

Act No. 52
Public Acts of 2007
Approved by the Governor
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senators McManus, Brown, Hardiman and Bishop

ENROLLED SENATE BILL No. 624

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 613a, 614a, 615a, 616a, 624g, 641, and 759a (MCL 168.613a, 168.614a, 168.615a, 168.616a, 168.624g, 168.641, and 168.759a), section 613a as amended by 2003 PA 13, sections 614a and 615a as amended by 1999 PA 72, section 616a as added by 1988 PA 275, section 624g as amended by 1990 PA 7, section 641 as amended by 2005 PA 71, and section 759a as amended by 2006 PA 605, and by adding sections 19, 615c, and 759c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 19. As used in this act:

(a) "Participating political party" means a political party authorized to participate in a presidential primary under section 613a.

(b) "Presidential election year" means a calendar year in which the number of the year is a multiple of 4.

(c) "Presidential primary" means a statewide primary election held for participating political parties in each presidential election year under section 613a.

Sec. 613a. (1) Except as otherwise provided in subsection (2), a presidential primary shall be conducted under this act on January 15, 2008, and on the fourth Tuesday in February in each following presidential election year.

(2) Not later than 4 p.m. on November 14, 2007, the chairperson of each participating political party shall notify the secretary of state if his or her political party will be using a method other than the results of the January 15, 2008 presidential primary to select delegates to his or her respective national convention to nominate a candidate for president of the United States in 2008. At 4 p.m. on November 15, 2007, the secretary of state shall determine, based upon the information provided by the participating political parties under this subsection, whether the participating political parties in this state will be using a method other than the results of the January 15, 2008 presidential primary to select delegates to their respective national conventions to nominate a candidate for president of the United States in 2008. If the secretary of state determines that all participating political parties are using a method other than the results of the January 15, 2008 presidential primary, the secretary of state shall cancel the presidential primary that would otherwise be held on January 15, 2008, and any ballots for that presidential primary shall be destroyed. Upon request of the secretary of state, the chairpersons of the participating political parties shall provide the secretary of state with the information necessary for the secretary of state to make the determination required by this subsection.

(3) A political party that received less than 20% of the total vote cast in this state for the office of president in the last presidential election shall not participate in the presidential primary.

(4) Except as otherwise provided in this section and sections 614a to 616a, 624g, 641, 759a, 759c, and 879a, the presidential primary shall be conducted under the provisions of this act that govern the conduct of a primary election other than a presidential primary.

(5) Nothing in this section or sections 614a to 616a shall be interpreted to diminish or impair the state and federal constitutional rights of a participating political party or give this state, its political subdivisions and agencies, or its courts jurisdiction or authority over the application or interpretation by a participating political party of the party's state or national rules, regulations, policies, and procedures. Each participating political party shall be the sole and exclusive arbiter of the application and interpretation of its state and national rules, regulations, policies, and procedures.

Sec. 614a. (1) Not later than 4 p.m. on the eighteenth Tuesday before the presidential primary, the state chairperson of each participating political party shall file with the secretary of state a list of individuals whom they consider to be potential presidential candidates for nomination by that participating political party in the next presidential election year. The secretary of state shall make the lists received under this subsection available to the public on an internet website maintained by the department of state. In compiling the list of individuals to be filed with the secretary of state under this subsection, the chairperson of each participating political party shall consider all of the following:

(a) References to an individual as a candidate for nomination by the participating political party for the office of president of the United States in state and national news media, including, but not limited to, the internet.

(b) Presidential campaign activity by the individual or his or her campaign organization in this state and nationally.

(c) Support for the individual as a candidate for president of the United States by the general public and by members of the participating political party in this state and nationally.

(2) After receipt of the list of candidates from the state chairperson of each participating political party under subsection (1), the secretary of state shall notify each potential presidential candidate on the lists of the provisions of this act relating to the presidential primary.

