

# HOUSE BILL No. 4366

February 26, 1991, Introduced by Reps. Trim and Willis Bullard and referred to the Committee on Elections.

A bill to amend sections 198, 345, 348, 349, 355, 357, 534, 535, 561, 570a, 582, 686a, 694, 719, and 973 of Act No. 116 of the Public Acts of 1954, entitled

"Michigan election law,"

section 349 as amended by Act No. 7 of the Public Acts of 1990, sections 534 and 686a as amended by Act No. 116 of the Public Acts of 1988 and section 582 as amended by Act No. 160 of the Public Acts of 1980, being sections 168.198, 168.345, 168.348, 168.349, 168.355, 168.357, 168.534, 168.535, 168.561, 168.570a, 168.582, 168.686a, 168.694, 168.719, and 168.973 of the Michigan Compiled Laws; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 198, 345, 348, 349, 355, 357, 534, 535,  
2 561, 570a, 582, 686a, 694, 719, and 973 of Act No. 116 of the  
3 Public Acts of 1954, section 349 as amended by Act No. 7 of the

1 Public Acts of 1990, sections 534 and 686a as amended by Act  
2 No. 116 of the Public Acts of 1988 and section 582 as amended by  
3 Act No. 160 of the Public Acts of 1980, being sections 168.198,  
4 168.345, 168.348, 168.349, 168.355, 168.357, 168.534, 168.535,  
5 168.561, 168.570a, 168.582, 168.686a, 168.694, 168.719, and  
6 168.973 of the Michigan Compiled Laws, are amended to read as  
7 follows:

8       Sec. 198. (1) ~~When~~ EXCEPT AS PROVIDED IN THIS SECTION, IF  
9 a candidate of a political party has filed a nominating petition  
10 or filing fee for an office and has been nominated for the office  
11 by a political party, the candidate shall not be permitted to  
12 withdraw unless ~~he~~ THE CANDIDATE has removed from the county or  
13 has become physically unfit.

14       (2) ~~When~~ IF a candidate of a political party has filed a  
15 nominating petition or filing fee for ~~township office or~~ the  
16 office of county commissioner and has been nominated for that  
17 office by a political party, the candidate shall not be permitted  
18 to withdraw unless ~~he~~ THE CANDIDATE has moved from the county  
19 or from the district from which ~~he~~ THE CANDIDATE was nominated,  
20 or has become physically unfit.

21       (3) If the person who has been nominated as the candidate of  
22 a political party for ~~township office or~~ the office of county  
23 commissioner dies before the date of the election for that  
24 office, the county political committee ~~, or in the case of a~~  
25 ~~township office, the township political committee,~~ of the party  
26 whose candidate has died shall select, by majority vote, a  
27 replacement for that person. The name of the replacement ~~so~~

1 selected shall be transmitted to the election officials  
 2 responsible for the preparation and distribution of ballots, and  
 3 the name of the replacement shall be affixed to each ballot or  
 4 voting device in place of the name of the original candidate.

5 (4) A vacancy shall not be filled by the county committees  
 6 except for the above causes and as ~~herein~~ specified IN THIS  
 7 SECTION.

8 (5) This prohibition ~~shall~~ DOES not ~~be construed to~~ pro-  
 9 hibit the withdrawal of a candidate who was nominated without  
 10 having filed a nominating petition or filing fee and whose name  
 11 has been written or placed on the ballot of a political party.

12 Sec. 345. A NONPARTISAN primary ~~of all political parties~~  
 13 shall be held in every organized township of this state on the  
 14 Tuesday succeeding the first Monday in August preceding every  
 15 general November election, at which time the qualified and regis-  
 16 tered electors of each ~~political party~~ TOWNSHIP may vote for  
 17 ~~party~~ candidates for township offices.

18 Sec. 348. The township board, not less than 40 days ~~prior~~  
 19 ~~to the~~ BEFORE holding of the NONPARTISAN primary ~~herein~~ pro-  
 20 vided for IN SECTION 345, shall issue a call for ~~such~~ THE pri-  
 21 mary designating the time and place ~~thereof~~ and shall give  
 22 notice of the ~~same~~ PRIMARY by publishing a copy of ~~such~~ THE  
 23 call in ~~some~~ A newspaper of general circulation in the town-  
 24 ship, and if ~~deemed~~ CONSIDERED advisable by the township board,  
 25 by the posting IN CONSPICUOUS PLACES of ~~the~~ A number of notices  
 26 ~~that~~ AS DETERMINED BY the board. ~~shall designate in~~  
 27 ~~conspicuous places.~~ In townships having less than 200 registered

