# MICHIGAN ELECTION LAW
# Act 116 of 1954

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.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

*The People of the State of Michigan enact:*

## CHAPTER I
## DEFINITIONS

### 168.1 Short title; Michigan election law.

Sec. 1. This act shall be known and may be cited as the "Michigan election law".

**History:** 1954, Act 116, Eff. June 1, 1955.

**Compiler's note:** The former Michigan election law, consisting of MCL 145.1 to 199.1 and deriving from Act 351 of 1925, was repealed by Act 116 of 1954.

**Popular name:** Election Code

### 168.2 Definitions; A to I.

Sec. 2. As used in this act:

(a) "Absent voter" is defined in section 758.

(b) "Ballot container" is defined in section 14a.

(c) "Business day" or "secular day" means a day that is not a Saturday, Sunday, or legal holiday.

(d) "Clearly observable boundaries" is defined in section 654a.

(e) "Election" means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.

(f) "Election precinct" is defined in section 654.

(g) "Fall" state and county conventions and "spring" state and county conventions are assigned meanings in section 596.

(h) "General election" or "general November election" means the election held on the November regular election date in an even numbered year.

(i) "Immediate family" means an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 152, Eff. July 1, 1968;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Constitutionality:** Legislative attempt in this section to place an interpretation having the effect of law upon the words "civil appointment", as used in Const 1963, art 4, § 9, is beyond the legislative power. *Richardson v Secretary of State*, 381 Mich 304; 160 NW2d 883 (1968).

**Popular name:** Election Code

### 168.3 Definitions; L to R.

Sec. 3. As used in this act:

(a) "Locked and sealed" is defined in section 14.

(b) "Major political party" is defined in section 16.

(c) "Metal seal" or "seal" is defined in section 14a.

(d) "Name that was formally changed" means a name changed by a proceeding under chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3, or former 1915 PA 314, or through a similar, statutorily sanctioned procedure under the law of another state or country.

(e) "Odd year general election" means the election held on the November regular election date in an odd



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

numbered year.

(f) “Odd year primary election” means the election held on the August regular election date in an odd numbered year.

(g) “Primary” or “primary election” is defined in section 7.

(h) “Qualified elector” is defined in section 10.

(i) “Qualified voter file” is defined in section 509m.

(j) “Regular election” means an election held on a regular election date to elect an individual to, or nominate an individual for, elective office in the regular course of the terms of that elective office.

(k) “Regular election date” means 1 of the dates established as a regular election date in section 641.

(*l*) “Residence” is defined in section 11.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.4 Definitions; S to V.

Sec. 4. As used in this act:

(a) "School board" means the governing body of a school district, including the board of trustees of a community college.

(b) "School board member" means an individual holding the office of school board member under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or the office of board of trustees member under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195. School board member includes a school board member of an intermediate school district if that intermediate school district has adopted sections 615 to 617 of the revised school code, 1976 PA 451, MCL 380.615 to 380.617.

(c) "School district" means a school district, a local act school district, or an intermediate school district, as those terms are defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a community college district under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195.

(d) "School district election coordinating committee" means 1 of the following:

(*i*) For a school district whose entire territory lies within a single city or township, a committee composed of the secretary of the school board or his or her designee, the city or township election commission, and the school district election coordinator.

(*ii*) For a school district that has territory in more than 1 city or township, a committee composed of the secretary of the school board or his or her designee, the school district election coordinator, and the clerk of each city or township in which school district territory is located.

(e) "School district election coordinator" means 1 of the following:

(*i*) For a school district whose entire territory lies within a single city or township, the city or township clerk.

(*ii*) For a school district that has territory in more than 1 city or township, the county clerk of the county in which the largest number of registered school district electors reside.

(f) "September election" means the election held on the first Tuesday after the second Monday in September in an odd year for the election of village offices.

(g) "Special election" means an election to elect an individual to, or nominate an individual for, a partial term in office or to submit a ballot question to the electors.

(h) "Special primary" means a primary called by competent authority for the nomination of candidates to be voted for at a special election.

(i) "Uniform voting system" means the voting system that is used at all elections in every election precinct throughout the state.

(j) "Village" is defined in section 9.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 3, Imd. Eff. Dec. 27, 1963;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2010, Act 181, Imd. Eff. Sept. 30, 2010.

**Popular name:** Election Code

### 168.5, 168.6 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed sections pertained to definitions of general election and special election.

**Popular name:** Election Code

### 168.7 Primary or primary election; definition.

Sec. 7. The term “primary” or “primary election”, as used in this act, shall mean a primary election held for the purpose of deciding by ballot who shall be the nominees for the offices named in this act, or for the election by ballot of delegates to political conventions.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.8 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to definition of special primary.

**Popular name:** Election Code

### 168.9 Village; definition.

Sec. 9. The term “village”, as used in this act, shall mean an incorporated village. Except where the contrary is clearly indicated, the provisions of this act shall apply to the holding of any general, special or primary election in a village.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.9a Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to definition of qualified voter file.

**Popular name:** Election Code

### 168.10 "Qualified elector" defined.

Sec. 10. (1) Except as provided in subsection (2), the term "qualified elector", as used in this act, means a person who possesses the qualifications of an elector as prescribed in section 1 of article II of the state constitution of 1963 and who has resided in the city or township 30 days.

(2) For purposes of an election for the office of judge of a municipal court that exercises jurisdiction over another city pursuant to section 9928(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928, qualified elector includes a person who meets the constitutional qualifications described in subsection (1) and has resided for 30 days in the other city over which municipal court jurisdiction is exercised. This subsection does not entitle a person to vote on any ballot question except the office of municipal judge under the circumstances prescribed in this subsection.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 3, Imd. Eff. Dec. 27, 1963;—Am. 2010, Act 253, Imd. Eff. Dec. 14, 2010.

**Popular name:** Election Code

### 168.11 "Residence" defined.

Sec. 11. (1) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section does not affect existing judicial interpretation of the term residence.

(2) An elector does not gain or lose a residence while employed in the service of the United States or of this state, while engaged in the navigation of the waters of this state, of the United States, or of the high seas, while a student at an institution of learning, while kept at any state facility or hospital at public expense, or while confined in a jail or prison. Honorably discharged members of the armed forces of the United States or of this state who reside in the veterans' facility established by this state may acquire a residence where the facility is located. The residence of a person who is a patient receiving treatment at a hospital or other facility under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, is the village, city, or township where the person resided immediately before admission to the hospital or other facility.

(3) A member of the armed forces of the United States is not a resident of this state due to being stationed in a military or naval facility within this state.

(4) For purposes of registering to vote and voting at an election or special election for the office of judge of a municipal court that exercises jurisdiction over another city pursuant to section 9928(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928, a person who resides in the other city over which municipal court jurisdiction is exercised is considered a resident of the city in which the municipal court is located and may register for, and vote in, that election in the city in which he or she resides.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 3, Imd. Eff. Dec. 27, 1963;—Am. 1977, Act 120, Imd. Eff. Oct. 19, 1977;—Am. 2010, Act 253, Imd. Eff. Dec. 14, 2010.

**Constitutionality:** This section, providing that no elector shall be deemed to have gained a residence while a student at any institution of learning, violates Const 1963, art 1, § 17 and US Const, amend XIV, § 1. *Wilkins v Ann Arbor City Clerk*, 385 Mich 670; 189 NW2d 423 (1971).

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.12 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to definition of family.

**Popular name:** Election Code

### 168.13 Time limits; extension due to holiday, exception.

Sec. 13. Notwithstanding any other provision of the law to the contrary, anything required by this act to be done by a day certain, except the final day for applying for an absentee ballot, if that day falls on a Saturday, Sunday or legal holiday, may be done within the same time limits on the next secular day.

**History:** Add. 1967, Act 57, Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.14 Locked and sealed; definition.

Sec. 14. The term "locked and sealed", or terms of similar import, when used in this act to refer to locking and sealing of ballot boxes means sealed with a numbered flat metal seal furnished by the election commission and do not mean that a padlock is required.

**History:** Add. 1969, Act 127, Eff. Mar. 20, 1970.

**Popular name:** Election Code

### 168.14a "Ballot container" and "metal seal" or "seal" defined.

Sec. 14a. As used in this act:

(a) "Ballot container" means a container that is used for transporting and storing voted ballots, as described and approved under section 24j.

(b) "Metal seal" or "seal" means a seal of high tensile strength that is approved by the secretary of state under section 36.

**History:** Add. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.15 Nominating petition signatures; determination of number.

Sec. 15. Whenever the number of signatures required on a nominating petition is based on a percentage of the vote for a party's candidate for secretary of state at the last preceding election and that party did not have a candidate for secretary of state at the last preceding election, the vote of the party's principal candidate at the last preceding election shall be used in lieu of the vote for secretary of state.

**History:** Add. 1970, Act 28, Imd. Eff. June 2, 1970.

**Popular name:** Election Code

### 168.16 "Major political party" defined.

Sec. 16. As used in this act, "major political party" means each of the 2 political parties whose candidate for the office of secretary of state received the highest and second highest number of votes at the immediately preceding general election in which a secretary of state was elected.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.18 Definitions.

Sec. 18. As used in this act:

(a) "Help America vote act of 2002" means the help America vote act of 2002, 42 USC 15301 to 15545.

(b) "National voter registration act of 1993" means the national voter registration act of 1993, 42 USC 1973gg to 1973gg-10.

(c) "Uniformed and overseas citizens absentee voting act" means the uniformed and overseas citizens absentee voting act, 42 USC 1973ff to 1973ff-6.

(d) "Voting accessibility for the elderly and handicapped act" means the voting accessibility for the elderly and handicapped act, 42 USC 1973ee to 1973ee-6.

(e) "Voting rights act of 1965" means the voting rights act of 1965, 42 USC 1973 to 1973aa-6.

**History:** Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

CHAPTER II.

BOARDS OF ELECTION COMMISSIONERS, BOARDS OF CANVASSERS, AND CLERKS



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.21 Secretary of state; chief election officer, powers and duties.

Sec. 21. The secretary of state shall be the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.22 Board of state canvassers; continuation as provided in former act; duties; membership.

Sec. 22. (1) A board of state canvassers is continued as previously provided for in section 1 of former Act No. 239 of the Public Acts of 1955. This section and sections 22a to 22g are subject to section 7 of article II of the state constitution of 1963.

(2) The board of state canvassers has the duties prescribed in section 841. The board of state canvassers shall perform other duties as prescribed in this act.

(3) A member of the board of state canvassers on the effective date of this section continues to be a member of the board of state canvassers for the remainder of the term to which he or she was appointed. Subject to this subsection, the board of state canvassers consists of the 4 members appointed by the governor by and with the advice and consent of the senate. The board of state canvassers shall consist of 2 members from each major political party appointed in the manner provided in section 22a.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** Former MCL 168.22, which provided for composition of board of state canvassers, was repealed by Act 37 of 1956, Imd. Eff. Mar. 28, 1956.

**Popular name:** Election Code

### 168.22a Board of state canvassers; submission of nominees to governor; appointment; vacancy; failure to submit nominees; appointee declining to serve.

Sec. 22a. (1) On or before the tenth day of January in an odd numbered year, the state central committee of each major political party shall submit to the governor the names of 3 individuals as nominees for each position that is up for reappointment that the major political party is entitled to on the board of state canvassers. On or before the twentieth day of January in an odd numbered year, the governor shall appoint 1 individual from the 3 individuals nominated to each position of the political party on the board of state canvassers.

(2) If a vacancy in the office of a member of the board of state canvassers occurs other than the expiration of a term, the state central committee of the appropriate major political party shall submit to the governor the names of 3 individuals as nominees for the vacant position on or before the tenth day following the date of the vacancy. On or before the thirtieth day following the date of the vacancy, the governor shall appoint 1 individual from the 3 individuals nominated to the vacant position. A member appointed to the board of state canvassers under this subsection shall serve for the remainder of the vacant term.

(3) If the state central committee of a major political party fails to submit the names of nominees within the prescribed period of time in subsection (1) or (2), the governor shall appoint to the board of state canvassers an individual who was formerly elected as a state officer as a member of the appropriate major political party and who is currently affiliated with that political party. If a person appointed by the governor under subsection (1) or (2) declines to serve, the governor shall do 1 of the following:

(a) Appoint another individual from the 3 individuals nominated by the major political party under subsection (1) or (2) to that position on the board of state canvassers.

(b) Appoint an individual who was formerly elected as a state officer as a member of the appropriate major political party and who is currently affiliated with that political party to that position on the board of state canvassers.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.22b Board of state canvassers; term of office.

Sec. 22b. The term of office of a member of the board of state canvassers appointed under section 22a(1) is 4 years, which term begins on the February 1 immediately following appointment. A member of the state board of canvassers shall hold office until his or her successor is appointed and qualified.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.22c Board of state canvassers; qualifications; oath.

Sec. 22c. A member of the board of state canvassers shall be a qualified and registered elector of this state. Before taking office, a member of the board of state canvassers shall take and subscribe to the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.22d Board of state canvassers; meetings; quorum; election of chairperson and vice-chairperson.

Sec. 22d. (1) The board of state canvassers shall meet as necessary to conduct the business of the board. The board of state canvassers shall conduct its meetings pursuant to this act and the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) Three members of the board of state canvassers constitute a quorum of the board. However, an action of the board of state canvassers shall only be effective upon concurrence of at least 1 member of each major political party appointed to the board.

(3) In February of each odd numbered year, the board of state canvassers shall elect a chairperson and vice-chairperson from its members.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.22e Board of state canvassers; statement of purpose; notice of meeting; person to address meeting.

Sec. 22e. (1) The board of state canvassers shall meet to consider and approve a statement of the purpose of a proposed constitutional amendment or other ballot question prepared pursuant to sections 32 and 474. The board of state canvassers shall give not less than 3 full business days' notice to the public of a meeting held under this subsection. The board of state canvassers shall also give not less than 3 full business days' notice to all of the following:

(a) The legally or generally recognized sponsor of the proposed constitutional amendment or other ballot question, if any.

(b) The legislative sponsor of the proposed constitutional amendment or ballot question, if any.

(c) The senate majority leader.

(d) The speaker of the house of representatives.

(e) The minority leaders of the senate and the house of representatives.

(f) A legislator who does not receive notice under subdivisions (c), (d), or (e).

(2) The board of state canvassers shall publicly request and allow a person described in subsection (1)(a) or (b), or a representative of that person, to address a meeting held under this section.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.22f Board of state canvassers; expenses and compensation of members.

Sec. 22f. A member of the board of state canvassers is entitled to actual and necessary expenses incurred in the performance of his or her official duties. A member of the board of state canvassers shall receive $75.00 for each day's actual physical attendance at a meeting of the board of state canvassers. A member of the board of state canvassers shall not receive any other compensation for the performance of those duties.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.22g Expenses for services performed by office of secretary of state.

Sec. 22g. Notwithstanding any other provision of law to the contrary, if authorized jointly by the board of state canvassers and the secretary of state, all expenses incurred for services performed by the office of the secretary of state for the board of state canvassers shall be charged against funds appropriated to the board of state canvassers and credited to the secretary of state.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.23 Board of county election commissioners; membership; quorum; officers; absence or disqualification of member; appointment of county officer; board member involved in recall of officer.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 23. (1) The chief or only judge of probate of the county or probate court district, the county clerk, and the county treasurer shall constitute a board of county election commissioners for each county, 2 of whom shall be a quorum for the transaction of business. The chief or only judge of probate of the county or probate court district and the county clerk shall act respectively as chairperson and secretary of the board. In the absence or disqualification of the county clerk from any meeting of the board of election commissioners, the board may select 1 of the county clerk's deputies to act in the county clerk's place. In the absence or disqualification of any member of the board of election commissioners other than the county clerk, the members of the board who are present shall appoint some other county officer in the absent or disqualified member's place, and the appointed county officer, on being notified, shall attend without delay and act as a member of the board.

(2) If a member of the board is involved in the recall of an officer, either by assisting in the preparation of the petition for recall or by being an officer whose recall is sought, then the member of the board shall be disqualified with respect to any determination as to clarity and shall be replaced as provided in this section.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982.

**Popular name:** Election Code

### 168.24 Repealed. 1963, Act 237, Eff. Sept. 6, 1963.

**Compiler's note:** The repealed section provided for election of board of county canvassers, clerk, compensation, disqualification.

**Popular name:** Election Code

### 168.24a Board of county canvassers; establishment; powers and duties; conduct of recounts; school district election; costs; abolishment of boards of canvassers; appointment and terms of members; applicability of section.

Sec. 24a. (1) A 4-member board of county canvassers is established in every county in this state. All of the powers granted to and duties required by law to be performed by all boards of canvassers established by law, other than the board of state canvassers, boards of city canvassers in cities having more than 5 precincts, boards of canvassers in counties having a population of 1,500,000 or more, and boards of township canvassers in townships having more than 5 precincts, are granted to and required to be performed by the board of county canvassers.

(2) The board of county canvassers shall conduct all recounts of elections in cities, townships, villages, school districts, or any other districts and be vested with all of the powers and required to perform all the duties in connection with any recount.

(3) If a city, village, or any other district, other than a school district, lies in more than 1 county, and a duty is to be performed by the board of county canvassers, the board of county canvassers in the county in which the greatest number of registered voters of the city, village, or district resides at the close of registration for the election involved shall perform the duty.

(4) Except as otherwise provided in this subsection, if a school district lies in more than 1 county, the board of county canvassers for each county in which a portion of the school district lies shall canvass that portion of a school district election that is held in that county. If a school district election precinct lies in more than 1 county, the board of county canvassers of the county in which the largest number of registered electors of that precinct reside shall canvass the results of that precinct. Notwithstanding the provisions of the preceding 2 sentences, unless the school district election is conducted on the same date as another election in the county, a board of county canvassers that is not responsible for certifying the results of the school district election is not required to meet to canvass the school district election and the board of county canvassers responsible for certifying the results of the school district election shall canvass that portion of the school district election held in that county. Upon completion of the canvass, the clerk of the board of county canvassers shall transmit the canvassed results to the county clerk of the county in which the largest number of registered electors of that school district reside. Upon receipt of the canvassed results, the county clerk of the county in which the largest number of registered electors of that school district reside shall make a statement of returns and certify the results of the school district election to the secretary of the school board. Notwithstanding any of the foregoing provisions of this subsection, if a city or village that lies in more than 1 county conducts an election on the same date as a school district that lies within the city or village that is conducting an election, that portion of the school district election held within that city or village shall be canvassed by the canvassing board responsible for canvassing the city or village election.

(5) The cost of canvass of school, city, township, and village elections shall be borne by the school district, city, township, or village holding the election, and upon presentation of a bill for the costs incurred by the board of county canvassers, the school district, city, township, or village shall reimburse the county treasurer.

(6) All boards of canvassers provided for in law including boards of school canvassers, the duties of which



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

are by this act required to be performed by boards of county canvassers, are abolished.

(7) Members of the board of county canvassers shall be appointed for terms of 4 years beginning on November 1 following their appointment. Of the members first appointed, 1 member of each of the political parties represented on the board of county canvassers shall be appointed for a term of 4 years and 1 for a term of 2 years. The county clerk shall notify members of the board of county canvassers of their appointment within 5 days of being appointed.