Sec. 615a. (1) The secretary of state shall prescribe the form of the official presidential primary ballot for each participating political party. Except as otherwise provided in this section, the secretary of state shall cause the name of a presidential candidate notified by the secretary of state under section 614a to be printed on the appropriate presidential primary ballot for that participating political party. A presidential candidate notified by the secretary of state under section 614a may file an affidavit with the secretary of state indicating his or her political party preference if different than the participating political party preference contained in the notification from the secretary of state and the secretary of state shall cause that presidential candidate's name to be printed on the appropriate presidential primary ballot for that participating political party. If the affidavit of a presidential candidate indicates that the candidate has no political party preference or indicates a political party preference for a political party other than a participating political party, the secretary of state shall not cause that presidential candidate's name to be printed on a ballot for the presidential primary. A presidential candidate notified by the secretary of state under section 614a may file an affidavit with the secretary of state indicating that he or she does not wish to have his or her name printed on a presidential primary ballot and the secretary of state shall not cause that presidential candidate's name to be printed on a ballot for the presidential primary. A presidential candidate shall file an affidavit described in this subsection with the secretary of state no later than 4 p.m. on the fourteenth Tuesday before the presidential primary or the affidavit is void.

(2) The name of an individual who is not listed as a potential presidential candidate for a participating political party under section 614a shall be printed on the ballot for the appropriate participating political party for the presidential primary if he or she files a nominating petition with the secretary of state no later than 4 p.m. on the twelfth Tuesday before the presidential primary. The nominating petition shall contain valid signatures of registered and qualified electors equal to not less than 1/2 of 1% of the total votes cast in the state at the previous presidential election for the presidential candidate of the participating political party for which the individual is seeking the nomination. However, the total number of signatures required on a nominating petition under this subsection shall not exceed 1,000 times the total number of congressional districts in this state. A signature on a nominating petition is not valid if obtained before August 15 of the year before the presidential election year in which the individual seeks nomination. To be valid, a nominating petition must conform to the requirements of this act regarding nominating petitions, but only to the extent that those requirements do not conflict with the requirements of this subsection.

(3) The names of the presidential candidates on each participating political party ballot shall be rotated on the ballot by precinct. Each ballot shall contain a space for an elector to vote uncommitted.

(4) Ballots for each participating political party shall be printed on paper of the same color.

Sec. 615c. (1) In order to vote at a presidential primary, an elector shall indicate in writing, on a form prescribed by the secretary of state, which participating political party ballot he or she wishes to vote when appearing to vote at a presidential primary. In fulfilling the requirements of this subsection, the secretary of state shall prescribe procedures intended to protect or safeguard the confidentiality of the participating political party ballot selected by an elector consistent with this section.

(2) An elector shall not be challenged at a presidential primary based upon the participating political party ballot selected by the elector. An elector may be challenged only to the extent authorized under section 727.

(3) The secretary of state shall develop a procedure for city and township clerks to use when keeping a separate record at a presidential primary that contains the printed name, address, and qualified voter file number of each elector and the participating political party ballot selected by that elector at the presidential primary.

(4) Except as otherwise provided in this section, the information acquired or in the possession of a public body indicating which participating political party ballot an elector selected at a presidential primary is confidential, exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person for any reason.

(5) To ensure compliance with the state and national political party rules of each participating political party and this section, the records described in subsection (3) shall be provided to the chairperson of each participating political party as set forth in subsection (6).

(6) Within 71 days after the presidential primary, the secretary of state shall provide to the chairperson of each participating political party a file of the records for each participating political party described under subsection (3). The secretary of state shall set a schedule for county, city, and township clerks to submit data or documents required under subsection (3). The secretary of state and county, city, and township clerks shall destroy the information indicating which participating political party ballot each elector selected at the presidential primary as recorded in subsection (3) immediately after the expiration of the 22-month federal election records retention period.

(7) Except as provided in subsection (8), a participating political party shall not use the information transmitted to the participating political party under subsection (6) indicating which participating political party ballot an elector selected at a presidential primary for any purpose, including a commercial purpose, and shall not release the information to any other person, organization, or vendor.

(8) A participating political party may only use the information transmitted to the participating political party under subsection (6) to support political party activities by that participating political party, including, but not limited to, support for or opposition to candidates and ballot proposals. A participating political party may release the information transmitted to the participating political party under subsection (6) to another person, organization, or vendor for the purpose of supporting political party activities by that participating political party, including, but not limited to, support for or opposition to candidates or ballot proposals.

(9) When authorized under subsection (8), a participating political party that releases the information transmitted to the participating political party under subsection (6) to another person, organization, or vendor shall enter into a contract with the person, organization, or vendor and the contract shall do all of the following:

(a) State the information use restrictions imposed by this section.

(b) Specify how and when the information will be used.

(c) Prohibit the donation, use, or sale of the information for any purpose other than a purpose authorized by this section.

(d) Prohibit the retention of the information after authorized use.