1 voters, the township board may provide that, for elections at  
2 which ~~no~~ A township question is NOT to be submitted, notices of  
3 the election shall be by posting, as ~~herein~~ provided ~~, in lieu~~  
4 ~~of~~ IN THIS SECTION, INSTEAD OF by publishing. ~~The time of~~  
5 ~~holding such primary in townships shall be on the third Monday in~~  
6 ~~February preceding each biennial spring election.~~

7       Sec. 349. (1) To obtain the printing of the name of a  
8 person as a candidate for nomination ~~by a political party~~ for a  
9 township office ~~under the particular party heading~~ upon the  
10 official NONPARTISAN primary ballots, there shall be filed with  
11 the township clerk nominating petitions signed by a number of  
12 qualified and registered electors residing within the township  
13 equal to not less than 1% or more than 4% of the number of votes  
14 cast ~~by the party~~ in the township for ~~secretary of state~~ THE  
15 OFFICE OF SUPERVISOR at the last general November election in  
16 which a ~~secretary of state~~ SUPERVISOR was elected, but in no  
17 case less than 5 signatures.

18       (2) Nominating petitions shall be in the form prescribed in  
19 section ~~544c~~ 544A. The township clerk shall receive nominating  
20 petitions up to 4 p.m. of the twelfth Tuesday preceding the  
21 August primary.

22       (3) Within 4 days after the last day for filing nominating  
23 petitions, the township clerk shall deliver to the county clerk a  
24 list setting forth the name, address, ~~and political affiliation~~  
25 and office sought of each candidate who has qualified for a posi-  
26 tion on the NONPARTISAN primary ballot.

1       Sec. 355. (1) ~~The candidate or~~ UNLESS A PRIMARY IS NOT  
 2 HELD AS PROVIDED IN SECTION 540, THE candidates ~~of each~~  
 3 ~~political party to~~ FOR a township office receiving the greatest  
 4 number of votes cast for candidates ~~of said~~ FOR THAT office, as  
 5 set forth in the report of the township board of canvassers,  
 6 based on the returns from the various election precincts, or as  
 7 determined by the board of county canvassers as the result of a  
 8 recount, shall be declared the ~~nominee or~~ nominees ~~of that~~  
 9 ~~political party~~ for ~~said~~ THAT office at the next ~~ensuing~~  
 10 November election. THE NUMBER OF CANDIDATES DECLARED TO BE THE  
 11 NOMINEES FOR AN OFFICE SHALL BE EQUAL TO TWICE THE NUMBER OF PER-  
 12 SONS TO BE ELECTED. The township board of canvassers shall cer-  
 13 tify ~~such nomination or~~ THE nominations to the township clerk  
 14 within 48 hours after the closing of the polls.

15       (2) Within 4 days following the primary, the township clerk  
 16 shall deliver to the county clerk a list setting forth the names,  
 17 addresses, ~~political affiliation~~ and office sought of all can-  
 18 didates nominated at the primary.

19       Sec. 357. ~~When any~~ IF A candidate, ~~of a political~~  
 20 ~~party,~~ after having been nominated for a township office, ~~shall~~  
 21 ~~die, remove~~ DIES, REMOVES from the township, or ~~become~~ BECOMES  
 22 disqualified for any reason, the township board of election com-  
 23 missioners shall provide a blank space or spaces on the official  
 24 ballots ~~which~~ THAT will afford every elector of ~~said party~~  
 25 THE TOWNSHIP an opportunity to vote for a candidate to fill the  
 26 vacancy, ~~thereby caused,~~ by writing in the name of his or her  
 27 selection or by the use of a slip or paster.

1       Sec. 534. A ~~general~~ primary of all political parties  
2 except as provided in sections 532 and 685 shall be held in every  
3 election precinct in this state on the Tuesday after the first  
4 Monday in August before every general November election, at which  
5 time the qualified and registered voters of each political party  
6 may vote for party candidates for the office of governor, United  
7 States senator, representative in congress, state senator, repre-  
8 sentative in the legislature, county executive, prosecuting  
9 attorney, sheriff, county clerk, county treasurer, register of  
10 deeds, county auditor, drain commissioner, public works commis-  
11 sioner, county road commissioner, county mine inspector, AND  
12 surveyor. ~~, and candidates for office in townships.~~ A nomina-  
13 tion for an office shall be made only if the official is to be  
14 elected at the next succeeding general November election.