(8) This section applies to all elections, any charter provision to the contrary notwithstanding.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 1970, Act 108, Eff. Apr. 1, 1971;—Am. 1982, Act 154, Imd. Eff. May 17, 1982;—Am. 2010, Act 52, Imd. Eff. Apr. 22, 2010.

**Compiler's note:** Section 3 of Act 65 of 1968 provides:

"This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.24b Board of county canvassers; members, eligibility, oath of office, holding other office prohibited.

Sec. 24b. Members of the board shall be qualified electors of the county and shall take and subscribe to the constitutional oath of office.

No person holding an elective public office shall be eligible for membership on the board of county canvassers. If any member of the board of county canvassers, during his term of office, becomes a candidate for any elective public office, his office shall be vacant.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### 168.24c Board of county canvassers; members; selection; procedure; vacancy.

Sec. 24c. (1) Selection of the members of the board of county canvassers shall be made from each of the 2 political parties casting the greatest number of votes for secretary of state at the preceding general November election in that county. A political party shall not be represented by more than 2 members on the board of county canvassers at any 1 time.

(2) The county committee of each political party, not later than September 1, 1963 and not later than September 1 of each odd numbered year thereafter, shall submit to the county clerk the names of 3 interested persons for each position to which the party is entitled. In a county having 2 or more congressional districts within its boundaries, the chairpersons of the congressional district committees shall act as the county committee for the purposes of this section and section 24d and shall select 1 of their number to act as chairperson for these purposes.

(3) The county board of commissioners, within 10 days after convening for their annual meeting, shall elect by ballot to each position 1 of the 3 nominees for the position, and the board shall appoint the person to the position. Before electing a nominee to the board of county canvassers under this subsection, the county board of commissioners may request that a nominee provide any of the following in order to determine whether the nominee is qualified for and interested in the position on the board of county canvassers:

(a) A letter signed by the nominee indicating an interest in serving on the board of county canvassers and indicating an intent to discharge the duties of the position on the board of county canvassers to the best of his or her ability.

(b) Prior election experience including canvassing elections.

(c) Information on whether the nominee has been convicted of a felony or election crime.

(4) Failure of the county board of commissioners to appoint 1 of the nominees for a position on the board of county canvassers within 10 days after convening for their annual meeting shall result in a vacancy existing in the position, which shall be filled as provided in section 24d for the filling of vacancies on the board of county canvassers.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 2006, Act 463, Imd. Eff. Dec. 20, 2006.

**Popular name:** Election Code

### 168.24d Board of county canvassers; vacancy.

Sec. 24d. (1) If a vacancy occurs in the membership of the board of county canvassers, the county clerk shall immediately give notice of the vacancy to the chairperson of the county committee of the political party entitled to fill the vacancy.

(2) The county committee of the political party entitled to fill a vacancy on the board of county canvassers,



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

within 10 days after receiving information concerning the vacancy, shall nominate 3 interested persons for the position and submit the list of nominees to the county clerk.

(3) The county clerk, within 10 days from receipt of the list of nominees, shall appoint 1 of the nominees to the board of county canvassers. Before appointing a nominee to the board of county canvassers under this subsection, the county clerk may request that a nominee provide any of the following in order to determine whether the nominee is qualified for and interested in the position on the board of county canvassers:

(a) A letter signed by the nominee indicating an interest in serving on the board of county canvassers and indicating an intent to discharge the duties of the position on the board of county canvassers to the best of his or her ability.

(b) Prior election experience including canvassing elections.

(c) Information on whether the nominee has been convicted of a felony or election crime.

(4) A person appointed to fill a vacancy on the board of county canvassers shall serve for the balance of the unexpired term.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 2006, Act 463, Imd. Eff. Dec. 20, 2006.

**Popular name:** Election Code

### 168.24e Board of county canvassers; meetings; election of officers; quorum, action; clerk; assistants, compensation.

Sec. 24e. The board shall meet as necessary to transact their business, and during the month of January in each even numbered year elect one of their members chairman and one as vice-chairman. Any 3 members shall constitute a quorum but no action shall become effective unless 1 member from each political party represented concurs therein.

The county clerk shall be the clerk of the board of county canvassers. The board of county canvassers may employ such assistants as are necessary adequately to perform the duties of the board, and the payment for the assistants shall be in amounts authorized by the board of county canvassers and shall be paid from an appropriation made for that purpose by the board of supervisors prior to the canvass.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### 168.24f Board of county canvassers in counties having population of less than 1,500,000; payments for meetings and reimbursement of expenses.

Sec. 24f. (1) In counties having a population of 475,000 or more but less than 1,500,000, the members of the board of county canvassers shall receive actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid at a rate which is equal to the per diem rate paid to the county board of commissioners for meetings, or which is equal to 1/2% of the annual salary paid to members of the county board of commissioners, whichever is greater. Payments for meetings and reimbursement of expenses shall be paid by the county treasurer upon the warrant of the county clerk.

(2) In counties having a population of less than 475,000, the members of the board of county canvassers shall receive actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid the same daily rate as is paid the members of the board of commissioners for meetings. Payments for meetings and reimbursement of expenses shall be paid by the county treasurer upon the warrant of the county clerk.

**History:** Add. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 1966, Act 81, Eff. Mar. 10, 1967;—Am. 1982, Act 154, Imd. Eff. May 17, 1982.

**Popular name:** Election Code

### 168.24g Repealed. 1996, Act 268, Eff. Mar. 28, 1996.

**Compiler's note:** The repealed section pertained to compensation and expenses of board of state canvassers.

**Popular name:** Election Code

### 168.24h Board of county canvassers in counties having population of 1,500,000 or more; payments for meetings, recounts, and reimbursement of expenses.

Sec. 24h. In counties having a population of 1,500,000 or more, the members of the board of county canvassers shall receive actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid a daily rate of $25.00 for meetings and $50.00 for recounts. Payments for meetings, recounts, and reimbursement of expenses shall be paid by the county treasurer upon the warrant of the county clerk.

**History:** Add. 1966, Act 81, Eff. Mar. 10, 1967;—Am. 1982, Act 154, Imd. Eff. May 17, 1982.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.24j Ballot container; examination by board of county canvassers; approval; procurement; use of disapproved container.

Sec. 24j. (1) A ballot container includes a ballot box, transfer case, or other container used to secure ballots, including optical scan ballots and electronic voting systems and data.

(2) A manufacturer or distributor of ballot containers shall submit a nonmetal ballot container to the secretary of state for approval under the requirements of subsection (3) before the ballot container is sold to a county, city, township, village, or school district for use at an election.

(3) A ballot container shall not be approved unless it meets both of the following requirements:

(a) It is made of metal, plastic, fiberglass, or other material, that provides resistance to tampering.

(b) It is capable of being sealed with a metal seal.

(4) Before June 1 of 2002, and every fourth year after 2002, a county board of canvassers shall examine each ballot container to be used in any election conducted under this act. The board shall designate on the ballot container that the ballot container does or does not meet the requirements under subsection (3). A ballot container that has not been approved by the board shall not be used to store voted ballots.

(5) A city, village, or township clerk may procure ballot containers as provided in section 669 and as approved under this section.

(6) A clerk who uses or permits the use of a ballot container that has not been approved under this section is guilty of a misdemeanor.

**History:** Add. 1969, Act 184, Eff. Mar. 20, 1970;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.25 Board of city election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 25. Notwithstanding any other provision of law to the contrary, unless otherwise provided by a charter adopted by a majority vote of the people voting on the adoption thereof, the city clerk, the city attorney and the city assessor shall constitute the board of city election commissioners for each city, 2 of whom shall be a quorum for the transaction of business. The city clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the officer in attendance shall appoint a qualified and registered elector of said city to act in the absentee's stead, during the period of nonattendance.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 231, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.26 Board of township election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 26. Unless otherwise provided by charter, the supervisor, clerk and township treasurer shall constitute the board of township election commissioners for each township, 2 of whom shall be a quorum for the transaction of business. The township clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the officer in attendance shall appoint a qualified and registered elector of the township to act in the absentee's stead during the period of nonattendance.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.27 Board of village election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 27. Notwithstanding any other provision of law to the contrary, unless otherwise provided by a charter adopted by a majority vote of the people voting on the adoption thereof, the president, clerk and treasurer shall constitute the board of village election commissioners for each village, 2 of whom shall be a quorum for the transaction of business. The village clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the village assessor shall act in the absentee's stead during the period of nonattendance.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 231, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.28 Boards of election commissioners and boards of canvassers; compensation.

Sec. 28. Members of the various boards of election commissioners and boards of canvassers and any other person charged with duties in connection with the conduct of primaries, elections, canvassing of returns and recounts shall receive such compensation as shall be determined by the legislative body of the state, county, city, township or village, as the case may be.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.29 Appointment of assistants by clerk of county, township, city, or village; discrimination prohibited; authority, duties, oath, and compensation of assistants; instruction.

Sec. 29. (1) The clerk of each county, township, city, and village may appoint a number of assistants as may be necessary to carry out the general provisions of the election law. The clerk of a county, township, city, or village shall consider an application for the appointment of an assistant without regard to age, socioeconomic status, sex, race, national origin, religion, political affiliation, or any disability the applicant may have.

(2) Assistants appointed under this section shall possess only the authority conferred upon them by the county, township, city, or village clerk appointing them, and shall perform only those duties that are assigned to them by the clerk. Before an assistant enters upon the discharge of his or her duties, the assistant shall take and subscribe to the oath of office as provided in section 1 of article XI of the state constitution of 1963, which shall be filed in the office of the county, township, city, or village clerk who appointed the assistant and shall be properly instructed by the county, township, city, or village clerk in the duties the assistant is assigned to perform. An assistant may receive compensation as may be fixed by a township board or the legislative body of a county, city, or village.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1967, Act 186, Eff. Nov. 2, 1967;—Am. 1978, Act 266, Imd. Eff. June 29, 1978;—Am. 1979, Act 54, Imd. Eff. July 11, 1979;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998.

**Popular name:** Election Code

### 168.30 Providing clerk with permanent postal mailing address and electronic mailing address.

Sec. 30. Not later than 30 days after the effective date of this section, each county, township, city, or village shall provide its clerk with a permanent postal mailing address and each county shall provide its clerk with an electronic mailing address. Each clerk shall notify the secretary of state in writing of any address required to be provided under this section. Not later than 3 business days after a change in the postal mailing address of the office of a county, township, city, or village clerk, or the electronic mailing address of a county clerk, the clerk shall notify the secretary of state in writing of the new address.

**History:** Add. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.30a Board of city or township canvassers; powers and duties; members, appointment, terms, notice; contract with county for services of board of county canvassers; cost.

Sec. 30a. (1) A 4-member board of canvassers is established in every city and township having more than 5 precincts, notwithstanding a statutory or charter provision, or other rule or law, to the contrary. All of the powers granted to and duties required by law to be performed by city and township boards of canvassers are granted to and required to be performed by the boards of city and township canvassers in cities and townships having more than 5 precincts. Members of the board of canvassers shall be appointed for terms of 4 years beginning the January 1 after their appointment. Members of the board of canvassers shall be notified of their appointment within 5 days after appointment by their city or township clerk.

(2) The city council or the township board of a city or township having more than 5 precincts may contract with the board of commissioners of the county in which all or the greater portion of the city or township's population resides to provide that the board of county canvassers of that county shall perform all the functions of the board of city or township canvassers. Financial arrangements of a contract with the board of commissioners may provide that the city or township shall bear all or part of the cost of the work of the county board of canvassers.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 2003, Act 302, Eff. Jan. 1, 2005.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** Section 3 of Act 65 of 1968 provides:

"This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.30b Board of city or township canvassers; members, eligibility, affidavit; holding other office prohibited.

Sec. 30b. Members of the board shall be qualified and registered electors of the city or township in which they serve. No person shall be appointed to a board of canvassers unless such person shall have filed with the city or township clerk an affidavit on a form approved by the state bureau of elections containing at least the following information: name, home address, political party affiliation, date of birth, employment and statement of physical disability, if any. The city or township clerk shall notify the county clerk of the name, address and political affiliation of board members, and the county clerk shall maintain such record for public inspection. A member of the board of canvassers vacates his office if at any time during his term of office he or any member of his immediate family serves as an election inspector or becomes a candidate for any elective public office at an election to be canvassed by his board of canvassers or serves as a member of the governing body of the unit for which his board is established.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.30c Board of city or township canvassers; members, selection, procedure; applications, appointments, vacancies.

Sec. 30c. Selection of the members of such board shall be made from each of the 2 political parties casting the greatest number of votes for secretary of state at the preceding November election in the county or counties in which the city or township is located. No political party shall be represented by more than 2 members on the board at any one time. Persons possessing qualifications for membership on the board may submit an application for the position on a form approved by the state bureau of elections. The governing body of the city or township shall appoint from the applications on file the members of the canvassing board by December 1 of each odd-numbered year. In event of a vacancy, the governing body shall make the appointment to fill the vacancy. Any person appointed to fill the vacancy shall serve for the balance of the unexpired term. Notwithstanding section 30b, if an insufficient number of applications to fill the positions has been submitted, the governing body shall make the appointments in any manner it deems advisable.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.30d Board of city or township canvassers; meetings, election of officers; quorum; clerk.

Sec. 30d. The board shall meet as necessary to transact their business and shall elect 1 of their members chairman and 1 vice chairman. Any 3 members shall constitute a quorum but no action shall become effective unless 1 member from each political party represented concurs therein. The city or township clerk shall be the clerk of the board of city or township canvassers.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.30e Board of city or township canvassers; compensation and expenses; incomplete canvass, completion by board of county canvassers, cost.

Sec. 30e. The members of the board of city or township canvassers shall receive actual and necessary expenses incurred in the performance of their official duties and in addition may be paid a daily rate if so ordered by the governing body of the city or township. Should the board fail to certify the results of any election for any office or proposition within the 14 days immediately following the election at which the office or proposition was voted on, the city or township clerk shall immediately deliver to the secretary of the board of county canvassers of that county, all records and other information pertaining thereto. The board of county canvassers shall meet forthwith, make the necessary determinations and certify the results of that



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

election within the 7 days immediately following receipt of the records. The cost of such canvass shall be borne by the city or township involved.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.30f Repealed. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** The repealed section pertained to combination of governmental units for board of canvassers, expenses, and withdrawal.

**Popular name:** Election Code

### 168.30g Board of canvassers; absences, appointment of temporary members, qualifications, tenure.

Sec. 30g. Whenever a board of canvassers created under this act is required to perform its statutory duties and because of illness or absence of members of the board a quorum is not present, the clerk of the political subdivision may appoint a sufficient number of temporary members to constitute a quorum. If the vacancy is on the board of county canvassers, the appointment shall be made by the county clerk from party recommendations on file, if available. If the vacancy is on the board of city or township canvassers, the appointment shall be made from applications on file, if available. The appointments shall be of the same political party as the ill or absent members of the board. Any temporary appointee to the board of canvassers must possess all of the qualifications required for regular membership on that board. Temporary appointees shall serve only until the business on hand has been transacted.

**History:** Add. 1966, Act 65, Imd. Eff. June 9, 1966;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

## CHAPTER III
## DUTIES OF SECRETARY OF STATE

### 168.31 Secretary of state; duties as to elections; rules.

Sec. 31. (1) The secretary of state shall do all of the following:

(a) Subject to subsection (2), 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) Advise and direct local election officials as to the proper methods of conducting elections.

(c) Publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.

(d) Publish indexed pamphlet copies of the registration, primary, and election laws and furnish to the various county, city, township, and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions. The secretary of state may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference.

(e) Prescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations.

(f) Prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of this state.

(g) Require reports from the local election officials the secretary of state considers necessary.

(h) Investigate, or cause to be investigated by local authorities, the administration of election laws, and report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.

(i) Publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the county clerks on or before the first day of December following the election. All clerks shall furnish to the secretary of state, promptly and without compensation, any further



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

information requested of them to be used in the compilation of the legislative manual.

(j) Establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school elections officials.

(k) Establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election.

(*l*) Establish a comprehensive training curriculum for all precinct inspectors.

(m) Create an election day dispute resolution team that has regional representatives of the department of state, which team shall appear on site, if necessary.

(2) Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the secretary of state shall promulgate rules establishing uniform standards for state and local nominating, recall, and ballot question petition signatures. The standards for petition signatures may include, but need not be limited to, standards for all of the following:

(a) Determining the validity of registration of a circulator or individual signing a petition.

(b) Determining the genuineness of the signature of a circulator or individual signing a petition, including digitized signatures.

(c) Proper designation of the place of registration of a circulator or individual signing a petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 249, Eff. Sept. 27, 1957;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998;—Am. 1999, Act 220, Eff. Mar. 10, 2000;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

## 168.32 Bureau of elections; director of elections; appointment; powers and duties; statement of purpose of proposed constitutional amendment or question.

Sec. 32. There is hereby continued in the office of the secretary of state the bureau of elections created by Act No. 65 of the Public Acts of 1951, under the supervision of a director of elections, to be appointed by the secretary of state under civil service regulations. The director of elections shall be vested with the powers and shall perform the duties of the secretary of state under his supervision, with respect to the supervision and administration of the election laws. The director of elections shall be a nonmember secretary of the state board of canvassers.

The director of elections, with the approval of the state board of canvassers, shall prepare a statement for designation on the ballot in not more than 100 words, exclusive of caption, of the purpose of any proposed amendment or question, to be submitted to the electors as required under section 2 of article 12 of the state constitution. The powers and duties of the state board of canvassers and the secretary of state with respect to the preparation of such statement are hereby transferred to the director of elections.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1964, Act 251, Imd. Eff. May 28, 1964.

**Compiler's note:** Act 65 of 1951, referred to in this section, was repealed by Act 116 of 1954.

**Popular name:** Election Code

### 168.33 Training schools on conducting elections in accordance with election laws; conduct; cost.

Sec. 33. (1) The director of elections shall conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with respect to the conducting of elections in accordance with the election laws. Included in this training shall be instruction on the uniform voting system. In case any county clerk shall fail to conduct in his or her county a training school for election boards within the county, the director of elections shall conduct such training school, the cost of the training school to be charged as an obligation of the county.

(2) The director of elections shall train all county, city, and township clerks who are involved in the training of precinct inspectors. The training shall include team training and monitoring of their performance as trainers.

(3) The director of elections shall conduct all precinct inspector training in counties where the clerk has not been accredited to conduct the training schools.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1964, Act 251, Imd. Eff. May 28, 1964;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.34 Director of elections; restrictions.

Sec. 34. The director of elections shall perform no other duties which will interfere with his duties as director of elections.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.35 Assistants to director; employment, expenses.

Sec. 35. The secretary of state is authorized to employ such assistants to the director of elections and incur such expenses as shall be necessary in carrying out the supervision of the election laws of this state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.36 Seal.