(e) Describe the criminal penalties provided in subsection (11).

(10) A participating political party shall retain a contract entered into under subsection (9) for 6 years from the effective date of the contract or any amendment to the contract.

(11) Any person who uses the information indicating which participating political party primary ballot an elector selected at a presidential primary for a purpose not authorized in this section is guilty of a misdemeanor punishable by a fine of \$1,000.00 for each voter record that is improperly used or imprisonment for not more than 93 days, or both.

Sec. 616a. (1) The board of state canvassers shall canvass the returns received from the boards of county canvassers and certify the statewide and congressional district results of the presidential primary to the secretary of state.

(2) The secretary of state shall certify the statewide and congressional district results of the presidential primary to the chairperson of the state central committee of each participating political party.

Sec. 624g. (1) If the presidential primary is not canceled by the secretary of state under section 613a(2), the state shall reimburse each county, city, and township for the cost of conducting a presidential primary. The reimbursement shall not exceed the verified account of actual costs of the election.

(2) Payment shall be made upon presentation and approval of a verified account of actual costs to the department of treasury, local government audit division, after the state treasurer and the secretary of state agree as to what constitutes valid costs of conducting a presidential primary. Reimbursable costs do not include salaries of permanent local officials; the cost of reusable supplies and equipment; or costs attributable to local special elections held in conjunction with the presidential primary. The department of treasury and the department of state shall disapprove costs not in compliance with this section.

(3) The legislature shall appropriate from the general fund of this state an amount necessary to implement this section.

(4) To qualify for reimbursement, a county, city, or township shall submit its verified account of actual costs to the department of treasury no later than 90 days after the date of the presidential primary.

(5) Not later than 90 days after the department of treasury receives a verified account of actual costs, the department of treasury, after consultation with the department of state, shall pay or disapprove the verified account.

Sec. 641. (1) Except as otherwise provided in this section and sections 642 and 642a, an election held under this act shall be held on 1 of the following regular election dates:

(a) The February regular election date, which is the fourth Tuesday in February.

(b) The May regular election date, which is the first Tuesday after the first Monday in May.

(c) The August regular election date, which is the first Tuesday after the first Monday in August.

(d) The November regular election date, which is the first Tuesday after the first Monday in November.

(2) If an elective office is listed by name in section 643, requiring the election for that office to be held at the general election, and if candidates for the office are nominated at a primary election, the primary election shall be held on the August regular election date.

(3) Except as otherwise provided in this subsection and subsection (4), a special election shall be held on a regular election date. A special election called by the governor under section 145, 178, 632, 633, or 634 to fill a vacancy or called by the legislature to submit a proposed constitutional amendment as authorized in section 1 of article XII of the state constitution of 1963 may, but is not required to be, held on a regular election date.

(4) A school district may call a special election to submit a ballot question to borrow money, increase a millage, or establish a bond if an initiative petition is filed with the county clerk. The petition shall be signed by a number of qualified and registered electors of the district equal to not less than 10% of the electors voting in the last gubernatorial election in that district or 3,000 signatures, whichever number is lesser. Section 488 applies to a petition to call a special election for a school district under this section. In addition to the requirements set forth in section 488, the proposed date of the special election shall appear beneath the petition heading, and the petition shall clearly state the amount of the millage increase or the amount of the loan or bond sought and the purpose for the millage increase or the purpose for the loan or bond. The petition shall be filed with the county clerk by 4 p.m. of the twelfth Tuesday before the proposed date of the special election. The petition signatures shall be obtained within 60 days before the filing of the petition. Any signatures obtained more than 60 days before the filing of the petition are not valid. If the special election called by the school district is not scheduled to be held on a regular election date as provided in subsection (1), the special election shall be held on a Tuesday. A special election called by a school district under this subsection shall not be held within 30 days before or 35 days after a regular election date as provided in subsection (1). A school district may only call 1 special election pursuant to this subsection in each calendar year.

(5) The secretary of state shall direct and supervise the consolidation of all elections held under this act.

(6) In 2008 only, the February regular election date as provided in subsection (1) shall instead be January 15, 2008 if a presidential primary is held under section 613a on January 15, 2008.

(7) This section shall be known and may be cited as the "Hammerstrom election consolidation law".

Sec. 759a. (1) A member of the armed services or an overseas voter who is not registered, but possessed the qualifications of an elector under section 492, may apply for registration by using the federal postcard application. The department of state, bureau of elections, is responsible for disseminating information on the procedures for registering and voting to absent armed services and overseas voters.