15       Sec. 535. A ~~general~~ primary shall be held in every elec-  
16 tion precinct in this state on the Tuesday succeeding the first  
17 Monday in August preceding every general November election, at  
18 which time the qualified and registered voters may vote for non-  
19 partisan candidates for the office of judge of the court of  
20 appeals, judge of the circuit court, AND judge of probate, and  
21 for ~~circuit court commissioner~~ TOWNSHIP OFFICES, in the years  
22 in which ~~such~~ THE officers are to be elected.

23       Sec. 561. (1) The ballots prepared by the board of election  
24 commissioners in each county for use by the electors of a politi-  
25 cal party at a primary election shall include the names of all  
26 candidates of the political party for the office of governor,  
27 United States senator, and district offices, and, in each county,

1 the names of all candidates of the political party for county  
2 offices.  ~~, and in each township the names of all candidates of~~  
3 ~~the political party for township offices.~~

4 (2) If, in a district comprised of not more than 1 county, 2  
5 or more candidates, including candidates for nonpartisan offices,  
6 for the same office have the same or similar surnames, a candi-  
7 date may file a written request with the board of county election  
8 commissioners for a clarifying designation. The request shall be  
9 filed not later than 3 days after the last date for filing nomi-  
10 nating petitions. Not later than 3 days after the filing of the  
11 request, the board of county election commissioners shall deter-  
12 mine whether a similarity exists and whether a clarifying desig-  
13 nation should be granted. In a district comprised of more than 1  
14 county, the board of state canvassers shall make a like determi-  
15 nation for a clarifying designation upon the written request of a  
16 candidate who files nominating petitions with the secretary of  
17 state. The request shall be filed with the state board of can-  
18 vassers not later than 5 days after the last date for filing nom-  
19 inating petitions. The board of state canvassers shall make its  
20 determination at the same time it makes a declaration of the suf-  
21 ficiency or insufficiency of nominating petitions in compliance  
22 with section 552.

23 (3) In each instance, the determining board shall notify the  
24 requester and the other candidate affected of its determination  
25 by first class mail sent within 24 hours after the final date for  
26 the determination. A candidate who is dissatisfied with the  
27 determination of the board of county election commissioners may

1 file an appeal in the circuit court ~~of~~ FOR the county where the  
2 board is located, and a candidate who is dissatisfied with the  
3 determination of the board of state canvassers may file an appeal  
4 in the circuit court ~~of~~ FOR Ingham county, within 7 days after  
5 the final date for determination by the board. ~~, and the~~ THE  
6 court shall hear the matter de novo. ~~In case of~~ IF THE CANDI-  
7 DATES HAVE the same surnames or IF THERE IS a final determination  
8 by the board, or by the court before the latest date on which the  
9 board can arrange for printing of the ballots, ~~of the existence~~  
10 ~~of similarity~~ THAT A SIMILARITY IN NAME EXISTS, the board shall  
11 print the occupation or residence of each of the candidates on  
12 the ballot or ballot labels under their respective names. The  
13 term "occupation" ~~shall be construed to include~~ INCLUDES polit-  
14 ical office, even though it is not the candidate's principal  
15 occupation, but ~~shall~~ DOES not include reference to a previous  
16 position or occupation.

17 (4) The name of a candidate shall be printed showing the  
18 given name or abbreviation or initials of the given name of the  
19 candidate, and, in the case of a married woman, shall not be  
20 printed showing the husband's given name.

21 (5) The board of state canvassers shall prepare and issue  
22 guidelines to insure fairness and uniformity in the granting of  
23 designations, and may prepare and issue guidelines relating to  
24 what constitutes same or similar surnames. The board of state  
25 canvassers and the boards of county election commissioners shall  
26 follow the guidelines issued.

1       Sec. 570a. The official NONPARTISAN primary ballot shall  
2 include candidates for township offices. THE TOWNSHIP BALLOT MAY  
3 BE SEPARATE FROM THE JUDICIAL BALLOT. ~~Township offices and can-~~  
4 ~~didates shall follow state and county offices and candidates.~~  
5 ~~Parties qualified to appear on the primary ballot for state and~~  
6 ~~county offices and no others are qualified to appear and have the~~  
7 ~~names of their candidates printed on the township portion of the~~  
8 ~~primary ballot. Parties qualified to nominate candidates for~~  
9 ~~state and county offices under the provisions of section 685 and~~  
10 ~~no others are qualified to nominate candidates for township~~  
11 ~~offices at the county caucuses provided in section 686a.~~

12       ~~All references~~ A REFERENCE in the election law to a  
13 February primary shall be ~~deemed~~ CONSIDERED to be ~~references~~  
14 A REFERENCE to the primary provided by the election law to be  
15 held in August ~~prior to~~ BEFORE the general November election  
16 and ~~all references~~ A REFERENCE to an April election shall be  
17 ~~deemed~~ CONSIDERED to be ~~references~~ A REFERENCE to the general  
18 November election.

19       Sec. 582. A person who is voted for on a party ballot for a  
20 state, district, ~~township,~~ county, city, or ward office, or for  
21 the office of United States senator or representative in  
22 ~~Congress~~ CONGRESS, whose name is not printed on the ballot and  
23 who has not filed a nominating petition for the office voted for,  
24 shall not be considered nominated as the candidate of the party  
25 for the office, nor be certified as a nominee, unless the person  
26 receives a total vote equal to not less than .15 of 1% of the  
27 total population, as reflected by the last official federal

1 census, of the district for which nomination is sought, but not  
2 less than 10 votes for the office, or a total vote equal to 5% of  
3 the greatest number of votes cast by the party for any office at  
4 the primary in the state, congressional ~~or~~ or other district,  
5 ~~township,~~ county, city, or ward, for a candidate or for all  
6 candidates for nomination for an office for which only 1 person  
7 is to be nominated, whichever is greater. However, for an office  
8 to which more than 1 candidate is to be elected, the 5% limita-  
9 tion shall be based upon the greatest number of votes cast at the  
10 primary for any candidate for the same office.

11       Sec. 686a. (1) The nomination of candidates for political  
12 parties entitled to a position on the ballot ~~which~~ THAT failed  
13 to have at least 1 candidate who polled at least 5% of the total  
14 vote cast for all candidates for secretary of state at the last  
15 preceding election at which a secretary of state was elected  
16 shall be made as provided in section 532. County caucuses and  
17 state conventions shall be held not later than the August  
18 primary.

19       (2) County caucuses may nominate candidates for the office  
20 of representative in congress, state senator, and state represen-  
21 tative if the offices represent districts contained wholly within  
22 the county, and for all county ~~and township~~ offices. The  
23 names, mailing addresses, and office to which nominated of all  
24 candidates so nominated shall be certified by the ~~chairman~~  
25 CHAIRPERSON and secretary of the caucus to the county clerk  
26 within 24 hours after the conclusion of the caucus. Accompanying  
27 the certification shall be an affidavit of identity for each

1 candidate named in the certificate as provided in section 558 and  
2 a separate written notice of acceptance of nomination signed by  
3 each candidate named on the certificate. The form of the certif-  
4 icate of acceptance shall be prescribed by the secretary of  
5 state. The names of candidates so certified shall be printed on  
6 the ballot for that election. The name of a candidate shall not  
7 be printed on the ballot unless the notice of acceptance and the  
8 affidavit of identity accompanies the certificate. Candidates  
9 nominated and certified shall not be permitted to withdraw.

10 (3) The county caucus may also select the number of dele-  
11 gates to the state convention to which the county is entitled and  
12 shall select its own officers and name its own county committee.

13 (4) The state convention shall be held at the time and place  
14 indicated in the call. The convention shall consist of delegates  
15 selected by the county caucuses. The convention may fill vacan-  
16 cies in a delegation from qualified electors of that county  
17 present at the convention. The convention may nominate candi-  
18 dates for all state offices. District candidates may be nomi-  
19 nated at district caucuses held in conjunction with the state  
20 convention attended by qualified delegates of the district. If  
21 delegates of a district are not present, a district caucus shall  
22 not be held for that district and candidates shall not be nomi-  
23 nated for that district. The names, mailing addresses, and  
24 offices to which nominated of the candidates nominated for state  
25 or district offices, within 24 hours after the conclusion of the  
26 convention, shall be certified by the ~~chairman~~ CHAIRPERSON and  
27 secretary of the state convention to the secretary of state.

1 Accompanying the certification shall be an affidavit of identity  
2 for each candidate named in the certificate as provided in sec-  
3 tion 558 and a separate written notice of acceptance of nomina-  
4 tion signed by each candidate named on the certificate. The form  
5 of the certificate of acceptance shall be prescribed by the sec-  
6 retary of state. The names of candidates certified shall be  
7 printed on the ballot for the forthcoming election. The name of  
8 a candidate shall not be printed on the ballot unless the notice  
9 of acceptance and the affidavit of identity accompanies the  
10 certificate. Candidates so nominated and certified shall not be  
11 permitted to withdraw.