Sec. 36. The secretary of state may approve seals to be used for the same purpose as metal seals when required by this act. The secretary of state shall only approve a seal under this section if that seal meets all of the following requirements:

(a) Is designed and manufactured for the purpose of proving authenticity, attesting to accuracy, or closing to outside interference or influence.

(b) Is made out of metal, plastic, fiberglass, or any combination of these materials that would provide resistance to or evidence of a force tending to break the seal.

(c) Contains an embossed or imprinted serial number.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

****** 168.37 THIS SECTION IS REPEALED BY ACT 91 OF 2002 JANUARY 1, 2006 PROVIDED THAT MONEY TO CARRY OUT THE PURPOSES OF THE SECTION IS NOT APPROPRIATED AND SIGNED INTO LAW BEFORE JANUARY 1, 2006 ******

### 168.37 Uniform voting system; advisory committee; selection; notice of selection; schedule for acquisition and implementation; repetition of process; appropriation required; repeal of section.

Sec. 37. (1) The secretary of state shall select a uniform voting system under the provisions of this section. The secretary of state shall convene an advisory committee on the selection of the uniform voting system, whose membership represents county, city, and township election officials and other relevant organizations. In addition, the speaker and minority leader of the house of representatives and the majority and minority



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

leaders of the senate may each appoint 1 advisory committee member.

(2) The secretary of state may conduct tests of a voting system in order to select the uniform voting system. The secretary of state shall not consider a voting system for selection as the uniform voting system unless the voting system is approved and certified as provided in section 795a. At the secretary of state's request, the board of state canvassers shall perform the approval and certification review, as provided in section 795a, of a voting system that the secretary of state wants to consider for selection as the uniform voting system.

(3) When the uniform voting system is selected or at an earlier time that the secretary of state considers advisable, the secretary of state shall notify each county, city, village, township, and school district about the selection or impending selection of the uniform voting system. A governmental unit that is notified under this subsection shall not purchase or enter into a contract to purchase a voting system other than the uniform voting system after receipt of the notice.

(4) After selection of the uniform voting system, the secretary of state shall establish a schedule for acquisition and implementation of the uniform voting system throughout the state. The secretary of state may devise a schedule that institutes the uniform voting system over several election cycles. The secretary of state shall widely publicize the schedule and changes to the schedule. If, however, a jurisdiction has acquired a new voting system within 8 years before the jurisdiction receives notice from the secretary of state under subsection (3), that jurisdiction shall not be required to acquire and use the uniform voting system until the expiration of 10 years after the date of the original purchase of the equipment.

(5) If, after selection of the uniform voting system, the secretary of state determines that the uniform voting system no longer serves the welfare of the voters or has become out of date in regards to voting system technology, the secretary of state may repeat the process for selecting the uniform voting system authorized under this section.

(6) This section does not apply until money is appropriated for the purpose of selecting, acquiring, and implementing the uniform voting system. If federal money becomes available for the purposes described in this section, the secretary of state shall, and the legislature intends to, take the steps necessary to qualify for and appropriate that money for the purposes described in this section.

(7) If an appropriation of money for the purposes described in this section is not signed into law before January 1, 2006, this section is repealed on January 1, 2006.

**History:** Add. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

## CHAPTER IV
## ELECTORS OF PRESIDENT AND VICE-PRESIDENT

### 168.41 Presidential electors; eligibility.

Sec. 41. No person shall be eligible to be an elector of president and vice-president who shall not have been a citizen of the United States for at least 10 years and a resident and registered elector of the congressional district for an elector representing a congressional district, or of the state, for an elector representing the state at large for at least 1 year prior to the election. No senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector, as provided in section 1 of article 2 of the United States constitution.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.42 Presidential electors; selection at state political party conventions, certification.

Sec. 42. In the year in which presidential electors are to be elected under section 43, each political party in this state shall choose at its fall state convention a number of candidates for electors of president and vice-president of the United States equal to the number of senators and representatives in congress that this state is entitled to elect. The chairperson and the secretary of the state central committee of each political party shall, within 1 business day after the conclusion of the state convention, forward by registered or certified mail a certificate containing the names of the candidates for electors to the secretary of state. The candidates for electors of president and vice-president who shall be considered elected are those whose names have been certified to the secretary of state by that political party receiving the greatest number of votes for those offices at the next November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.43 Presidential electors; election.

Sec. 43. At the general November election held in the year 1956 and at the general November election held every fourth year thereafter, electors of president and vice-president of the United States shall be elected in the manner herein provided: Provided, That if congress should hereafter fix a different day for such election, then the election for electors shall be held on such day as shall be named by congress as provided in section 1 of article 2 of the United States constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.44 Repealed. 1955, Act 271, Imd. Eff. June 30;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section prescribed a form of an official presidential ballot.

**Popular name:** Election Code

### 168.45 Cross or check mark as vote for presidential electors.

Sec. 45. Marking a cross (X) or a check mark ( ) in the circle under the party name of a political party, at the general November election in a presidential year, shall not be considered and taken as a direct vote for the candidates of that political party for president and vice-president or either of them, but, as to the presidential vote, as a vote for the entire list or set of presidential electors chosen by that political party and certified to the secretary of state pursuant to this chapter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Popular name:** Election Code

### 168.46 Presidential electors; determination by board of state canvassers; certificate of election.

Sec. 46. As soon as practicable after the state board of canvassers has, by the official canvass, ascertained the result of an election as to electors of president and vice-president of the United States, the governor shall certify, under the seal of the state, to the United States secretary of state, the names and addresses of the electors of this state chosen as electors of president and vice-president of the United States. The governor shall also transmit to each elector chosen as an elector for president and vice-president of the United States a certificate, in triplicate, under the seal of the state, of his or her election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 431, Imd. Eff. June 6, 2002.

**Popular name:** Election Code

### 168.47 Convening of presidential electors; time and place thereof; resignations; refusal or failure to vote; vacancies.

Sec. 47. The electors of president and vice-president shall convene in the senate chamber at the capitol of the state at 2 p.m., eastern standard time, on the first Monday after the second Wednesday in December following their election. At any time before receipt of the certificate of the governor or within 48 hours thereafter, an elector may resign by submitting his written and verified resignation to the governor. Failure to so resign signifies consent to serve and to cast his vote for the candidates for president and vice-president appearing on the Michigan ballot of the political party which nominated him. Refusal or failure to vote for the candidates for president and vice-president appearing on the Michigan ballot of the political party which nominated the elector constitutes a resignation from the office of elector, his vote shall not be recorded and the remaining electors shall forthwith fill the vacancy. The ballot used by the elector shall bear the name of the elector. If at the time of convening there is any vacancy caused by death, resignation, refusal or failure to vote, neglect to attend, or ineligibility of any person elected, or for any other cause, the qualified electors of president and vice-president shall proceed to fill such vacancy by ballot, by a plurality of votes. When all the electors appear and the vacancy shall be filled, they shall proceed to perform the duties of such electors, as required by the constitution and laws of the United States. If congress hereafter fixes a different day for such meeting, the electors shall meet and give their votes on the day designated by act of congress.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1971, Act 172, Eff. Mar. 30, 1972.

**Popular name:** Election Code

## CHAPTER V
## GOVERNOR AND LIEUTENANT GOVERNOR

### 168.51 Governor or lieutenant governor; eligibility; violation of MCL 38.412a.

Sec. 51. A person shall not be eligible to the office of governor or lieutenant governor unless the person



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

has attained the age of 30 years and has been a registered and qualified elector in this state for 4 years next preceding his or her election, as provided in section 22 of article 5 of the state constitution of 1963. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible to the office of governor or lieutenant governor for a period of 20 years after the conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

### 168.52 Gubernatorial candidates; nomination at primary.

Sec. 52. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election in which a governor is to be elected, at which time the qualified and registered electors of each political party shall vote for party candidates for the office of governor. This section shall not apply to parties required to nominate candidates at caucuses or conventions.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.53 Office of governor; nominating petitions; signatures; form; filing.

Sec. 53. To obtain the printing of the name of a person as a candidate for nomination by a political party for the office of governor under a particular party heading upon the official primary ballots, there shall be filed with the secretary of state nominating petitions signed by a number of qualified and registered electors residing in this state as determined under section 544f. Nominating petitions shall be signed by at least 100 registered resident electors in each of at least 1/2 of the congressional districts of the state. Nominating petitions shall be in the form as prescribed in section 544c. Nominating petitions shall be received by the secretary of state for filing in accordance with this act up to 4 p.m. of the twelfth Tuesday preceding the August primary.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.54 Candidates for nomination; withdrawal, notice.

Sec. 54. After the filing of a nominating petition by or in behalf of a proposed candidate for governor, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 p.m., eastern standard time, of the third day after the last day for filing such petitions.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.55 Candidates for nomination; no candidate, write-in.

Sec. 55. If, for any reason, there is no candidate of a political party for the office of governor or lieutenant governor, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such offices by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.56 Governor; death; selection of new candidate; ballots.

Sec. 56. When any candidate of a political party for the office of governor, after having qualified as a candidate, shall die, after the time specified for filing in section 53, leaving such party without a candidate for such office, a candidate to fill the vacancy thereby caused may be selected by the state central committee of such party, and the name of the candidate so selected shall be transmitted to the county officers, required by law to print and distribute ballots. The name of such candidate shall be printed on the ballot, but if the primary ballots have been printed, the county officers shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of such candidate, which shall be distributed to the various voting precincts in their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.57 Gubernatorial candidates; nominees, certification.

Sec. 57. The candidate of each political party for the office of governor receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nominations to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.58 Gubernatorial candidates; withdrawal after nomination.

Sec. 58. When a candidate of any political party for the office of governor has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state, or has become physically unfit. This prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.59 Gubernatorial candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 59. When the candidate of a political party, after having been nominated to the office of governor, shall die, withdraw as provided in section 58 of this act, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon such ballots in the proper place the name of the candidate so selected and certified to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.60 Governor and lieutenant governor; election.

Sec. 60. A governor and lieutenant governor shall be elected jointly at the general election in 1964, 1966, and every fourth year thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.61 Governor and lieutenant governor; certificate of determination by board of state canvassers.

Sec. 61. The board of state canvassers shall determine which candidates for governor and lieutenant governor have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of return a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.62 Governor and lieutenant governor; certificate of election.

Sec. 62. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the offices of governor and lieutenant governor certificates of election, certified by him under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.63 Governor and lieutenant governor; terms of office.

Sec. 63. The terms of office of governor and lieutenant governor shall commence at 12 noon on January 1 next following the election, and shall continue until a successor is elected and qualified. The terms of office of the governor and lieutenant governor elected at the general election of 1964 shall be 2 years. The terms of office of the governor and lieutenant governor elected at the general election in 1966 and every fourth year thereafter shall be 4 years.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.64 Governor and lieutenant governor; oath of office, deposit.

Sec. 64. Every person elected to the office of governor or lieutenant governor, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and deposit same with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.65 Governor or lieutenant governor; resignation, notice.

Sec. 65. Any person duly elected to the office of governor or lieutenant governor who desires to resign shall file a written notice containing the effective date of such resignation with the legislature and the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.66 Governor or lieutenant governor; vacancy, creation; impeachment.

Sec. 66. The office of governor or lieutenant governor shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

Any person holding the office of governor or lieutenant governor may be removed from office upon conviction in impeachment proceedings as provided in section 7 of article 11 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.67 Offices of governor and lieutenant governor; vacancy; death or failure to qualify of governor-elect or lieutenant governor-elect; devolution of powers and duties.

Sec. 67. If a vacancy occurs in the office of governor, the powers and duties of that office shall devolve upon the lieutenant governor for the remainder of the term or until the disability ceases. If the lieutenant governor succeeds to the office of governor, or if a vacancy occurs in the office of lieutenant governor, the senate, by resolution, with a record roll call vote, shall appoint an acting lieutenant governor of the same political party as the governor who shall serve for the remainder of the term or until the disability ceases. If a vacancy occurs in both the offices of governor and lieutenant governor, the elected secretary of state, the elected attorney general, the senate president pro tempore, and the speaker of the house of representatives, in that order shall act as governor until the vacancy is filled or the disability of either the governor or lieutenant governor ceases, as provided in section 26 of article 5 of the state constitution of 1963. Should the governor-elect die or fail to qualify by the first of January next following his or her election, the lieutenant governor-elect shall qualify and exercise all the powers and duties of the office of governor for the entire term, or until the governor-elect shall qualify. Should the lieutenant governor-elect also die or fail to qualify, the powers and duties of the office of governor shall devolve upon the secretary of state-elect and the attorney general-elect in that order in a like manner.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963;—Am. 1969, Act 8, Eff. Mar. 20, 1970;—Am. 1981, Act 44, Imd. Eff. May 13, 1981.

**Popular name:** Election Code

### 168.68 Governor or lieutenant governor; recount of vote.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 68. The votes cast for any candidate for the office of governor or lieutenant governor at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.69 Governor or lieutenant governor; recall.

Sec. 69. Any person elected to the office of governor or lieutenant governor shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 34, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER VI
## LIEUTENANT GOVERNOR; SECRETARY OF STATE; ATTORNEY GENERAL

### 168.71 Offices of secretary of state or attorney general; eligibility; violation of MCL 38.412a.

Sec. 71. (1) A person shall not be eligible to the offices of secretary of state or attorney general if the person is not a registered and qualified elector of this state by the date the person is nominated for the office.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible to the offices of secretary of state or attorney general for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.72 Candidates for lieutenant governor, secretary of state, attorney general; nomination at fall state convention.

Sec. 72. At its fall state convention, each political party may nominate a candidate for each of the offices of lieutenant governor, secretary of state and attorney general.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.73 Offices of lieutenant governor, secretary of state, and attorney general; nominees; list.

Sec. 73. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for the offices of lieutenant governor, secretary of state, and attorney general. Not more than 1 business day after the conclusion of the convention, the chairperson and secretary of the state central committee shall forward to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of candidates nominated at the state convention. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.74 Candidates; withdrawal; notice.

Sec. 74. A person who has been certified by the state central committee of any party as nominated for the office of lieutenant governor, secretary of state, or attorney general may withdraw by filing a written notice of withdrawal with the secretary of state or his or her authorized agent and a copy with the chairperson and the secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention at which the person was nominated.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.75 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 75. When a candidate of a political party, after having been nominated to the office of lieutenant governor, secretary of state or attorney general, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county whose duty it is to prepare the official ballots and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.76 Secretary of state and attorney general; election.

Sec. 76. A secretary of state and attorney general shall be elected at the general election in 1964, 1966, and every fourth year thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.77 Secretary of state and attorney general; certificate of determination by board of state canvassers.

Sec. 77. The board of state canvassers shall determine which candidates for the offices of secretary of state and attorney general have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.78 Secretary of state and attorney general; certificate of election.

Sec. 78. The secretary of state shall file in his office and preserve the original statements and determination of the board of state canvassers of the results of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the offices of secretary of state and attorney general certificates of election, certified by him under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.79 Secretary of state and attorney general; terms of office.

Sec. 79. The terms of office of the secretary of state and attorney general shall commence at 12 noon on January 1 next following the election, and shall continue until a successor is elected and qualified.

The terms of office of the secretary of state and attorney general elected at the general election in 1964 shall be 2 years. The terms of office of the secretary of state and attorney general elected at the general



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

election in 1966 and every fourth year thereafter shall be 4 years.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.80 Secretary of state and attorney general; oath of office, bond, deposit.

Sec. 80. Every person elected to the office of secretary of state or attorney general, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath and bond with the secretary of state, except that any person elected to the office of secretary of state shall deposit said oath and bond with the attorney general.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.81 Secretary of state or attorney general; resignation, notice.

Sec. 81. Any person duly elected to the office of secretary of state or attorney general who desires to resign shall file a written notice, containing the effective date of such resignation, with the governor and a copy with the office of the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.82 Secretary of state or attorney general; vacancy, creation, notice to governor.

Sec. 82. The office of secretary of state or attorney general shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing to the governor. Such notice shall be given by the secretary of state unless such vacancy occurs in the office of the secretary of state, then by the attorney general.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.83 Secretary of state or attorney general; impeachment; removal from office; service of charges, hearing.

Sec. 83. Any person holding the office of secretary of state or attorney general may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution. The governor shall have the power and it shall be his duty, except at such times as the legislature may be in session, to examine into the condition and administration of the public offices and the acts of the public officers enumerated herein, and to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, and report the causes of such removal to the legislature at its next session as provided in section 10 of article 5 of the state constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a public hearing conducted personally by the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.84 Secretary of state or attorney general; vacancy; successor, appointment by governor, oath of office, bond.

Sec. 84. Whenever a vacancy shall occur in the office of secretary of state or attorney general, the governor shall appoint a successor to fill such vacancy and the person so appointed shall take the oath of office, give bond in the manner required by law and shall hold such office until his successor is elected and qualified. The candidate receiving the highest number of votes for either of said offices who has subscribed to the constitutional oath and filed the requisite bond shall be deemed to be elected and qualified even though a vacancy occurs prior to the time he shall have entered upon the duties of his office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.85 Secretary of state or attorney general; election, recount of votes.

Sec. 85. The votes cast for any candidate for the office of secretary of state or attorney general at any election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.86 Secretary of state or attorney general; recall.

Sec. 86. Any person elected to the office of secretary of state or attorney general shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 4, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER VII
## UNITED STATES SENATOR

### 168.91 United States senator; eligibility; violation of 38.412a.

Sec. 91. A person shall not be a United States senator unless the person has attained the age of 30 years and has been a citizen of the United States for 9 years, and is, when elected, an inhabitant of that state for which he or she shall be chosen as provided in section 3 of article 1 of the United States constitution. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible to the office of United States senator for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

### 168.92 Candidates for United States senator; nomination at primary.

Sec. 92. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party may vote for a party candidate for the office of United States senator, to be filled at said election: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions: Provided further, That no nomination for the office of United States senator shall be made unless such official is to be elected at the next succeeding general November election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.93 United States senator; nominating petition; signatures; form; filing.

Sec. 93. In order for the name of a person as a candidate for nomination by a political party for the office of United States senator to appear under a particular party heading on the official primary ballot, a nominating petition shall be filed with the secretary of state. The nominating petition shall have been signed by a number of qualified and registered electors residing within this state as determined under section 544f. The nominating petition shall be signed by at least 100 qualified and registered electors in each of at least 1/2 of the congressional districts of this state. Nominating petitions shall be in the form as prescribed in section 544c. The nominating petition shall be filed with the secretary of state no later than 4 p.m. of the twelfth Tuesday before the August primary.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2000, Act 491, Imd. Eff. Jan. 11, 2001.

**Popular name:** Election Code

### 168.94 Candidates; withdrawal, notice.

Sec. 94. After the filing of a nominating petition by or in behalf of a proposed candidate for United States senator, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.95 Candidates; death; new candidate, selection, certification; ballots.

Sec. 95. When any candidate of a political party for the office of United States senator, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of United States senator, a candidate to fill the vacancy thereby caused may be selected by the state central committee and the name of the candidate so selected shall be transmitted to the secretary of state and to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.96 Candidates for nomination; no candidate, write-in.