(2) Each of the following persons who is a qualified elector of a city, village, or township in this state and who is not a registered voter may apply for an absent voter ballot:

(a) A civilian employee of the armed services outside of the United States.

(b) A member of the armed services outside of the United States.

(c) A citizen of the United States temporarily residing outside the territorial limits of the United States.

(d) A citizen of the United States residing in the District of Columbia.

(e) A spouse or dependent of a person described in subdivisions (a) through (d) who is a citizen of the United States and who is accompanying that person, even though the spouse or dependent is not a qualified elector of a city, village, or township of this state, if that spouse or dependent is not a qualified and registered elector anywhere else in the United States.

(3) Upon receipt of an application under this section that complies with this act, a city, village, or township clerk shall forward to the applicant the absent voter ballots requested, the forms necessary for registration, and instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall immediately forward to the applicant the registration forms and instructions, and forward the ballots as soon as they are available. If the ballots and registration forms are received before the close of the polls on election day and if the registration complies with the requirements of this act, the absent voter ballots shall be delivered to the proper election board to be voted. If the registration does not comply with the requirements of this act, the clerk shall retain the absent voter ballots until the expiration of the time that the voted ballots must be kept and shall then destroy the ballots without opening the envelope. The clerk may retain registration forms completed under this section in a separate file. The address in this state shown on a registration form is the residence of the registrant.

(4) The size of a precinct shall not be determined by registration forms completed under this section.

(5) A member of the armed services or an overseas voter, as described in subsection (2), who registers to vote by federal postcard application under subsection (1), and who applies to vote as an absent voter by federal postcard application is eligible to vote as an absent voter in any local or state election, including any school election, occurring in the calendar year in which the federal postcard application is received by the city, village, or township clerk, but not in an election for which the application is received by the clerk after 2 p.m. of the Saturday before the election. A city or township clerk receiving a federal postcard application shall transmit to a village clerk and school district election coordinator, where applicable, the necessary information to enable the village clerk and school district election coordinator to forward an absent voter ballot for each applicable election in that calendar year to the qualified elector submitting the federal postcard application. A village clerk receiving a federal postcard application shall transmit to a city or township clerk, where applicable, the necessary information to enable the city or township clerk to forward an absent voter ballot for each applicable election in that calendar year to the qualified elector submitting the federal postcard application. If the local elections official rejects a registration or absent voter ballot application submitted on a federal postcard application by an absent armed services or overseas voter, the election official shall notify the armed services or overseas voter of the rejection.

(6) For a presidential primary, the secretary of state shall do all of the following:

(a) Prescribe procedures for contacting an elector who is a member of the armed services or an overseas voter, as described in subsection (2), and who is eligible to receive an absent voter ballot or who applies for an absent voter ballot for the presidential primary, offering the elector the opportunity to select a participating political party ballot for the presidential primary.

(b) Prescribe procedures to protect or safeguard the confidentiality of an elector's participating political party ballot selection ascertained under this section consistent with section 615c.

(7) Under the uniformed and overseas citizens absentee voting act, 42 USC 1973ff to 1973ff-6, the state director of elections shall approve a ballot form and registration procedures for electors in the armed services and electors outside the United States, including the spouses and dependents accompanying those electors.

(8) As used in this section, "armed services" means any of the following:

(a) The United States army, navy, air force, marine corps, or coast guard.

(b) The United States merchant marine.

(c) A reserve component of an armed service listed in subdivision (a) or (b).

(d) The Michigan national guard as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

Sec. 759c. For a presidential primary, the secretary of state shall do all of the following:

(a) Revise the absent voter ballot application form described in section 759 or provide a separate form to require that a presidential primary elector indicate a participating political party ballot selection when requesting an absent voter ballot.

(b) Prescribe procedures to protect or safeguard the confidentiality of an elector's participating political party ballot selection on an absent voter ballot application consistent with section 615c.

Enacting section 1. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, it is the intent of the legislature that the provisions of this amendatory act are nonseverable and that the remainder of the amendatory act shall be invalid, inoperable, and without effect.

Enacting section 2. Sections 495a, 562b, 613c, 618, 619, and 620a of the Michigan election law, 1954 PA 116, MCL 168.495a, 168.562b, 168.613c, 168.618, 168.619, and 168.620a, are repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor