the proposed rules that would achieve the same or similar goal is to amend the Michigan Election Law to essentially codify the rules instead of promulgation. However, the Department cannot amend the law, so this is not a reasonable alternative that is within the Department's control.

#### **A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

The alternative would need to add several new provisions to the Michigan Election Law in MCL 168.1-168.992.

### **34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

There are no private market-based mechanisms available to address the needs covered by the proposed rules. The department could not find any other state that utilizes a private market-based system. Because no such systems exist, a private market-based system is not feasible.

### **35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

Due to the nature of regulating the manner of elections, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. The proposed rules are intended to codify the current legal requirements and practices.

## **Additional Information**

### **36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

The rules explicitly inform persons of requirements and methods of compliance.