Sec. 96. If for any reason there is no candidate of a political party for the office of United States senator, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 64, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 227, Imd. Eff. May 22, 1964.

**Popular name:** Election Code

### 168.97 Candidates; nomination, certification.

Sec. 97. The candidate of each political party for the office of United States senator receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nomination to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.98 Candidates; withdrawal after nomination.

Sec. 98. When a candidate of any political party has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state, or has become physically unfit. No vacancy shall be filled by the state central committees except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.99 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 99. When the candidate of a political party, after having been nominated to the office of United States senator, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said boards shall cause to be printed or placed upon such ballots in the proper place the name of the candidate so selected and certified to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.100 United States senator; election.

Sec. 100. A United States senator shall be elected at the general November election held in the year 1958,



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and at the general November election every sixth year thereafter. A United States Senator shall be elected at the general November election held in the year 1960 and at the general November election every sixth year thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.101 United States senator; certificate of determination by board of state canvassers.

Sec. 101. The board of state canvassers shall determine which candidate for United States senator has received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state, who shall forthwith deliver a true copy of said certificate to the governor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.102 United States senator; certificate of election by governor.

Sec. 102. It shall be the duty of the governor, upon the election or appointment of a United States senator, to certify his election or appointment to the president of the senate of the United States. Said certificate shall be under the great seal of the state and countersigned by the secretary of state, and a copy thereof shall be delivered to the person so elected or appointed as United States senator.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.103 United States senator; term of office.

Sec. 103. The term of office of a United States senator shall be 6 years, beginning on the third day of January next succeeding his election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.104 United States senator; resignation, notice.

Sec. 104. Any person duly elected to the office of United States senator who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.105 United States senator; vacancy; successor, appointment by governor, tenure.

Sec. 105. Whenever a vacancy shall occur in the office of United States senator, the governor shall appoint, to fill the vacancy, some suitable person having the necessary qualifications for senator. The person so appointed shall hold office from the time of his appointment and qualification until the first day of December following the next general November election which occurs more than 120 days after such vacancy happens. At such general November election, a United States senator to fill such vacancy shall be elected and the person so elected shall hold office from the first day of December following such election for the balance of the unexpired term of the senator whose vacancy is filled.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.106 United States senator; votes cast at primary or general election subject to recount.

Sec. 106. The votes cast for a candidate for nomination or election to the office of United States senator at a primary or general election shall be subject to recount as provided in chapter 33.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 7, Imd. Eff. Feb. 7, 1978.

**Popular name:** Election Code

### 168.107 United States senator; vacancy, creation.

Sec. 107. The office of United States senator shall become vacant on the happening of any of the following events before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; the decision of a competent tribunal declaring void his election or appointment; or his refusal or neglect to take his oath of office.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.108 United States senator; removal from office.

Sec. 108. Any United States senator may be removed from office as provided in section 5 of article 1 of the United States constitution.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.109 United States senator; contested election; restraining order of supreme court.

Sec. 109. Whenever the election of a United States senator is contested before the United States senate, or notice of a contested election for United States senator may be given, or whenever any judicial proceeding may be instituted preliminary to a contested election involving the right to a seat in said United States senate from the state of Michigan, and it shall be made to appear to the supreme court of the state of Michigan that there is danger that the ballot boxes used in the election of said United States senator within said state will not be properly preserved, the seals upon said boxes interfered with, said ballot boxes opened or the ballots therein interfered with or destroyed, such supreme court shall grant a restraining order directed to the officers having custody of said ballot boxes within said state restraining them and all other persons from interfering with said boxes, seals or locks thereon, or the ballots therein, except as therein provided.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.110 Contested election; preservation of ballots, application for restraining order by petition; notice, hearing; temporary restraining order pending hearing.

Sec. 110. Application for such restraining order may be made by any candidate for such office and shall be made by petition duly verified under oath setting up the material facts relative to the election and the election contest involved. Such petition shall be heard in open court, and the court shall give such notice of the hearing on such application as it shall deem sufficient to the candidates for the office of United States senator in the election concerning which the application was filed and to such persons as shall be named in such application. Pending such hearing, any justice of the supreme court may, in his discretion, grant a temporary order restraining any interference with said ballot boxes or the ballots therein.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.110a Repealed. 1978, Act 7, Imd. Eff. Feb. 7, 1978.

**Compiler's note:** The repealed section pertained to filing notice of intent to contest election of United States senator.

**Popular name:** Election Code

### 168.111 Contested election; service of restraining order, method.

Sec. 111. Service of any restraining order may be made personally, as in the case of the service of other process of said court, or such service may be made by registered or certified mail. In cases of emergency, notice of the issuance of a restraining order may be given to the officers to whom the same is directed by telegraph or by telephone in advance of the actual service of said order and, after such notice, whether by telegraph or telephone, said officers shall be charged with the same duty with regard to the preservation of said ballot boxes and the ballots therein as after the service of said order.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.112 Contested election; permanent restraining order, delivery of ballot boxes to custody of county clerk.

Sec. 112. On being served with a copy of a permanent restraining order issued by said court, it shall be the duty of all officers having the custody of ballot boxes containing ballots cast at said election for said office forthwith to deliver the same to the county clerks of the counties in which such officers reside. It shall be the duty of said county clerks to receive such ballot boxes containing such ballots and to receipt therefor to the officers so delivering them. Said county clerks shall thereupon deposit said ballot boxes containing said ballots in some secure place to await the action of the commissioners herein provided for.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.113 Contested election; commissioners, appointment, packaging of ballots.

Sec. 113. Upon issuing a permanent restraining order as herein provided, the supreme court shall name 3 commissioners, who shall proceed to the offices of the several county clerks as soon as may be, open said ballot boxes, remove the ballots therefrom and place them in packages securely wrapped and sealed and so marked as to show in what voting districts such ballots were cast.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.114 Contested election; commissioners, redeposit of ballots with county clerk, statement.

Sec. 114. Such packages shall be sealed by said commissioners and redeposited with said county clerks, and it shall be the duty of said county clerks to again place said packages of ballots in some secure place pending the further order of the court. It shall also be the duty of said commissioners to make a statement, duly signed by them, to be included within each such package, as to the character and condition of the ballot boxes when opened by them as herein provided, and of the condition of the ballots within such boxes. Each county clerk shall thereupon notify the several officers of election within the county that such ballot boxes have been released and direct such officers of election to appear and secure said boxes.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.115 Contested election; removal of ballots by commissioners, notice.

Sec. 115. The commissioners, as herein provided for, shall give public notice of the time when they will appear at each county seat for the purpose of removing the ballots from the ballot boxes, as herein provided, and such removal shall be publicly made in the presence of the county clerk and judge of probate in the office of the county clerk during office hours.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.116 Contested election; removal of ballots, representation of candidate.

Sec. 116. It shall be the right of each candidate to the office of United States senator at such election to be present in person at such removal, or to be represented thereat.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.117 Contested election; commissioners, compensation.

Sec. 117. The compensation of the commissioners herein provided for shall be fixed by the supreme court and such court shall allow such traveling and personal expenses of such commissioners as it may deem proper. All allowances to commissioners shall be taxed by the court as costs in the proceeding.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.118 Contested election; violation of restraining order, penalty.

Sec. 118. Any person who shall violate the terms of any such restraining order shall be in contempt of court and shall, in addition to such penalty as may be imposed thereby, be liable to a fine of $1,000.00.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.119 Contested election; application for restraining order to circuit court, authority of court.

Sec. 119. Instead of filing the petition for relief provided for in this act with the supreme court of the state of Michigan, application may be made in like manner to the circuit court for the county of Ingham, and when application is so made such court shall have full jurisdiction to make all orders, name the commissioners and otherwise exercise all necessary authority to carry out the purposes of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.120 Contested elections; purpose of act.

Sec. 120. It is the intention of this act to furnish a speedy and effective means for the preservation of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

evidence of the intention of voters in the case of elections to the office of United States senator. It is remedial in character and shall be construed in such manner as fully to carry out the intention herein expressed.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.121 United States senator; recall.

Sec. 121. Persons holding the office of United States senator are subject to recall by the qualified and registered electors of the state as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 64, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER VIII
## REPRESENTATIVE IN CONGRESS

### 168.131 Representative in congress; eligibility; violation of MCL 38.412a.

Sec. 131. A person shall not be a representative unless the person has attained the age of 25 years and been a citizen of the United States for 7 years, and is, when elected, an inhabitant of that state in which he or she shall be chosen, as provided in section 2 of article 1 of the United States constitution. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible to the office of representative in congress for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

### 168.132 Candidates for representative in congress; nomination at primary.

Sec. 132. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party within every congressional district shall vote for party candidates for the office of representative in congress to be filled at said election: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.133 Representative in congress; nominating petition; signatures; form; filing.

Sec. 133. In order for the name of a person as a candidate for nomination by a political party for the office of representative in congress to appear under a particular party heading on the official primary ballot in the election precincts of a congressional district, a nominating petition shall have been signed by a number of qualified and registered electors residing in the district as determined under section 544f. If the congressional district comprises more than 1 county, the nominating petition shall be filed with the secretary of state no later than 4 p.m. of the twelfth Tuesday before the August primary. If the congressional district is within 1 county, the nominating petition shall be filed with the county clerk of that county no later than 4 p.m. of the twelfth Tuesday before the August primary. Nominating petitions shall be in the form as prescribed in section 544c.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2000, Act 491, Imd. Eff. Jan. 11, 2001.

**Popular name:** Election Code

### 168.134 Candidates for nomination; withdrawal, notice.

Sec. 134. After the filing of a nominating petition by or in behalf of a proposed candidate for representative in congress, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom the petition was filed or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.135 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 135. When any candidate of a political party for the office of representative in congress, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of representative in congress, a candidate to fill the vacancy thereby caused may be selected by 3



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

delegates elected by a majority of the precinct delegates and nominees for state representative and state senator in a state representative or state senatorial district of the candidate's political party from within the boundaries of the congressional district. In case said district comprises more than 1 county, the meeting shall be called and conducted by the chairman of the state central committee or his authorized representative; the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties. The board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.136 Candidates for nomination; no candidate, write-in.

Sec. 136. If for any reason there is no candidate of a political party for the office of representative in congress, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.137 Candidates for representative in congress; nomination, certification.

Sec. 137. The candidate of each political party for the office of representative in congress receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nomination to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.138 Candidates; withdrawal after nomination.

Sec. 138. When a candidate of any political party has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state or has become physically unfit; no vacancy shall be filled by the district or county committees except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.139 Candidates for representative in congress; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 139. When a candidate of a political party, after having been nominated to the office of representative in congress, shall die, withdraw as provided in this chapter, remove from the state or become disqualified for any reason, a candidate to fill such vacancy shall be chosen by a committee selected as follows: (a) If such candidate shall have been nominated from a district composed of 1 or more counties, the committee shall consist of the members of the county committees of such candidate's political party for the counties comprising such congressional district: Provided, That if a congressional district comprises 3 or more counties, each county shall be entitled to have only the chairman, the treasurer and secretary of the county committee of such political party present and voting; or (b) if such candidate shall have been nominated from a district consisting of less than 1 county, the committee shall consist of the members of the district committee of such candidate's political party for such district. Such committee shall meet at a time and place designated by the chairman of the state central committee of such political party and notice of such meeting shall be sent to all members of the county or district committee, as the case may be. The meeting shall be conducted by the secretary of the state central committee or his duly authorized agent, but said secretary or agent shall not be privileged to vote at such meeting. A majority vote of the committee members present and voting shall be necessary for the selection of a candidate. The name of the candidate so selected shall be certified



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

immediately by the secretary of the state central committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said board shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected and certified to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.140 Representative in congress; election.

Sec. 140. A representative in congress in each congressional district shall be elected at each general November election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.141 Representative in congress; certificate of determination by board of state canvassers.

Sec. 141. The board of state canvassers shall determine which candidate has received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.142 Representative in congress; certificate of election.

Sec. 142. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the person thereby declared to be elected a certificate of election, certified by him under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.143 Representative in congress; term of office.

Sec. 143. The term of office of a representative in congress shall be 2 years beginning on the third day of January next following his election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.144 Representative in congress; resignation, notice.

Sec. 144. Any person duly elected to the office of representative in congress who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.145 Representative in congress; vacancy, special election.

Sec. 145. The governor shall call a special election as provided in section 633 of this act, in any congressional district of the state when the right of office of a person elected representative in congress shall cease before the commencement of the term of service for which he shall have been elected, or whenever a vacancy shall occur in the office of representative in congress after the term of service has begun for which such representative was elected.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.146 Representative in congress; vacancy, creation.

Sec. 146. The office of representative in congress shall become vacant on the happening of any of the following events before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; the decision of a competent tribunal declaring void his election; or his refusal or neglect to take his oath of office.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.147 Representative in congress; removal from office.

Sec. 147. Any representative in congress may be removed from office as provided in section 5 of article 1 of the United States constitution.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.148 Representative in congress; votes cast at primary or general election subject to recount.

Sec. 148. The votes cast for a candidate for nomination or election to the office of representative in congress at a primary or general election shall be subject to recount as provided in chapter 33.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 7, Imd. Eff. Feb. 7, 1978.

**Popular name:** Election Code

### 168.149 Representative in congress; recall.

Sec. 149. Persons holding the office of representatives in congress are subject to recall by the qualified and registered electors of their congressional districts as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.150 Representative in congress; contested election; preservation of ballots; restraining order of circuit court.

Sec. 150. Whenever a contest for the office of congressman is in progress before the house of representatives involving the right to a seat in said house from any of the congressional districts of Michigan, and it shall be made to appear to any circuit court in the state of Michigan that there is danger that the ballot boxes used in such congressional election within the district in which said circuit court has jurisdiction will be tampered with, the seals upon said boxes destroyed or tampered with, said ballot boxes opened or the ballots therein interfered with or destroyed, such circuit court shall grant a restraining order directed to the officers having custody of the ballot boxes within such congressional district restraining them from interfering with said boxes, the seals or locks thereon, or the ballots therein, during the pendency of the taking of testimony in such contest before the house of representatives.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.150a Repealed. 1978, Act 7, Imd. Eff. Feb. 7, 1978.

**Compiler's note:** The repealed section pertained to notice of intent to contest election of representative in congress.

**Popular name:** Election Code

### 168.151 Contested election; application for restraining order by petition; notice, hearing.

Sec. 151. Said application shall be made by sworn petition setting up the material facts touching the election and the election contest involved. It may be heard in chambers or in open court, in the discretion of the court, and it shall be heard upon such notice as will be sufficient to give the attorney of the party not applying for the order sufficient time to reach the court in which such application is made, by the usual method of travel from his place of business to such court, plus 24 hours.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.152 Contested election; service of restraining order, notice.

Sec. 152. Service of such restraining order may be made either personally, as in the case of ordinary process of said court, or in cases of emergency such service may be made by registered or certified mail. Notice of the issuance of such restraining order may be given to the officers to whom the same is directed, by telegraph or by telephone, in advance of the actual service of said order, and after the giving of such advance notice, said officer shall be charged with the same duties with regard to the preservation of the ballot boxes and ballots as after actual service of a copy of said order.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.153 Contested election; violation of restraining order, penalty.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 153. Any officer or any other person who shall violate the terms of any such restraining order shall be in contempt of court and shall, in addition to such penalty as may be imposed thereby, be liable to a fine of not less than $50.00 nor more than $500.00, in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.154 Contested election; intent of act.

Sec. 154. It is the intention of this act to furnish a speedy and effective remedy for the preservation of the evidence of the intention of the voters in the case of elections to the office of representative in congress and, for that purpose, the provisions of this act shall be construed as remedial.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.155 Contested election; proceeding in equity, fees.

Sec. 155. The proceeding herein specified shall be in equity, and the provisions of law relative to fees to be charged as entry fees and fees for the service of papers shall govern the proceedings under this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER IX
## STATE SENATE AND HOUSE OF REPRESENTATIVES

### 168.161 Offices of state senator or representative; eligibility; violation of MCL 38.412a.

Sec. 161. (1) A person shall not be eligible to the office of state senator or representative unless the person is a citizen of the United States and a registered and qualified elector of the district he or she represents by the filing deadline, as provided in section 7 of article 4 of the state constitution of 1963.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible to the office of state senator or representative for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.162 Candidates for state senator or representative; nomination at primary.

Sec. 162. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party within every senatorial district and every representative district shall vote for party candidates for the offices of state senator and representative, to be filled at the November election: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.163 Candidates for state senator or representative; nominating petitions; signatures; form; filing; filing fee in lieu of nominating petition; deposit of fee; refund of deposit.

Sec. 163. (1) To obtain the printing of the name of a person as a candidate for nomination by a political party for the office of state senator or representative under a particular party heading upon the official primary ballots in the various election precincts of a district, there shall be filed nominating petitions signed by a number of qualified and registered electors residing in the district as determined under section 544f. If the district comprises more than 1 county, the nominating petitions shall be filed with the secretary of state. If the district comprises 1 county or less, the nominating petitions shall be filed with the county clerk of that county. Nominating petitions shall be in the form prescribed in section 544c. The secretary of state and the various county clerks shall receive nominating petitions for filing in accordance with this act up to 4 p.m. of the twelfth Tuesday preceding the August primary.

(2) In lieu of filing a nominating petition, a filing fee of $100.00 may be paid to the county clerk or, for a candidate in a district comprising more than 1 county, to the secretary of state. Payment of the fee and certification of the name of the candidate paying the fee shall be governed by the same provisions as in the case of nominating petitions. The fee shall be deposited in the general fund of the county and shall be refunded to candidates who are nominated and to an equal number of candidates who receive the next highest



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

number of votes in the primary election. If 2 or more candidates tie in having the lowest number of votes allowing a refund, the sum of $100.00 shall be divided among them. A refund of a deposit shall not be made to a candidate who withdraws as a candidate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 125, Eff. Sept. 27, 1957;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.163a Repealed. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section provided for designation of incumbent on ballot.

**Popular name:** Election Code

### 168.164 Candidates for state senator or representative; withdrawal; notice.

Sec. 164. After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for the office of state senator or representative, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom his or her nominating petitions or filing fee were filed, or his or her duly authorized agent, not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

***** *168.165 SUBSECTION (2) ONLY APPLIES UNTIL DECEMBER 31, 1994* *****

### 168.165 Candidates for nomination; death; selection of new candidate; ballots; extension of filing deadline; requirements; applicability of subsection (2).

Sec. 165. (1) Except as otherwise provided in subsection (2), if a candidate of a political party for the office of state senator or state representative, as applicable, after having qualified as a candidate, dies after the last day for qualifying as a candidate, leaving the political party without a candidate for the office of state senator or state representative, a candidate to fill the vacancy caused by the death may be selected by 3 delegates elected by a majority of the precinct delegates and nominees for state representative and state senator of the candidate's political party from within the senatorial or representative district. However, if the senatorial or representative district comprises more than 1 county, the meeting shall be called and conducted by the chairperson of the state central committee or his or her authorized representative. The name of the candidate selected pursuant to this subsection shall be transmitted to the county officials required by law to print and distribute ballots. The county officials shall print the name of the candidate selected pursuant to this section on the ballot in place of the deceased candidate, or if the ballots are already printed, cause to be printed a sufficient number of gummed labels or stickers bearing the name of the selected candidate. The county officials shall distribute the gummed labels or stickers, if any, to the various voting precincts within their respective county. The board of election inspectors or authorized representatives of the city or township election commission of each precinct shall cause 1 of the gummed labels or stickers to be placed on each ballot, over the name of the candidate who has died, before the ballot is handed to the elector.

