

Legislative Analysis



ELECTION CHALLENGERS

House Bill 4528 as enrolled
Sponsor: Rep. Bryan Posthumus
1st House Committee: Elections and Ethics
2nd House Committee: Judiciary
Senate Committee: Elections
Complete to 1-13-22

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

(Vetoed by the Governor 10-3-21)

SUMMARY:

House Bill 4528 would amend Chapter 3 (Duties of Secretary of State) and Chapter 28 (Holding of Elections) of the Michigan Election Law to provide for the training of election challengers.

The bill would require the secretary of state (SOS) to establish and require a **comprehensive training** for each county clerk, and for each political party, incorporated organization, and organized committee of interested citizens that seeks to designate election challengers at an election, regarding the processes and procedures on election day, the powers, rights, and duties of election challengers, and training for both precinct polling places and absent voter (AV) counting boards. A political party, incorporated organization, or organized committee of interested citizens would have to complete the comprehensive training once before each primary, general, and special election as offered by the SOS or any county clerk.

The bill would require the SOS to create and maintain a **registry** of entities that complete the training. For each entity, the registry would have to include the names of the individuals who attended the training and the name of a contact person for that entity. If the person completes the training through the county, the county clerk would have to notify the SOS and the SOS would have to add that information to the registry. The registry would have to be posted on the Department of State's website and made available to each county clerk.

Each county clerk would have to offer this comprehensive training in its training school between 45 and 100 days before each primary, general, and special election. As now, the county clerk must notify its city and township clerks of the training school, those clerks must notify each election inspector, and the election inspectors must attend unless excused.

Additionally, the bill would add a requirement that each county clerk and the SOS provide **election challenger training** for each political party, incorporated organization, or organized committee of interested citizens seeking to designate challengers at the election. The training would have to include the comprehensive training described above.

Those entities would have to attend the challenger training and, upon completion and before the primary, general, or special election, provide election challenger **training for all individuals seeking to be challengers** on behalf of the entity. Their training would also have to include the comprehensive training described above, and would have to include separate training for those seeking to be election challengers at an AV counting board. Upon completion, the entities would have to issue a **certificate of completion** to their election challengers signed by an officer of that entity. (A certificate could be issued electronically if electronically signed by an officer.)

The certificates would be valid for 90 days after issuance. However, a challenger who completed the training within 90 days before the August primary election would *not* have to complete the training again before serving as a challenger at the subsequent November general election unless there has been a statutory change that requires the training to be updated.

The entity would have to maintain a record of those issued a certificate to serve as a challenger on their behalf. If the entity issued a certificate of completion to a person not trained by the entity, the entity would be responsible for a state civil infraction and could be ordered to pay a civil fine of up to \$2,500.

In order to serve, a challenger would have to have attended and received a signed certificate of completion for the election challenger training.

In addition, under current law, a candidate for nomination or election to an office may not serve as a challenger at the election in which he or she is a candidate.

The bill would allow that person to serve as a challenger as long as it was not in any precinct in the jurisdiction where he or she is a candidate.

MCL 168.31, 168.683, and 168.730 and proposed MCL 168.730a

FISCAL IMPACT:

House Bill 4528 would have an indeterminate fiscal impact on the state and on local units. The impact would depend on the number of political parties, incorporated organizations, or organized committees of interested citizens held responsible for a state civil infraction and ordered to pay a fine. Because the bill does not specify where revenue from civil fines would be dedicated, it is assumed, under section 8831 of the Revised Judicature Act, revenue collected from civil fines would be applied to the support of public and county law libraries. Under section 8827 of the Revised Judicature Act, the court could order payment of a justice system assessment of \$10. Revenue collected from payment of assessments would be deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

Vetoed 10-3-21:

In her veto message,¹ Governor Whitmer stated that the bill was worth further consideration but needed to have the necessary funding attached in order to accomplish its purpose.

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ https://content.govdelivery.com/attachments/MIEOG/2021/10/04/file_attachments/1955882/Veto%20Letter%20-%20HB%204528,%204837,%204838,%204492.pdf