12       Sec. 694. ~~All the provisions of sections~~ SECTIONS 691,  
13 692, 693, and 695 ~~of this act shall also~~ apply to ~~all~~ city  
14 ~~AND~~ village ~~and township~~ elections held in this state under  
15 ~~the provisions of~~ this act, except that the notice ~~herein~~  
16 required to be given by a candidate, ~~shall,~~ in THE case of a  
17 city ~~OR~~ village ~~or township~~ office, SHALL be given by ~~him~~  
18 THE CANDIDATE to the proper city ~~OR~~ village ~~or township~~  
19 board of election commissioners within 2 days after ~~his~~ THE  
20 CANDIDATE'S name has been ~~so~~ certified as nominated by 2 or  
21 more political parties for the same office.

22       Sec. 719. (1) The election commission of each city, town-  
23 ship, and village shall perform ~~such~~ THE SAME duties relative  
24 to the preparation, printing, and delivery of ballots as are  
25 required by law of the boards of election commissioners of  
26 counties. ~~Like duties and privileges as are enjoined and~~  
27 ~~granted by this act upon and to the various committees of the~~

1 ~~different political organizations are hereby prescribed for~~  
 2 ~~city,~~

3 (2) CITY OR village ~~or township~~ committees in matters per-  
 4 taining to ~~any~~ A city ~~,~~ OR village ~~or township~~ election,  
 5 ~~except that~~ SHALL PERFORM THE SAME DUTIES AND HAVE THE SAME  
 6 PRIVILEGES AS THE VARIOUS COMMITTEES OF THE DIFFERENT POLITICAL  
 7 ORGANIZATIONS PERFORM UNDER THIS ACT. HOWEVER, it shall not be  
 8 necessary for a city ~~,~~ ~~township~~ or village committee of a  
 9 political party or organization to furnish a vignette or heading  
 10 for the ballots other than to designate the name of the party or  
 11 political organization which they represent.

12 (3) In cities ~~,~~ AND villages ~~and townships~~ the names of  
 13 candidates for city ~~,~~ ~~township~~ or village offices ~~,~~ ~~as the~~  
 14 ~~case may be,~~ shall be given by the committees of the various  
 15 political organizations to the board of election commissioners of  
 16 ~~such~~ THE city ~~,~~ OR village ~~or township~~ not less than 18  
 17 days before each election, but it shall not be necessary for  
 18 ~~any~~ A party committee to give to the board of election commis-  
 19 sioners the name of ~~any~~ A candidate nominated at an official  
 20 primary election.

21 (4) The proof of the ballot shall be open to public inspec-  
 22 tion at the office of the ~~township,~~ city ~~,~~ or village clerk  
 23 ~~,~~ not less than 15 days before ~~such~~ AN election.

24 Sec. 973. (1) Party candidates FOR AN ELECTION UNDER  
 25 SECTION 971 shall be nominated as follows: ~~In case~~

26 (A) IF the vacancy to be filled ~~be~~ IS in a state office or  
 27 that of United States senator, the state central committee of

1 each political party shall nominate a candidate. ~~therefor, in~~  
2 ~~case such~~

3 (B) IF THE vacancy ~~be~~ IS in a county office or in a dis-  
4 trict office within an electoral district of 1 county, the county  
5 committee of each political party shall nominate a candidate.  
6 ~~therefor, in case such~~

7 (C) IF THE vacancy ~~be~~ IS in a district office within an  
8 electoral district THAT IS less than 1 county, the members of the  
9 county committee of each political party residing in ~~such~~ THAT  
10 electoral district shall nominate ~~the~~ A candidate. ~~therefor,~~  
11 ~~if~~

12 (D) IF the office to be filled ~~be~~ IS a district office  
13 having an electoral district in more than 1 county, the members  
14 of the several county committees of each political party residing  
15 in those parts of ~~such~~ THE counties ~~which~~ THAT are in ~~such~~  
16 THAT district shall nominate a candidate for the office. ~~, and~~  
17 ~~if such~~

18 (E) IF THE vacancy ~~be~~ IS in a ward ~~or township~~ office,  
19 the committee of each political party ~~thereof~~ OF THAT WARD  
20 shall nominate a candidate for ~~such~~ THAT office. ~~All nomina~~  
21 ~~tions by such~~

22 (2) A NOMINATION BY A committee shall be certified to the  
23 officer with whom the recall petitions were filed within 15 days  
24 after the calling of the special election.

25 Section 2. Sections 352 and 354 of Act No. 116 of the  
26 Public Acts of 1954, being sections 168.352 and 168.354 of the  
27 Michigan Compiled Laws, are repealed.

1       Section 3. This amendatory act shall not take effect unless  
2 Senate Bill No. \_\_\_\_\_ or House Bill No. 4365 (request  
3 no. 01748'91) of the 86th Legislature is enacted into law.