(2) If an incumbent state senator or state representative who has filed as a candidate for the same office in a district comprising all or a part of the district that the incumbent represents dies on the last day to file as a candidate under section 163 or within 14 days after the last day to file as a candidate, the filing deadline shall be extended and all of the following requirements apply:

(a) Not later than 1 business day after the effective date of this subsection or not later than 1 business day after the date of the death of the incumbent candidate, whichever is later, the secretary of the senate or the clerk of the house, as applicable, shall notify the secretary of state of the death of the incumbent candidate. If candidates for the vacant office are required to file with the county clerk, the secretary of state shall immediately notify the county clerk of the death of the incumbent candidate.

(b) Upon receipt of the notification under subdivision (a), the appropriate filing official shall remove the deceased incumbent's name from the list of candidates for that office. The filing official shall accept additional filings for that office up to 4 p.m. of the next business day immediately after the day that the filing official received the notification under subdivision (a).

(c) Notwithstanding any other provision of this act to the contrary, the following apply to candidates who file for an office pursuant to this subsection:

(*i*) A candidate who files for an office pursuant to this subsection shall not be permitted to withdraw.

(*ii*) A candidate who files for an office pursuant to this subsection and who had previously filed as a candidate for another office of state senator or state representative, which offices are to be filled at the same



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

election, is considered to have automatically withdrawn the previous filing.

(3) Subsection (2) only applies until December 31, 1994.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966;—Am. 1994, Act 152, Imd. Eff. June 9, 1994.

**Popular name:** Election Code

### 168.166 Candidates for nomination; no candidate, write-in.

Sec. 166. If for any reason the number of candidates of a political party for the office of state senator or representative shall be equal to less than the total number to be nominated and elected, a sufficient number of blank spaces shall be provided on the primary ballots which will afford every elector of said party an opportunity to vote for as many candidates as are to be nominated and elected by writing in the name or names of his or her selection or by the use of slips or pasters.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.167 Candidates for state senator or representative; nomination, certification.

Sec. 167. The candidates of each political party for the office of state senator and representative receiving the greatest number of votes cast for candidates for said offices as set forth in the report of the board of canvassers canvassing said votes, based on the returns from the various election precincts or as determined by said board as a result of a recount, shall be declared the nominees of that political party for said offices at the next ensuing November election. If the district which the candidate seeks to represent comprises 1 county or less, said determination shall be by the board of county canvassers. If the district which the candidate seeks to represent comprises more than 1 county, then the county clerk of each such county shall transmit to the secretary of state within 8 days after the primary elections a certified statement of the number of votes received by each person for nominations as a candidate of any political party for said offices. The secretary of state shall appoint a meeting of the board of state canvassers at his office not later than 15 days after the primary elections, which date he shall forthwith certify to the chairman of the state central committee of each political party for the purpose of canvassing the returns and declaring the result of the primary for the nomination of the candidates for state senator and representative. The board of canvassers making such canvass shall forthwith certify such nomination or nominations to the county election commission or commissions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.168 Candidates for state senator or representative; withdrawal after nomination; procedure.

Sec. 168. When a candidate of any political party has filed a nominating petition or filing fee for state senator or representative and has been nominated for the office by a party, he or she shall not be permitted to withdraw unless he or she shall be certified as a nominee at the subsequent state convention of the same party for a statewide office, or has removed from the district, or has become physically unfit, or become disqualified for any reason. If certified by a state convention for a statewide office, the candidate shall be deemed to have withdrawn from the previous nomination. No such vacancy shall be filled by the county executive committee or committees except for the causes and as herein specified. This prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition or filing fee and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1970, Act 175, Imd. Eff. Aug. 3, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

### 168.169 Candidates for state senator or representative; death, certification for statewide office, withdrawal, physical unfitness, or disqualification; selection of candidate to fill vacancy; certification; ballots.

Sec. 169. When the candidate of a political party, after having been nominated to the office of state senator or representative, shall die, be certified by a state convention for a statewide office, withdraw from the district, become physically unfit, or become disqualified for any reason, the members residing within said senatorial or representative district of the county executive committees of such candidate's political party for the counties comprising said senatorial or representative district shall meet at a time and place designated by the chairperson of the state central committee of such political party and notice of such meeting shall be sent



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to all such members of the county executive committees. The meeting shall be conducted by the secretary of the state central committee or his or her duly authorized agent, but said secretary or agent shall not be privileged to vote at such meeting. A candidate to fill the vacancy shall be selected by a majority vote of the committee members present and voting: Provided, That if such vacancy occurs in a senatorial or representative district wholly within 1 county, a candidate to fill the vacancy shall be selected by the county executive committee of the county by a majority vote thereof. The name of the candidate so selected shall be certified immediately by the chairperson and the secretary of said committee to the secretary of state in those districts comprising 2 or more counties and to the county clerk in those districts contained within 1 county. The certification shall be sent in any case to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said board shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected and certified to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

### 168.170 State senators and representatives; election, date.

Sec. 170. A state senator in each senatorial district shall be elected in the general election in 1964, 1966 and every fourth year thereafter. A representative in each representative district shall be elected at each general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.171 Candidate receiving greatest number of votes; duties of board of canvassers or county canvassers.

Sec. 171. The board of state canvassers or the board of county canvassers, as appropriate, shall determine which candidate has received the greatest number of votes and shall declare that candidate to be duly elected. The board of state canvassers shall proceed as prescribed in section 841. The board of county canvassers shall proceed as prescribed in section 826.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.172 State senators and representatives; certificate of election; publication of certificate of determination and statement of votes; notice of election results.

Sec. 172. The secretary of state or the county clerk shall file in his or her office and preserve the original statement and determination of the board of state canvassers or the board of county canvassers of the result of the election and shall immediately execute and cause to be delivered to the persons declared elected, a certificate of election, certified by him or her under the great seal of the state or the seal of the circuit court of the county. In each county which alone constitutes 1 or more senatorial or representative districts, the county clerk may cause a copy of the certificate of determination, together with a statement of votes cast at the election for the officers, to be published in at least 1 newspaper printed or circulated, or both, in that county. The county clerk shall notify the daily or weekly newspapers of the election results, in writing, as soon as practical after that information becomes available.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 162, Eff. Mar. 31, 1986.

**Popular name:** Election Code

### 168.173 State senators and representatives; terms of office.

Sec. 173. The term of office of state senator and representative shall commence at 12 noon on January 1 next following his election. The term of office of state representative shall be 2 years. The term of office of state senators elected at the general election in 1964 shall be 2 years. The term of office of state senators elected at the general election in 1966 and every fourth year thereafter shall be 4 years.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.174 State senators and representatives; oath of office.

Sec. 174. Every person elected to the office of state senator or representative, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.175 State senators and representatives; resignation, notice.

Sec. 175. Any person duly elected to the office of state senator or representative who desires to resign shall file a written notice containing the effective date of such resignation with the presiding officer of his respective house, who shall immediately transmit the same to the governor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.176 State senators and representatives; vacancy, creation.

Sec. 176. The office of state senator or representative shall become vacant on the happening of any of the following events, before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; his ceasing to be an inhabitant of the district for which he shall have been elected; the decision of a competent tribunal declaring void his election or appointment; or his refusal or neglect to take and subscribe to his oath of office. Regardless of any change in the boundaries of any state senatorial or representative district, an incumbent state senator or representative shall continue to represent the district from which he was elected until his current term of office shall expire or his successor is elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.177 State senators and representatives; removal from office.

Sec. 177. Any state senator or representative may be removed from office as provided in section 16 of article 4 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.178 State senators and representatives; vacancy in office; special election.

Sec. 178. The governor may call a special election as provided in section 634 in any senatorial or representative district of the state when the right of office of a person elected state senator or representative shall cease before the commencement of the term of service for which the state senator or representative was elected, or whenever a vacancy occurs in the office of state senator or representative after the term of service has begun for which the state senator or representative was elected.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 261, Imd. Eff. July 30, 1980.

**Popular name:** Election Code

### 168.179 State senators and representatives; primary or election, recount of votes.

Sec. 179. The votes cast for any candidate for the office of state senator or representative at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.180 State senators and representatives; recall.

Sec. 180. Any person elected to the office of state senator or representative shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 63, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER IXA

## DELEGATES TO CONVENTIONS FOR GENERAL REVISION OF THE STATE CONSTITUTION

### 168.181-168.190 Repealed. 1967, Act 35, Eff. Nov. 2, 1967.

**Popular name:** Election Code

## CHAPTER X

## PROSECUTING ATTORNEY; SHERIFF; COUNTY CLERK; COUNTY TREASURER; REGISTER OF DEEDS; DRAIN COMMISSIONER; CORONERS; SURVEYOR

### 168.191 County officers; eligibility; violation of MCL 38.412a.

Sec. 191. (1) A person shall not be eligible to the office of county clerk, county treasurer, register of deeds,



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

prosecuting attorney, sheriff, drain commissioner, surveyor, or coroner if the person is not a registered and qualified elector of the county in which election is sought by the filing deadline.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible to any of the offices enumerated in this section for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.192 Candidates for county offices; nomination at primary.

Sec. 192. A general primary election of all political parties shall be held in every county of this state on the Tuesday succeeding the first Monday in August preceding the general November election at which the officers named in section 191 of this act are to be elected, at which time the qualified and registered electors of each political party may vote for party candidates for the offices. This section shall not apply to parties required to nominate candidates at caucuses or conventions.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 35, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.193 Candidates for county offices; nominating petitions; signatures; form; filing fee in lieu of nominating petitions; deposit of fee; refund; forfeiture of deposit.

Sec. 193. (1) To obtain the printing of the name of a person as a candidate for nomination by a political party for an office named in section 191 under a particular party heading upon the official primary ballots, there shall be filed with the county clerk nominating petitions signed by a number of qualified and registered electors residing within the county as determined under section 544f. Nominating petitions shall be in the form prescribed in section 544c. The county clerk shall receive nominating petitions up to 4 p.m. of the twelfth Tuesday preceding the August primary.

(2) To obtain the printing of the name of a candidate of a political party under the particular party's heading upon the primary election ballots in the various voting precincts of the county, there may be filed by the candidate, in lieu of filing nomination petitions, a filing fee of $100.00 to be paid to the county clerk. Payment of the fee and certification of the candidate's name paying the fee shall be governed by the same provisions as in the case of nominating petitions. The fee shall be deposited in the general fund of the county and shall be refunded to candidates who are nominated and to an equal number of candidates who receive the next highest number of votes in the primary election. If 2 or more candidates tie in having the lowest number of votes allowing a refund, the sum of $100.00 shall be divided among them. The deposits of all other defeated candidates, as well as the deposits of candidates who withdraw or are disqualified, shall be forfeited and the candidates shall be notified of the forfeiture. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 35, Eff. Mar. 24, 1964;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.194 Candidates for nomination; withdrawal, notice.

Sec. 194. After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for any of the offices named in section 191 of this act, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition or filing fee, as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 173, Eff. Mar. 19, 1960.

**Popular name:** Election Code

### 168.195 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 195. When any candidate of a political party for any of the following offices: Prosecuting attorney, sheriff, county clerk, county treasurer, register of deeds, drain commissioner, coroner or surveyor, as the case may be, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the offices named above, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate which shall be distributed to the various voting precincts within their respective



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.196 Candidates for nomination; write-in when no candidate.

Sec. 196. If for any reason the number of candidates of a political party for any 1 or more of the offices named in section 191 of this act shall be equal to less than the total number to be nominated by said political party, a blank space or spaces shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for as many candidates for such office as are to be nominated by said party, by writing in the name or names of his or her selection or by the use of slips or pasters.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.197 Candidates for county offices; nomination, certification.

Sec. 197. The candidates of each political party for the offices named in section 191 of this act receiving the greatest number of votes cast for said offices, as set forth in the reports of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominees of that political party for said offices at the next ensuing November election. The board of county canvassers shall forthwith certify such nominations to the county election commission.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.198 Withdrawal of candidate after nomination for office; replacement of candidate dying before election; vacancy.

Sec. 198. (1) When a candidate of a political party has filed a nominating petition or filing fee for an office and has been nominated for the office by a political party, the candidate shall not be permitted to withdraw unless he has removed from the county or has become physically unfit.

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

(3) If the person who has been nominated as the candidate of a political party for township office or the office of county commissioner dies before the date of the election for that office, the county political committee, or in the case of a township office, the township political committee, of the party whose candidate has died shall select, by majority vote, a replacement for that person. The name of the replacement so selected shall be transmitted to the election officials responsible for the preparation and distribution of ballots, and the name of the replacement shall be affixed to each ballot or voting device in place of the name of the original candidate.

(4) A vacancy shall not be filled by the county committees except for the above causes and as herein specified.

(5) This prohibition shall not be construed to prohibit the withdrawal of a candidate who was nominated without having filed a nominating petition or filing fee and whose name has been written or placed on the ballot of a political party.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1974, Act 273, Imd. Eff. Oct. 2, 1974.

**Popular name:** Election Code

### 168.199 Candidates for county offices; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 199. Whenever a candidate of a political party, after having been nominated to any office named in section 191 of this act, shall die, withdraw as provided in section 198, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, whose duty it is to prepare the official ballots and who shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.200 County officers; election; combination or separation of offices of county clerk and register of deeds.

Sec. 200. (1) A county clerk, a county treasurer, a register of deeds, a prosecuting attorney, a sheriff, a drain commissioner, and a surveyor shall be elected at the 2000 general November election and every fourth year after that. However, in a county in which 1 of these offices is abolished or combined as provided by law, no person shall be elected to that office in that county.

(2) Subject to subsections (3), (4), and (5), a county board of commissioners may by resolution combine the offices of county clerk and register of deeds in 1 office of the clerk register or separate the office of the clerk register into the offices of county clerk and register of deeds. A combination or separation of offices shall not take effect before the expiration of the current term of the affected offices.

(3) Before adopting a resolution to combine the offices of county clerk and register of deeds or separate the office of clerk register into the offices of county clerk and register of deeds, a county board of commissioners shall study the question of combining or separating the offices. The mandatory requirements of this subsection may be satisfied by conducting a public hearing pursuant to subsection (4).

(4) The county board of commissioners as a whole body shall hold not less than 1 public hearing, held subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, on the question of combining or separating the offices of county clerk and register of deeds. The county board of commissioners may vote on the question as a regularly scheduled agenda item not less than 10 days or more than 30 days after the last public hearing held by the county board of commissioners on the question.

(5) Not later than the sixth Tuesday before the deadline for filing the nominating petitions for the office of county clerk, register of deeds, or clerk register, the county board of commissioners may by a vote of 2/3 of the commissioners elected and serving combine the offices of county clerk and register of deeds or separate the office of the clerk register. The resolution shall become effective upon the commencement of the next term of office of the county clerk, register of deeds, or clerk register after the adoption of the resolution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1998, Act 364, Imd. Eff. Oct. 20, 1998.

**Popular name:** Election Code

### 168.201 County officers; certificate of determination by board of county canvassers.

Sec. 201. The board of county canvassers shall determine which candidates for the offices named in section 191 of this act received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver same to the county clerk within 14 days following the date of the election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.202 County officers; certificate of election; publication of certificate of determination and statement of votes.

Sec. 202. The county clerk shall file in his or her office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall immediately execute and cause to be delivered to the persons declared elected to the offices named in section 200 a properly certified certificate of election, certified by him or her under the seal of the county. The county clerk may cause a copy of the certificate of determination, together with a statement of the votes cast at the election for the offices, to be published in at least 1 newspaper printed or circulated, or both, in that county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 162, Eff. Mar. 31, 1986.

**Popular name:** Election Code

### 168.203 County officers; terms of office.

Sec. 203. The term of office of the county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor and coroner shall begin on January 1 next following the election, and continues until a successor is elected and qualified, except that in counties having a population of 1,000,000 or more the term of office of the county treasurer shall begin on July 1 next following the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 35, Eff. Mar. 24, 1964;—Am. 1964, Act 185, Imd. Eff. May 20, 1964.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.204 County officers; oath of office, bond, deposit.

Sec. 204. Every person elected to an office named in section 200 of this act, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and, with the exception of the prosecuting attorney, shall give bond in the amount and manner prescribed by law and shall deposit said oath with the county clerk and said bond with the county treasurer. The county treasurer shall file his bond with the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 35, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.205 County officers; resignation, notice.

Sec. 205. Any person duly elected to any of the county offices named in section 200 of this act who desires to resign shall file a written notice containing the effective date of such resignation with the presiding or senior judge of probate, the county clerk and the prosecuting attorney of said county: Provided, That if the county clerk or the prosecuting attorney desires to resign, he shall file a written notice containing the effective date of such resignation with the presiding judge of that judicial circuit.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.206 County offices; vacancy, creation.

Sec. 206. The office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county in which his office is located; his conviction of an infamous crime or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.206a County officers; death before commencement of term.

Sec. 206a. Whenever any person elected to the office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner in any county shall die before the commencement of the term for which he was elected, there shall be a vacancy for the term to which such person was elected to be filled according to law. The vacancy shall be filled within 15 days after the beginning of the term for which he was elected.

**History:** Add. 1965, Act 156, Eff. Mar. 31, 1966.

**Popular name:** Election Code

### 168.207 County officers; removal from office; service of charges, hearing.

Sec. 207. The governor may remove any and all county officers named in section 200 of this chapter when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.208 County clerk; removal from office; service of charges, notice, hearing.

Sec. 208. The judge of the circuit court and the circuit court commissioner shall have authority, in term or vacation, to remove the county clerk when in their opinion he is incompetent to execute properly the duties of his office, or when, on charges and evidence, they shall be satisfied that he has been guilty of official misconduct or habitual or wilful neglect of duty, if in their opinion such misconduct or neglect shall be a sufficient cause for such removal; but no such clerk shall be removed for such misconduct or neglect unless charges thereof shall have been preferred to said judge or commissioner, and notice of the hearing with a copy of the charges delivered to such clerk, and a full opportunity given him to be heard in his defense. (All expense on the part of the prosecution for examination of charges, provided for in the preceding section of this act shall be paid by the counties in which the officer to be examined holds his office.)

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.209 County office; vacancy; manner of filling.

Sec. 209. If a vacancy occurs in an elective or appointive county office, it shall be filled in the following manner:

(1) If the vacancy is in the office of county clerk or prosecuting attorney, it shall be filled by appointment by the judge or judges of that judicial circuit.

(2) If the vacancy is in any other county office, the presiding or senior judge of probate, the county clerk, and the prosecuting attorney shall appoint a suitable person to fill the vacancy.

(3) A person appointed shall take and subscribe to the oath as provided in section 1 of article XI of the state constitution of 1963, give bond in the manner required by law, and hold office for the remainder of the unexpired term and until a successor is elected and qualified. However, if the next general November election is to be held more than 182 days after the vacancy occurs, and it is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 35, Eff. Mar. 24, 1964;—Am. 1968, Act 156, Imd. Eff. June 17, 1968;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

### 168.210 County officers; primary or election, recount of votes.

Sec. 210. The votes cast for any candidate for any of the offices named in section 200 of this act at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.211 County officers; recall.

Sec. 211. Any person elected to the offices named in section 200 of this act shall be subject to recall as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XI
## COUNTY AUDITORS

### 168.221 Scope of chapter.

Sec. 221. The provisions of this chapter shall apply only to counties electing county auditors by popular vote.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.222 Repealed. 1999, Act 218, Eff. Mar. 10, 2000.

**Compiler's note:** The repealed section pertained to eligibility for office of county auditor.

**Popular name:** Election Code

### 168.223 Candidates for county auditor; nomination at primary.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 223. A primary of all political parties shall be held on the Tuesday succeeding the first Monday in August preceding the general November election in the year 1956 and every fourth year thereafter, at which time the qualified and registered electors of each political party may vote for party candidates for nomination for the office of county auditor. A primary of all political parties shall be held on the third Monday in February preceding the general April election in the year 1957 and every fourth year thereafter, and in the year 1959 and every fourth year thereafter, at which time the qualified and registered electors of each political party may vote for party candidates for nomination for the office of county auditor: Provided, That this section shall not apply to parties required to nominate candidates at conventions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.223a County auditor; term of office in counties over 1,000,000; abolition of office.

Sec. 223a. Notwithstanding the provisions of any general or local acts to the contrary, in any county now or hereafter having a population of 1,000,000 or more, any elected county auditor whose term of office expires on December 31, 1965, shall continue in office until December 31, 1966; any elected county auditor whose term of office expires on December 31, 1967, shall continue in office until December 31, 1968; any elected county auditor whose term of office expires on December 31, 1968, shall continue in office until December 31, 1970. Thereafter each county auditor shall be elected for a term of 6 years and until a successor shall be elected and qualified. If for any reason the office of county auditor is abolished before the expiration of the term of any county auditor, the term shall be deemed to have expired on the date the office was abolished. County auditors shall be nominated and elected in all respects in the same manner as provided by law for the nomination and election of other partisan county officers.

**History:** Add. 1965, Act 90, Imd. Eff. June 28, 1965.

**Popular name:** Election Code

### 168.224 Office of county auditor; nominating petitions; signatures; form; filing fee in lieu of nominating petitions; deposit of fee; refund; forfeiture of deposit.

Sec. 224. (1) To obtain the printing of the name of a person as candidate for nomination by a political party for the office of county auditor under a particular party heading upon the official primary ballots, there shall be filed with the county clerk nominating petitions signed by a number of qualified and registered electors residing within the county as determined under section 544f. Nominating petitions shall be in the form prescribed in section 544c. The county clerk shall receive nominating petitions up to 4 p.m. of the twelfth Tuesday preceding the August primary.

(2) To obtain the printing of the name of the candidate of a political party under the particular party's heading upon the primary election ballots in the various voting precincts of the county, there may be filed by the candidate, in lieu of filing nominating petitions, a filing fee of $100.00 to be paid to the county clerk. Payment of the fee and certification of the name of the candidate paying the fee shall be governed by the same provisions as in the case of nominating petitions. The fee shall be deposited in the general fund of the county and shall be refunded to candidates who are nominated and to an equal number of candidates who received the next highest number of votes in the primary election. If 2 or more candidates tie in having the lowest number of votes allowing a refund, the sum of $100.00 shall be divided among them. The deposits of all other defeated candidates and of candidates who withdraw or are disqualified shall be forfeited and the candidates shall be notified of the forfeitures. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 36, Imd. Eff. Dec. 27, 1963;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.225 Candidates for county auditor; withdrawal, notice.

Sec. 225. After the filing of nominating petitions or filing fee by or in behalf of a proposed candidate for the office of county auditor, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions, as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 173, Eff. Mar. 19, 1960.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.226 Candidates for county auditor; death; selection of new candidate; ballots.

Sec. 226. When any candidate of a political party for the office of county auditor, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of county auditor, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party for the county, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.227 Candidates for county auditor; no candidate, write-in.

Sec. 227. If for any reason there is no candidate of a political party for county auditor, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.228 Candidates for county auditor; nomination, certification.

Sec. 228. The candidate of each political party for the office of county auditor receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election, and the board of county canvassers shall forthwith certify such nomination to the county election commission not later than 35 days prior to said ensuing election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 36, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.229 Candidates for county auditor; withdrawal after nomination.

Sec. 229. When a candidate of any political party has filed nominating petitions or filing fee for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the county or has become physically unfit. No vacancy shall be filled by the county committee except for the above causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having nominating petitions or filing fee and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.230 Candidates for county auditor; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 230. When the candidate of a political party, after having been nominated to the office of county auditor, shall die, withdraw as provided in section 229 of this act, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, and the board of county election commissioners, whose duty it is to prepare the official ballots, shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.231 County auditor; election.

Sec. 231. A county auditor shall be elected at the general November election in the year 1956 and every fourth year thereafter, and in counties electing a county auditor in the spring, a county auditor shall be elected



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

at the biennial spring election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.232 County auditor; certificate of determination by board of county canvassers.

Sec. 232. The board of county canvassers shall determine which candidate for county auditor received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk within 14 days following the date of the election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.233 County auditor; certificate of election; publication of certificate of determination and statement of votes.

Sec. 233. The county clerk shall file in his or her office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall immediately execute and cause to be delivered to the person declared elected to the office of county auditor, a properly certified certificate of election, certified by him or her under the seal of the county. The county clerk may cause a copy of the certificate of determination, together with a statement of the votes cast at the election for these offices, to be published in at least 1 newspaper printed or circulated, or both, in that county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 162, Eff. Mar. 31, 1986.

**Popular name:** Election Code

### 168.234 County auditor; term of office.

Sec. 234. The term of office for county auditor shall be for 4 years, beginning on the first day of January next following the election, and until his successor is elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.235 County auditor; oath of office, bond, deposit.

Sec. 235. Every person elected to the office of county auditor, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath with the county clerk and said bond with the county treasurer.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 36, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.236 County auditor; resignation, notice.

Sec. 236. Any person duly elected to the office of county auditor of any county who desires to resign shall file a written notice containing the effective date of such resignation with the presiding or senior judge of probate, county clerk and prosecuting attorney.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.237 County auditor; vacancy, creation.

Sec. 237. The office of county auditor in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county where his office is located; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.238 County auditor; removal from office; service of charges, hearing.

Sec. 238. The governor may remove any county auditor when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.239 County auditor; appointment to fill vacancy; oath; bond; term.

Sec. 239. If a vacancy occurs in the office of county auditor, a qualified person shall be appointed to fill the vacancy by a committee consisting of the presiding or senior judge of probate, the county clerk, and the prosecuting attorney of the county, 2 of whom shall constitute a quorum. The person appointed shall take the oath of office, as provided in section 1 of article XI of the state constitution of 1963, give bond in the manner required by law, and hold office for the remainder of the unexpired term and until a successor is elected and qualified. However, if the next general November election is to be held more than 182 days after the vacancy occurs, and it is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 36, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 156, Imd. Eff. June 17, 1968;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

### 168.240 County auditor; primary or election, recount of votes.

Sec. 240. The votes cast for any candidate for county auditor at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.241 County auditor; recall.

Sec. 241. Any person elected to the office of county auditor shall be subject to recall as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XII
## COUNTY ROAD COMMISSIONERS

### 168.251 Scope of chapter.

Sec. 251. This chapter shall not be applicable in counties in which the county road commissioners are appointed by the board of county supervisors.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.252 County road commissioner; eligibility.

Sec. 252. No person shall be eligible to the office of county road commissioner who shall not have been a citizen of the United States and a qualified and registered elector of the county in which election is sought for at least 1 year next preceding his election, nor shall he be a member of the county board of supervisors.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.253 Candidates for county road commissioner; nomination at primary.

Sec. 253. A general primary election of all political parties shall be held on the Tuesday succeeding the first Monday in August preceding every general November election in which county road commissioners are elected, at which time the qualified and registered electors of each political party may vote for party candidates for the office of county road commissioner.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 62, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.254 Office of county road commissioner; nominating petitions; signatures; form; filing fee in lieu of nominating petitions; deposit of fee; refund; forfeiture of deposit.

Sec. 254. (1) To obtain the printing of the name of a person as a candidate for nomination by a political party for the office of county road commissioner under a particular party heading upon the official primary ballots, there shall be filed with the county clerk of the county nominating petitions signed by a number of qualified and registered electors residing within the county as determined under section 544f. Nominating petitions shall be in the form prescribed in section 544c. The county clerk shall receive nominating petitions up to 4 p.m. of the twelfth Tuesday preceding the August primary in which county road commissioners are to be elected.

(2) To obtain the printing of the name of a candidate of a political party under the particular party's heading upon the primary election ballots in the various voting precincts of the county, there may be filed by each candidate, in lieu of filing nominating petitions, a filing fee of $100.00 to be paid to the county clerk. Payment of the fee and certification of the name of the candidate paying the fee shall be governed by the same provisions as in the case of nominating petitions. The fee shall be deposited in the general fund of the county and shall be returned to all candidates who are nominated and to an equal number of candidates who received the next highest number of votes in the primary election. If 2 or more candidates tie in having the lowest number of votes allowing a refund, the sum of $100.00 shall be divided among them. The deposits of all other defeated candidates, as well as the deposits of candidates who withdraw or are disqualified, shall be forfeited and the candidates shall be notified of the forfeitures. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 62, Imd. Eff. Dec. 27, 1963;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.255 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 255. When any candidate of a political party for the office of county road commissioner, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of county road commissioner, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party for the county, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate which shall be distributed to the various voting precincts within their respective county, and a board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.256 Candidates for nomination; withdrawal, notice.

Sec. 256. After the filing of nominating petitions or filing fee by or in behalf of a proposed candidate for the office of county road commissioner, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition, as in this act provided.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.257 Candidates for nomination; no candidate, write-in.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 257. If for any reason there is no candidate of a political party for county road commissioner, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.258 Candidates for county road commissioner; nomination, certification.

Sec. 258. The candidate of each political party for the office of county road commissioner receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election, and the board of county canvassers shall forthwith certify such nomination to the county election commission.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.259 Candidates; withdrawal after nomination.

Sec. 259. When a candidate of any political party has filed nominating petitions or filing fee for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the county, or has become physically unfit. No vacancy shall be filled by the county committee except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition or filing fee, and whose name has been written or placed on the ballot of any political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.260 Candidates; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 260. When the candidate of a political party, after having been nominated to the office of county road commissioner, shall die, withdraw, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, whose duty it is to prepare the official ballots and who shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.261 County road commissioner; election.

Sec. 261. A county road commissioner shall be elected at the general election to be held on the Tuesday succeeding the first Monday of November in every even numbered year.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.262 County road commissioner; certificate of determination by board of county canvassers.

Sec. 262. The board of county canvassers shall determine which candidate for county road commissioner received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.263 County road commissioner; certificate of election.

Sec. 263. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

delivered to the person thereby declared to be elected to the office of county road commissioner a certificate of election, certified by him under the seal of the county.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.264 County road commissioner; term of office.

Sec. 264. The term of office for county road commissioner shall be 6 years, beginning on the first day of January next following his election, and shall continue until a successor shall have been elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.265 County road commissioner; oath of office, bond, deposit.

Sec. 265. Every person elected to the office of county road commissioner, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath with the county clerk and said bond with the board of county auditors. In counties having no county auditors, the bond shall be deposited with the county treasurer.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 62, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.266 County road commissioner; resignation, notice.

Sec. 266. Any person duly elected to the office of county road commissioner of any county who desires to resign shall file a written notice containing the effective date of such resignation with the chairman of the board of county supervisors and a copy with the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.267 County road commissioner; vacancy, creation.

Sec. 267. The office of county road commissioner in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county where his office is located; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.268 County road commissioner; removal from office; service of charges, hearing; ineligibility for office.

Sec. 268. The governor may remove any county road commissioner when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.269 County road commissioner; appointment to fill vacancy; oath; bond; term.

Sec. 269. If a vacancy occurs in the office of county road commissioner, a qualified person shall be appointed to fill the vacancy by the county board of commissioners. The person so appointed shall take the oath of office, give bond in the manner required by law, and hold office for the remainder of the unexpired term and until a successor is elected and qualified. However, in a county in which county road commissioners are elected, if the next general November election is to be held more than 182 days after the vacancy occurs, and it is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 156, Imd. Eff. June 17, 1968;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990 .

**Popular name:** Election Code

### 168.270 County road commissioner; primary or election, recount of votes.

Sec. 270. The votes cast for any candidate for county road commissioner at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.271 County road commissioner; recall.

Sec. 271. Any person elected to the office of county road commissioner shall be subject to recall as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XIII

## STATE BOARD OF EDUCATION; BOARD OF REGENTS OF UNIVERSITY OF MICHIGAN; BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY; BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY

### 168.281 State board of education and boards of state universities; membership eligibility; violation of MCL 38.412a.

Sec. 281. (1) A person shall not be eligible to membership on the state board of education, the board of regents of the university of Michigan, the board of trustees of Michigan state university, or the board of governors of Wayne state university if the person is not a registered and qualified elector of this state on the date the person is nominated for the office.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible to membership on any of the boards enumerated in this section for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.282 Candidates for boards of state universities; nomination at fall state conventions.

Sec. 282. At its fall state convention each political party may nominate 2 candidates for membership on the board of regents of the University of Michigan, 2 candidates for membership on the board of trustees of Michigan State University and 2 candidates for membership on the board of governors of Wayne State University. Nomination to membership on the board of regents of the University of Michigan shall occur in 1966 and every second year thereafter. Nomination to the board of trustees of Michigan State University and to the board of governors of Wayne State University shall occur in 1964 and every second year thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.282a Candidates for state board of education; nomination at fall state convention.

Sec. 282a. At its fall state convention of 1964, each political party may nominate 8 candidates for membership on the state board of education. Two candidates shall be nominated for 2-year terms, 2 for 4-year



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

terms, 2 for 6-year terms and 2 for 8-year terms. At its fall state convention of 1966, and every 2 years thereafter, each political party may nominate 2 candidates for membership on the state board of education.

**History:** Add. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.283 Candidates for state board of education and boards of state universities; canvass by state central committee of each political party; vignette.

Sec. 283. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for membership on the state board of education, the board of regents of the university of Michigan, the board of trustees of Michigan state university, and the board of governors of Wayne state university. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a copy of the vignette adopted by the state central committee and a typewritten or printed list of the names and residence, including the street address if known, of the candidates nominated at the convention for the offices specified in this section. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.284 Candidates for state board of education and boards of certain state universities; withdrawal; notice.

Sec. 284. A person who is certified by the state central committee of a party as nominated for membership on the state board of education, the board of regents of the university of Michigan, the board of trustees of Michigan state university, or the board of governors of Wayne state university may withdraw by filing a written notice of withdrawal with the secretary of state or his or her duly authorized agent and a copy with the chairperson and the secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention at which the person was nominated.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.285 Candidates for state board of education and boards of state universities; death, withdrawal or disqualification; election of new candidate, certification; ballots.

Sec. 285. Whenever a candidate of a political party, after having been nominated to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

State University, or the board of governors of Wayne State University, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of said party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.286 Boards of state universities; election.

Sec. 286. Two members of the board of regents of the University of Michigan shall be elected at the general election in 1966 and in every general election thereafter. Two members of the board of trustees of Michigan State University and 2 members of the board of governors of Wayne State University shall be elected at the general election in 1964 and in every general election thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.286a State board of education; election.

Sec. 286a. Eight members of the state board of education shall be elected at the general election in 1964. Two members shall be elected for 2-year terms, 2 for 4-year terms, 2 for 6-year terms, and 2 for 8-year terms. Two members of the state board of education shall be elected for 8-year terms at the general election in 1966 and in every general election thereafter.

**History:** Add. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.287 State board of education and boards of state universities; certificate of determination by board of state canvassers.

Sec. 287. The board of state canvassers shall determine which candidates for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.288 State board of education and boards of state universities; certificate of election.

Sec. 288. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University a certificate of election, certified by him under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.289 State board of education and boards of state universities; terms of office.

Sec. 289. Subject to section 286a, the term of office of members of the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, and the board of governors of Wayne State University shall be 8 years and shall begin at 12 noon on January 1 next following their election. The terms of office of members of said boards shall continue until a successor is elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.290 State board of education and boards of state universities; oath of office, deposit.

Sec. 290. Every person elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Wayne State University, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall deposit said oath with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.291 State board of education and boards of state universities; resignation, notice.

Sec. 291. Any person duly elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University or the board of governors of Wayne State University, who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.292 State board of education and boards of state universities; vacancy, creation, notice to governor.

Sec. 292. There shall be a vacancy on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law. When a vacancy shall occur on any of the said boards, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing to the governor. Such notice shall be given by the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.293 State board of education and boards of state universities; impeachment; removal from office, service of charges, hearing.

Sec. 293. Any member of said boards may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution. The governor shall have the power and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of the said boards and the acts of the members enumerated herein and to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, and report the causes of such removal to the legislature at its next session. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a public hearing conducted personally by the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.294 State board of education and boards of state universities; appointment, vacancy, oath of office.

Sec. 294. Whenever a vacancy shall occur on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University, the governor shall appoint a successor to fill such vacancy, and the person so appointed shall take the oath of office and shall hold office for the remainder of the unexpired term and until his successor is elected and qualified. A candidate receiving the highest number of votes for membership on any of said boards and who has subscribed to the constitutional oath shall be deemed to be elected and qualified even though a vacancy occurs prior to the time he shall have entered upon the duties of his office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.295 State board of education and boards of state universities; election, recount of votes.

Sec. 295. The votes cast for any candidate for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University at any election shall be subject to recount as provided in chapter 33 of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.296 State board of education and boards of state universities; recall.

Sec. 296. Any person elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University shall be subject to recall as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 5, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER XIV
## SCHOOL AND COMMUNITY COLLEGE ELECTIONS

### 168.301 School district election; school district election coordinator; duties; delegation; precincts and polling place locations.

Sec. 301. (1) Unless a particular power or duty of an election official or a particular election procedure is specifically governed by a provision of this chapter, a school district election is governed by the provisions of this act that generally govern elections.

(2) Except as provided in section 305, the school district election coordinator for a school district shall conduct each regular election and each special election that is requested by the school board to submit a ballot question or to fill a vacancy on the school board. In addition to receiving requests from the school board to hold special elections, the school district election coordinator shall do all of the following:

(a) Receive filing fees or nominating petitions and affidavits of identity from candidates for school board and petitions for special elections.

(b) Procure the necessary qualified voter file precinct lists.

(c) Certify candidates.

(d) Receive ballot proposal language.

(e) Issue absent voter ballots.

(3) A school district election coordinator who is a county clerk may delegate, if the city or township clerk agrees, all or a portion of the school district election coordinator's duties to that city or township clerk. The school district election coordinator shall not delegate duties to any person not named in this section.

(4) A school district election coordinator who is a county clerk may delegate the following duties to the city or township clerk, who shall perform the following duties:

(a) Distribute, receive, and process absent voter ballot applications for a school election.

(b) Make voting systems available for the conduct of a school election.

(c) Make available to the school district election coordinator the list of election inspectors for that city or township.

(d) Notify school district electors of precinct and polling place location changes.

(5) If the county clerk is the school district election coordinator for a school district, the county election commission shall establish that school district's election precincts and polling place locations in accordance with this act.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 286, Imd. Eff. July 23, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Former Chapter XIV. and its contents, MCL 168.301-168.316, were repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

Former Chapter XIV. was entitled “SUPERINTENDENT OF PUBLIC INSTRUCTION AND STATE HIGHWAY COMMISSIONER.” Former MCL 168.301 pertained to eligibility for office of state highway commissioner or superintendent of public instruction.

Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.302 School board member; eligibility; election; terms; phasing in or out terms; transition plan.

Sec. 302. An individual is eligible for election as a school board member if the individual is a citizen of the United States and is a qualified and registered elector of the school district the individual seeks to represent by



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the filing deadline. At least 1 school board member for a school district shall be elected at each of the school district's regular elections held as provided in section 642 or 642a. Except as otherwise provided in this section or section 310 or 644g, a school board member's term of office is prescribed by the applicable provision of section 11a, 617, 701, or 703 of the revised school code, 1976 PA 451, MCL 380.11a, 380.617, 380.701, and 380.703, or section 34, 34a, 41, 54, or 83 of the community college act of 1966, 1966 PA 331, MCL 389.34, 389.34a, 389.41, 389.54, and 389.83. Except as provided in section 302a, if a ballot question changing the number of school board members or changing the terms of office for school board members pursuant to section 11a of the revised school code, 1976 PA 451, MCL 380.11a, is proposed and a school district needs a temporary variance from the terms of office provisions in this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to phase in or out school board members' terms of office, the school board shall submit the proposed ballot question language and a proposed transition plan to the secretary of state at least 30 days before the school board submits the ballot question language to the school district election coordinator pursuant to section 312. The secretary of state shall approve or reject the proposed transition plan within 10 business days of receipt of the proposed transition plan. The secretary of state shall approve the proposed transition plan if the plan provides only temporary relief to the school district from the terms of office provisions in this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, until such time that the terms of office for school board members can be made to comply with this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. The school board shall not submit the proposed ballot question language to the school district election coordinator pursuant to section 312 until the proposed transition plan is approved by the secretary of state. A school board member's term begins on 1 of the following dates:

(a) If elected at an election held on a November regular election date, January 1 immediately following the election.

(b) If elected at an election held on a May regular election date, July 1 immediately following the election.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Former MCL 168.302, which pertained to nomination as candidate for office of state highway commissioner or superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.302a Transition plan; compliance.

Sec. 302a. If on or before January 1, 2004 a school district's electors approved a plan to change the number of school board members or change the terms of office for school board members, and if legislation enacted after January 1, 2004 makes implementation of these changes impossible or impractical, the school board may adopt by resolution at a public hearing a transition plan to bring the school district's election schedule back into compliance with the intent of the plan approved by the electors on or before January 1, 2004 without requiring approval of the transition plan by the secretary of state or preparation or passage of a ballot question.

**History:** Add. 2005, Act 71, Imd. Eff. July 14, 2005.

**Popular name:** Election Code

### 168.303 Appearance of candidate's name on official ballot; nominating petition; form; filing fee; signatures; withdrawal.

Sec. 303. (1) Subject to subsection (4), for an individual's name to appear on the official ballot as a candidate for school board member, the candidate shall file a nominating petition and the affidavit required by section 558 with the school district filing official not later than 4 p.m. on the twelfth Tuesday before the election date. The nominating petition must be signed by the following number of electors of the school district:

(a) If the population of the school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(2) The nominating petition shall be substantially in the form prescribed in section 544c, except that the petition shall be nonpartisan and shall include the following opening paragraph:

```
We, the undersigned, registered and qualified voters
```



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

```
of ____________________________________________________
and residents of the ________________________________, the
                     (legal name of school district)
county of ______________________________, state of Michigan,
              (city or township)
nominate  ____________________________________________________
                         (name of candidate)
_________________________________   ________________________,
    (street address)                    (city or township)
a registered and qualified elector of the district as a member
of the board of education of the school district for a term
of ______ years, expiring ______, to be voted for at the
election to be held on the ______ day of ___________,  ______.
                                          (month)     (year)
```

(3) A school elector shall not sign petitions for more candidates than are to be elected.

(4) Instead of filing nominating petitions, a candidate for school board member may pay a nonrefundable filing fee of $100.00 to the school district filing official. If this fee is paid by the due date for a nominating petition, the payment has the same effect under this section as the filing of a nominating petition.

(5) A nominating petition filed under this chapter is subject to the examination and investigation process prescribed in section 552 as to its sufficiency and the validity and genuineness of the signatures on the nominating petition, and to the other procedures prescribed in that section relevant to a petition filed under this chapter.

(6) After a nominating petition is filed or filing fee is paid for a candidate for school board member, the candidate is not permitted to withdraw unless a written withdrawal notice, signed by the candidate, is filed with the school district filing official not later than 4 p.m. of the third day after the last day for filing the nominating petition. If the school district filing official is not a county clerk, the school district filing official shall notify the county clerk of the candidates' names and addresses not later than 3 days after the last day for filing a withdrawal notice.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** In the form in subsection (2), the first instance of the descriptive element "(city or township)" is evidently positioned below the wrong blank line. The element should be positioned below the first blank line in the form.

**Popular name:** Election Code

### 168.304 Repealed. 1963, 2nd Ex. Sess., Act 6, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section pertained to withdrawal from nomination for office of state highway commissioner or superintendent of public instruction.

**Popular name:** Election Code

### 168.305 School district election coordinating committee; meeting; report; election arrangements; precincts.

Sec. 305. (1) Within 30 days after the effective date of this chapter, the school district election coordinating committee for each school district shall hold an initial meeting. Within 14 days after convening the initial meeting, the school district election coordinating committee shall file a report with the secretary of state that sets forth the arrangements that are agreed upon for the conduct of the school district's elections. Each school district election coordinating committee member shall sign the report and retain a copy.

(2) After filing its initial report under subsection (1), a school district election coordinating committee shall meet at 2-year intervals to review and, if necessary, alter the election arrangements set forth in its previous report. After each review, a school district election coordinating committee shall either notify the secretary of state in writing that its previous report is not being altered or file with the secretary of state a report with the alterations. Election arrangements made by the clerks of the jurisdictions participating in the school district election coordinating committee meeting are binding on the participating jurisdictions for at least 2 years after the report is filed, and each jurisdiction continues to be bound until an altered report is filed.

(3) The arrangements agreed upon by a school district election coordinating committee for the conduct of the school district's elections shall accomplish at least both of the following:

(a) If a school district election is held on the same day as an election of a jurisdiction that overlaps with the school district, an elector wishing to vote in both elections shall not be required to vote at 2 different locations.

(b) If, before the filing of an initial report or of the notice or altered report after its 2-year review, a city or township clerk notifies the school district election coordinating committee that the city or township clerk, in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

consultation with the city council or township board, as applicable, has decided to participate in the conduct of the school district's elections, the school district election coordinating committee shall include that city or township clerk in its initial or an altered report as the person conducting the school district's elections in the clerk's city or township.

(4) Notwithstanding the other provisions of this chapter, if a city or township is holding an election for elective office or on a ballot question at the same time that a school district located in whole or part in the city or township is holding an election, the city or township clerk shall also conduct the school district election within his or her jurisdiction. If a city or township clerk is conducting a school election under this subsection, the clerk shall use the same precincts that are used for state and federal elections as the precincts for the school district election. If these precincts change the polling place location for school district electors, the clerk shall notify those school district electors of the location of the different polling place. A city or township clerk with the consent of the school district election coordinator may use the school election precincts and polling places. A city or township clerk conducting an election under this subsection may consolidate election precincts in the manner provided in section 659.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 287, Imd. Eff. July 23, 2004.

**Compiler's note:** Former MCL 168.305, which pertained to filling vacated nominated candidacies for offices of state highway commissioner and superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.306 Repealed. 1963, 2nd Ex. Sess., Act 6, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section pertained to election dates of state highway commissioner and superintendent of public instruction.

**Popular name:** Election Code

### 168.307 Statement of returns; certification of election; votes subject to recount.

Sec. 307. (1) The appropriate board of canvassers as prescribed in section 24a or 30a shall canvass the votes for candidates for school board member and votes for and against a ballot question at a regular or special election in each school district. That number of candidates equal to the number of individuals to be elected who receive the greatest number of votes cast at the election, as set forth in the report of the board of canvassers canvassing the votes, based upon the returns from the election precincts or as determined by the board of canvassers as a result of a recount, are elected to the office of school board member. Except as otherwise provided in section 24a(4), upon completion of the canvass, the board of canvassers shall make a statement of returns and certify the election of school board members to the secretary of the school board, the county clerk, and, if other than the county clerk, the school district election coordinator.

(2) The votes cast for a candidate for school board member or on a ballot question submitted to the electors at a school election are subject to recount as provided in chapter XXXIII. An individual elected to the office of school board member is subject to recall as provided in chapter XXXVI and in section 8 of article II of the state constitution of 1963.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2010, Act 55, Imd. Eff. Apr. 22, 2010.

**Compiler's note:** Former MCL 168.307, which pertained to certificate of determination by board of state canvassers declaring election to offices of state highway commissioner and supertintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.308 Certification of board of canvassers; preservation; filing; execution.

Sec. 308. A local official who receives the certification of the board of canvassers under section 307 shall preserve and file in his or her office the certified statement of returns and certification of the board of canvassers of the result of the election. The city, township, or county clerk who is the secretary to the board of canvassers canvassing the school board election shall immediately execute and provide to the individuals declared elected to the office of school board member a certificate of election.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** Former MCL 168.308, which pertained to preservation and certifcation of election results of state highway commissioner and superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.309 Acceptance of office.

Sec. 309. Within 5 business days after certification of an election, each member-elect shall be notified of the election. Within 10 business days after notification by the school district election coordinator of election or appointment to the board, each person shall file with the secretary of the board an acceptance of the office



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to which the person has been elected or appointed. The secretary of the board shall forward a copy of the acceptance to the school district election coordinator.

**History:** Add. 2004, Act 288, Imd. Eff. July 23, 2004.

**Compiler's note:** Former MCL 168.309, which pertained to terms of office of state highway commissioner and superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.310 Office of school board member; oath; vacancy; conditions.

Sec. 310. (1) Before entering upon the duties of his or her office, an individual elected to the office of school board member shall take and subscribe to the oath provided in section 1 of article XI of the state constitution of 1963.

(2) The office of a school board member becomes vacant immediately, regardless of declaration by an officer or acceptance by the school board or 1 or more of its members, upon any of the following events:

(a) The death of the school board member.

(b) The school board member's being adjudicated insane or being found to be a legally incapacitated individual by a court of competent jurisdiction.

(c) The school board member's resignation.

(d) The school board member's removal from office.

(e) The school board member's conviction for a felony.

(f) The school board member's election or appointment being declared void by a competent tribunal.

(g) The school board member's neglect or failure to file the acceptance of office, to take the oath of office, or to give or renew an official bond required by law.

(h) The school board member ceasing to possess the legal qualifications for holding office.

(i) The school board member moving his or her residence from the school district.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** Former MCL 168.310, which pertained to oath of office of state highway commissioner and superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.311 Vacancy; appointment; election; notice to school district election coordinator.

Sec. 311. (1) If less than a majority of the offices of school board member of a school district become vacant, the remaining school board members shall fill each vacant office by appointment. If a vacancy in the office of school board member is not filled within 30 days after the vacancy occurs or if a majority of the offices of school board member of a school district become vacant, the intermediate school board for that school district shall fill each vacancy by appointment. An individual appointed under this subsection serves until a successor is elected and qualified.

(2) If a vacancy occurs in an office of school board member more than 90 days before a regular school election, an election shall be held at that regular school election to fill that office for the remainder of the office's unexpired term, if any. This subsection applies regardless of whether an individual is appointed under subsection (1) to fill the vacancy.

(3) Within 3 days after an appointment is made to fill a vacancy in an elected office in a school district, the secretary of the school board shall notify the school district election coordinator, in writing, of the name, address, and office of the person who vacated the office as well as the person filling the office.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 289, Imd. Eff. July 23, 2004.

**Compiler's note:** Former MCL 168.311, which pertained to notice of resignation of state highway commissioner or superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.312 Ballot question; submission; certification of ballot question language; scheduling of special election date.

Sec. 312. (1) A school board may submit a ballot question to the school electors on a regular election date, on a date when a city or township within the school district's jurisdiction is holding an election by adopting a resolution to that effect not less than 70 days before the election date, or on a special election date as provided in section 641(4). The school board shall certify the ballot question language to the school district election coordinator not less than 70 days before the election date. The school district election coordinator shall send a copy of the ballot question language to the county clerk of each county not less than 68 days before the election.

(2) If a special election is called on a date provided under section 641(4), the school district election



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

coordinating committee shall schedule the special election date.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2006, Act 647, Eff. May 14, 2007.

**Compiler's note:** Former MCL 168.312, which pertained to vacancy of office of state highway commissioner or superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.313 Repealed. 1963, 2nd Ex. Sess., Act 6, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section pertained to impeachment of state highway commissioner or superintendent of public instruction.

**Popular name:** Election Code

### 168.314 Repealed. 1963, 2nd Ex. Sess., Act 6, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section pertained to appointment by governor to fill vacancy in office of state highway commissioner or superintendent of public instruction.

**Popular name:** Election code

### 168.315 Payment by school district to county, city, and township.

Sec. 315. (1) A school district shall pay to each county, city, and township that conducts a regular or special election for the school district an amount determined in accordance with this section.

(2) If a school district's regular or special election is held in conjunction with another election conducted by a county, city, or township, the school district shall pay the county, city, or township 100% of the actual additional costs attributable to conducting the school district's regular or special election. If a school district's regular or special election is not held in conjunction with another election conducted by a county, city, or township, the school district shall pay the county, city, or township 100% of the actual costs of conducting the school district's regular or special election.

(3) The county, city, or township shall present to a school district a verified account of actual costs of conducting the school district's regular or special election not later than 84 days after the date of the election. The school board shall pay or disapprove all or a portion of the verified account within 84 days after the school district receives a verified account of actual costs under this subsection.

(4) If the school board disapproves all or a portion of a verified account of actual costs under subsection (3), the school board shall send a notice of disapproval along with the reasons for the disapproval to the county, city, or township. Upon request of a county, city, or township whose verified account or portion of a verified account was disapproved under this section, the school board shall review the disapproved costs with the county, city, or township.

(5) A school board, county, city, or township shall use the agreement made between the department of treasury and the secretary of state, as required by section 487, as a basis for preparing and evaluating verified accounts under this section. The secretary of state shall assist a school board, county, city, or township in preparing and evaluating a verified account under this section. If a county, city, or township and a school board cannot agree on the actual costs of an election as prescribed by this section, the secretary of state shall determine those actual costs.

**History:** Add. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** Former MCL 168.315, which pertained to recount of votes for election of state highway commissioner or superintendent of public instruction, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.316 Board members subject to recall.

Sec. 316. Each member of a board of a school district, a local act school district, or an intermediate school district is subject to recall by the school electors of the respective district in the manner prescribed in chapter XXXVI.

**History:** Add. 2004, Act 257, Imd. Eff. July 23, 2004.

**Compiler's note:** Former MCL 168.316, which pertained to state highway commissioner or superintendent of public instruction subject to recall, was repealed by Act 6 of 1963, 2nd Ex. Sess., Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

CHAPTER XV
CITY OFFICES

### 168.321 City officers; qualifications, nomination, election, appointment, term, and removal; list of candidates; quorum; election or appointment of successor.

Sec. 321. (1) Except as provided in subsection (3) and sections 327, 641, 642, and 644g, the qualifications, nomination, election, appointment, term of office, and removal from office of a city officer shall be in accordance with the charter provisions governing the city.

(2) Within 3 days after the last day on which a candidate for a city office may withdraw, the city clerk shall deliver to the county clerk of the county in which the city is located a list setting forth the name and address of each candidate for a city office.

(3) If the membership of the legislative body of a city governed by the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, is reduced to less than a quorum, unless another method of appointing members of the legislative body is provided by the city charter, members of the legislative body are appointed as provided in this subsection. The board of county election commissioners of the county in which the largest portion of the population of the city resides shall appoint the number of members of the legislative body required to constitute a quorum for the transaction of business by the legislative body. A member of the legislative body appointed under this subsection shall hold the office only until the member's successor is elected and qualified. The successor shall be elected at a special or regular election on the next regular election date that is not less than 60 days after the appointment is made. The successor shall serve for the balance of the unexpired term. A member who is appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive city office.

(4) Notwithstanding another provision of law or charter to the contrary, an appointment to an elective or appointive city office made by a quorum constituted by appointments under this section expires upon the election and qualification of a sufficient number of members of the legislative body so that the elected members constitute a quorum.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 60, Imd. Eff. Apr. 1, 1980;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1994, Act 277, Imd. Eff. July 11, 1994;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.322 Candidate for city office; filing deadline.

Sec. 322. For the name of a candidate for a city office, including a ward office, to appear on the official February primary election ballots for use in the city, a nominating petition shall be filed with the city clerk not later than 4 p.m. on the twelfth Tuesday before the February primary. If a charter provides for nomination by caucus or by filing a petition or affidavit directly for the May election, the candidate filing deadline or certification deadline shall be 4 p.m. on the twelfth Tuesday before the May election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 7, Imd. Eff. Dec. 27, 1963;—Am. 1965, Act 312, Eff. Jan. 1, 1966;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2010, Act 183, Imd. Eff. Sept. 30, 2010.

**Popular name:** Election Code

### 168.322a Candidates for nomination; withdrawal, notice.

Sec. 322a. After the filing of a nominating petition or filing fees by or in behalf of a proposed candidate for a city office, the candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the city clerk not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing the petition or filing fee as provided in this act or in local charters unless the third day falls on a Saturday, Sunday or legal holiday, in which case the withdrawal may be served on the city clerk up to 4 o'clock, eastern standard time, on the next secular day.

**History:** Add. 1959, Act 44, Eff. Mar. 19, 1960.

**Popular name:** Election Code

### 168.323 City offices; preparation of ballots, canvass of returns, conduct of primaries and elections; provisions governing.

Sec. 323. It shall be the duty of the board of city election commissioners to prepare the primary ballots to be used by the electors. The returns shall be canvassed by the board of city canvassers and the results certified to the board of city election commissioners, who shall thereupon prepare and furnish ballots for the ensuing election. The printing and distribution of ballots, equipment and supplies, the conduct of the primary and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

election, the canvass and certification of the returns and all other particulars shall be in accordance, as nearly as may be, with the provisions of this act governing general primaries and elections.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.324 Repealed. 1978, Act 540, Imd. Eff. Dec. 22, 1978.

**Compiler's note:** The repealed section provided for additional justices of the peace.

**Popular name:** Election Code

### 168.325 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to filling vacancy for judge of municipal court of record.

**Popular name:** Election Code

### 168.326 Candidate for city office; death, selection of new candidate; ballots.

Sec. 326. When any candidate of a political party for any city office, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office, a candidate to fill the vacancy thereby caused may be selected by the members of the city committee, and the name of the candidate so selected shall be transmitted to the city officials required by law to print and distribute ballots, and such city officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their city, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.327 Removal of city officers by governor; grounds; action on charges; service of charges; hearing; eligibility for election or appointment following removal or conviction.

Sec. 327. The governor shall remove all city officers chosen by the electors of a city or any ward or voting district of a city, when the governor is satisfied from sufficient evidence submitted to the governor that the officer has been guilty of official misconduct, wilful neglect of duty, extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it appears by a certified copy of the judgment of a court of record of this state that a city officer, after the officer's election or appointment, has been convicted of a felony. The governor shall not take action upon any charges made to the governor against a city officer until the charges have been exhibited to the governor in writing, verified by the affidavit of the party making them, that he or she believes the charges to be true. But a city officer shall not be removed for misconduct or neglect until charges of misconduct or neglect have been exhibited to the governor as provided in this section and a copy of the charges served on the officer and an opportunity given the officer of being heard in his or her defense. The service of the charges upon the officer complained against shall be made by personal service to the officer of a copy of the charges, together with all affidavits or exhibits which may be attached to the original petition, if the officer can be found; and if not, by leaving a copy at the last known place of residence of the officer, with a person of suitable age, if a person of suitable age can be found; and if not, by posting the copy of the charges in a conspicuous place at the officer's last known place of residence. An officer who has been removed from office pursuant to this section shall not be eligible for election or appointment to any office for a period of 3 years from the date of the removal. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible for election or appointment to an elective or appointive city office for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

### 168.328 Repealed. 1994, Act 4, Eff. June 1, 1994.

**Compiler's note:** The repealed section pertained to changing date of city or village election to March 15, 1994.

**Popular name:** Election Code

## CHAPTER XVI
## TOWNSHIP OFFICES

### 168.341 Elective township offices and officers.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 341. Elective township offices shall consist of a supervisor, township clerk, township treasurer, not to exceed 4 constables, and not to exceed 4 trustees. Elective township officers may include library directors and park commission members.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 44, Imd. Eff. June 2, 1966;—Am. 1980, Act 112, Imd. Eff. May 14, 1980 .

**Popular name:** Election Code

### 168.342 Township office; eligibility; eligibility for membership on board of review; violation of MCL 38.412a.

Sec. 342. (1) A person shall not be eligible to a township office unless the person is a registered and qualified elector of the township in which election is sought by the filing deadline. A person shall not be eligible for membership on the board of review unless, in addition to the qualifications for eligibility to a township office, the person is a landowner and taxpayer in the township.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to an elective or appointive township office for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.343 Repealed. 1965, Act 212, Eff. Mar. 31, 1966.

**Compiler's note:** The repealed section pertained to township caucus, nominating procedure, and certification of candidates.

**Popular name:** Election Code

### 168.343a Township political party committee; membership.

Sec. 343a. There shall be a township party committee for each political party in every organized township in this state. The party committee shall consist of the members of the county committee from the township. If the number of members of the county committee from the township exceeds 5, the county committee members from the township shall select 5 of their members to serve as the township committee.

**History:** Add. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 212, Eff. Mar. 31, 1966;—Am. 1967, Act 80, Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.344 Repealed. 1965, Act 212, Eff. Mar. 31, 1966.

**Compiler's note:** The repealed section authorized referendum to determine choice between township caucus and primary system.

**Popular name:** Election Code

### 168.345 Candidates for township offices; nomination at primary.

Sec. 345. A primary of all political parties shall be held in every organized township of this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party may vote for party candidates for township offices.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 212, Eff. Mar. 31, 1966.

**Popular name:** Election Code

### 168.346 Primaries; inspector of elections, appointment.

Sec. 346. The township board of election commissioners shall appoint 3 or more qualified and registered electors of such township for each precinct, who shall act as inspectors of election at such primary.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.347 Primaries; provisions governing; recounts; duties of township clerk.

Sec. 347. Except as herein otherwise provided, the laws governing nominating petitions, the conduct of general primary elections, the furnishing of ballots and the depositing, counting and canvassing of the same, shall, as near as may be, apply to primaries held under the provisions of this chapter. In case of recounts, said recounts shall be conducted by the township board of canvassers; and all duties which, under the parts of this act relating to general elections or primary elections, devolve upon the county clerk, shall be performed by the township clerk.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.348 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to notice, publication, and posting of primary elections.

**Popular name:** Election Code

### 168.349 Candidates for township offices; nominating petitions; signatures; form; filing; receiving petitions; list of candidates.

Sec. 349. (1) To obtain the printing of the name of a person as a candidate for nomination by a political party for a township office under the particular party heading upon the official primary ballots, there shall be filed with the township clerk nominating petitions signed by a number of qualified and registered electors residing within the township as determined under section 544f. Nominating petitions shall be in the form prescribed in section 544c. The township clerk shall receive nominating petitions up to 4 p.m. of the twelfth Tuesday preceding the August primary.

(2) Within 4 days after the last day for filing nominating petitions, the township clerk shall deliver to the county clerk a list setting forth the name, address, and political affiliation and office sought of each candidate who has qualified for a position on the primary ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 212, Eff. Mar. 31, 1966;—Am. 1966, Act 58, Imd. Eff. June 7, 1966;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.349a Repealed. 1966, Act 58, Imd. Eff. June 7, 1966.

**Compiler's note:** The repealed section pertained to qualification for printing of new parties on official ballot.

**Popular name:** Election Code

### 168.350 Repealed. 1966, Act 58, Imd. Eff. June 7, 1966.

**Compiler's note:** The repealed section required township clerk to certify nominees in absence of contest for office.

**Popular name:** Election Code

### 168.351 Candidates for nomination; withdrawal, notice.

Sec. 351. After the filing of a nominating petition by or in behalf of a proposed candidate for a township office, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the township clerk not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 173, Eff. Mar. 19, 1960.

**Popular name:** Election Code

### 168.352 Candidates for township offices; death; selection of new candidates; ballots.

Sec. 352. When any candidate of a political party for any township office, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for a township office, a candidate to fill the vacancy thereby caused may be selected by the members of the township committee of such candidate's political party for the township, and the name of the candidate so selected shall be transmitted to the township officials required by law to print and distribute ballots, and such township officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective township, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 322, Imd. Eff. July 19, 1966.

**Popular name:** Election Code

### 168.353 Primaries; absent voters, provisions applicable.

Sec. 353. The provisions of this act relative to absent voters shall apply to primaries held under the provisions of this chapter: Provided, That the duties of the county clerk relative to the furnishing and distribution of ballots shall be performed by the township clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.354 Candidates for township offices; no candidate, write-in.

Sec. 354. If, for any reason, the number of candidates of a political party to a township office shall be equal to less than the total number to be nominated and elected, a sufficient number of blank spaces shall be provided on the official primary ballots which will afford every elector to said party an opportunity to vote for as many candidates as are to be nominated and elected by writing in the name or names of his or her selection or by the use of slips or pasters.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.355 Candidates for township offices; nominees, certification.

Sec. 355. The candidate or candidates of each political party to a township office receiving the greatest number of votes cast for candidates of said office, as set forth in the report of the township board of canvassers, based on the returns from the various election precincts, or as determined by the board of county canvassers as the result of a recount, shall be declared the nominee or nominees of that political party for said office at the next ensuing November election. The township board of canvassers shall certify such nomination or nominations to the township clerk within 48 hours after the closing of the polls.

Within 4 days following the primary, the township clerk shall deliver to the county clerk a list setting forth the names, addresses, political affiliation and office sought of all candidates nominated at the primary.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 58, Imd. Eff. June 7, 1966.

**Popular name:** Election Code

### 168.356 Repealed. 1965, Act 212, Eff. Mar. 31, 1966.

**Compiler's note:** The repealed section authorized abandonment of primary system for nominating township candidates.

**Popular name:** Election Code

### 168.357 Candidates for township offices; death or disqualification; write-in.

Sec. 357. When any candidate of a political party, after having been nominated for a township office, shall die, remove from the township, or become disqualified for any reason, the township board of election commissioners shall provide a blank space or spaces on the official ballots which will afford every elector of said party an opportunity to vote for a candidate to fill the vacancy thereby caused, by writing in the name of his or her selection or by the use of a slip or paster.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.358 Election of township officers and submission of propositions; general November election.

Sec. 358. (1) In every township, there shall be a general November election in each even-numbered year for the election of officers and the submission of propositions, as provided by law. At the 1980 general November election, there shall be elected by ballot all of the following township officers:

(a) A supervisor.

(b) A clerk.

(c) A treasurer.

(d) Two trustees.

(e) Not more than 4 constables.

(f) If authorized by law and after a township takes the actions provided in section 11 of 1877 PA 164, MCL 397.211, 6 free public library directors.

(g) If a township takes the actions provided in section 1 of former 1931 PA 271 or section 6 of 1905 PA 157, MCL 41.426, the number of park commission members provided for under section 6 of 1905 PA 157, MCL 41.426.

(2) Except as otherwise provided in this subsection, the order of offices on the township portion of the ballots shall be the same as the order in which the officers are listed in subsection (1). Free public library directors shall be listed on the nonpartisan portion of the ballot.

(3) Subject to the limitation in subsection (1), the number of constables to be elected at the 1992 general November election and each general November election at which township offices are regularly to be elected after 1992 shall be determined by the township board by resolution not less than 6 months before the township primary election preceding the general November election. The resolution that specifies the number of constables to be elected applies in that township until a subsequent resolution is adopted altering that



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

number. If a determination as to the number of constables to be elected is not made by the township board by the deadline under this subsection for the 1992 general election, the number of constables to be elected shall be the same number that was elected in that township in the 1988 general November election until a resolution is adopted to provide for the election of a different number of constables.

(4) In a township having a population of 5,000 or more, or having 3,000 or more qualified and registered electors as shown by the registration records at the close of registration for the last preceding general November election, there may be elected 4 trustees. In other townships there shall be 2 trustees. A township shall not elect 4 trustees unless the election of additional trustees is approved by the voters at a general November election or by a majority of the voters attending at an annual meeting. The township board of a township having a population of 5,000 or more, or having 3,000 or more qualified and registered electors, shall cause the question of electing additional trustees to be voted on at the first general November election or annual meeting following the township's qualifying for additional trustees. If a majority of the electors voting on the question vote in favor of electing 4 trustees, the township shall thereafter elect 4 trustees. If a majority of the electors voting on the question do not vote in favor of electing 4 trustees, the township board may resubmit the question at a subsequent general November election or annual meeting or the question shall be submitted at the first general November election or annual meeting held not less than 84 days following the submission of a petition containing the signatures of not less than 10% of the registered and qualified electors of the township, as shown by the registration records at the close of registration for the last general November election, asking that the question be submitted.

(5) At the first general November election in a township held not less than 4 months after the provisions of this section relative to additional trustees are adopted by a township, there shall be elected the number of trustees necessary to make a total of 4 trustees. If the additional trustees are elected at a general November election that is not a regular township election, the additional trustees shall hold office only until a successor is elected at the next regular township election and qualifies for office.

(6) This section does not prohibit townships electing 4 trustees as of September 13, 1958 from continuing to do so.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1966, Act 44, Imd. Eff. June 2, 1966;—Am. 1967, Act 215, Imd. Eff. Nov. 2, 1967;—Am. 1978, Act 5, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 112, Imd. Eff. May 14, 1980;—Am. 1982, Act 150, Imd. Eff. May 6, 1982;—Am. 1986, Act 33, Imd. Eff. Mar. 17, 1986;—Am. 1988, Act 431, Eff. Mar. 30, 1989;—Am. 1988, Act 433, Eff. Mar. 30, 1989;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 16, Imd. Eff. Apr. 27, 1999.

**Popular name:** Election Code

### 168.358a Special election; purpose; notice.

Sec. 358a. The township board of a township may call a special election to be held in the township for the purpose of submitting a ballot question to the electors of the township. A special election shall be held on a regular election date. Notice of the special election shall be given in the same manner required by section 653a.

**History:** Add. 1956, Act 104, Eff. Aug. 11, 1956;—Am. 1990, Act 235, Imd. Eff. Oct. 10, 1990;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.359 Repealed. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** The repealed section required township board to make certificate of election and deliver same to clerk.

**Popular name:** Election Code

### 168.360 Township officers; certificate of election.

Sec. 360. The township clerk shall file in his office and preserve the original statement and determination of the township board of canvassers of the results of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to township offices a certificate of election, certified by him.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.361 Repealed. 1978, Act 596, Imd. Eff. Jan. 4, 1979.

**Compiler's note:** The repealed section pertained to annual meeting of township electors.

**Popular name:** Election Code

### 168.362 Township officers; terms; qualification; vacancy; election; commencement of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**duties; failure to take oath.**

Sec. 362. (1) The term of office of township trustees elected in 1978 shall be 2 years. The term of office of all township officers listed in section 358 shall be 4 years beginning in the 1980 general election, and in all subsequent elections at which township officials are elected. All township officers' terms shall commence at 12 noon on November 20 next following their election and they shall qualify before assuming the duties of their office. Each township officer shall hold office until a successor is elected and qualified, but not beyond January 1 following the election. Failure of an elected township official to qualify by January 1 following the official's election shall create a vacancy which shall be filled as provided in section 370. All elective township officers, other than those listed in section 358, shall be elected at the November election immediately preceding the expiration of their term and shall commence the duties of their office on November 20 but not before they qualify following their election.

(2) A township officer elected in the general election shall remain in office for the full term if the officer failed to take the oath of office within the time prescribed by law and was subsequently appointed by the township board to the office for which the officer ran.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 175, Eff. Oct. 14, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1965, Act 4, Eff. Mar. 26, 1965;—Am. 1966, Act 44, Imd. Eff. June 2, 1966;—Am. 1967, Act 215, Imd. Eff. Nov. 2, 1967;—Am. 1968, Act 156, Imd. Eff. June 17, 1968;—Am. 1973, Act 103, Imd. Eff. Aug. 16, 1973;—Am. 1978, Act 5, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 112, Imd. Eff. May 14, 1980.

**Popular name:** Election Code

### 168.363 Township officers; oath of office.

Sec. 363. All township officers shall, before entering upon the duties of their offices, take and subscribe the oath as provided in section 1 of article 11 of the state constitution before the township clerk or other officer authorized to administer oaths, and file the same with the township clerk who shall record the same; and such oath shall be administered without reward and certified by the officer before whom the same was taken, with the date of taking the same.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 215, Imd. Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.364 Township treasurer; bond, approval, filing.

Sec. 364. Each township treasurer, within the time limited for filing his oath of office and before he shall enter upon the duties of his office, shall give a bond to the township in such sum and with such sureties as the supervisor shall require and approve and the supervisor shall endorse his approval thereon. It shall be the duty of such treasurer to file within the time above mentioned said bond with the township clerk of such township, who shall record the same in a book to be provided for that purpose. The township clerk shall, after recording same, deliver the bond to the supervisor who shall file it in his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.365 Constables; bond.

Sec. 365. Every person elected or appointed to the office of constable, before he enters upon the duties of his office and within the time prescribed by law for filing his official oath, shall execute, with sufficient sureties to be approved by the supervisor or clerk of his township, an instrument in writing by which said constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay on account of any neglect or default of said constable in the service or return of any process that may be delivered to him for service or collection or on account of any misfeasance of the said constable in the discharge of, or failure of, said constable to faithfully perform any of the duties of his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.366 Repealed. 1978, Act 540, Imd. Eff. Dec. 22, 1978.

**Compiler's note:** The repealed section pertained to bond of justice of the peace.

**Popular name:** Election Code

### 168.367 Resignation of township officer.

Sec. 367. Resignation of a township officer shall be in writing, signed by the officer resigning, and addressed to the township board, and shall be delivered to and filed by the township clerk.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 540, Imd. Eff. Dec. 22, 1978.

**Popular name:** Election Code

### 168.368 Events creating vacancy in township offices.

Sec. 368. The township offices become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the township where his office is located; his conviction of an infamous crime, or of an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void, habitual drunkenness; his refusal or neglect to take and subscribe to the oath as provided in section 2 of article 16 of the state constitution and deposit the same in the manner and within the time prescribed by law; his refusal or neglect to give bond in the amount and manner and within the time prescribed by law; or the failure of the office to be filled at an election which is scheduled for the purpose of filling the office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1973, Act 24, Imd. Eff. June 12, 1973.

**Popular name:** Election Code

### 168.369 Removal of township officer; grounds; service of charges; hearing; effect of removal.

Sec. 369. The governor shall remove a township officer chosen by the electors of any township, when the governor is satisfied from the evidence submitted that the officer has been guilty of official misconduct, wilful neglect of duty, extortion, habitual drunkenness, or has been convicted of being drunk, or when it appears by a certified copy of the judgment of a court of record of this state that the officer, after the officer's election or appointment, was convicted of a felony. The governor shall not take action upon the charges made against the officer until the charges are exhibited in writing, verified by the affidavit of the party making the charges that the party believes the charges to be true. The officer shall not be removed for misconduct or neglect until charges of the misconduct or neglect are exhibited to the governor as provided in this section, a copy of the charges served on the officer, and an opportunity given to the officer of being heard in his defense. The service of the charges upon the officer shall be made by handing to the officer a copy of the charges, together with the affidavits or exhibits which may be attached to the original petition if the officer can be found; if the officer cannot be found a copy shall be left at the last place of residence of the officer with a person of suitable age, if a person can be found. If a person cannot be found, a copy shall be posted in a conspicuous place upon the officer's last known place of residence. An officer who has been removed in accordance with this section shall not be eligible for election or appointment to an office for a period of 3 years after the date of removal from office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 540, Imd. Eff. Dec. 22, 1978.

**Popular name:** Election Code

### 168.370 Filling vacancy in township office; procedure.

Sec. 370. (1) Except as provided in subsection (2), if a vacancy occurs in an elective or appointive township office, the vacancy shall be filled by appointment by the township board, and the person appointed shall hold the office for the remainder of the unexpired term.

(2) If 1 or more vacancies occur in an elective township office that cause the number of members serving on the township board to be less than the minimum number of board members that is required to constitute a quorum for the transaction of business by the board, the board of county election commissioners shall make temporary appointment of the number of members required to constitute a quorum for the transaction of business by the township board. An official appointed under this subsection shall hold the office only until the official's successor is elected or appointed and qualified. An official who is temporarily appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive township office.

(3) If a township official submits a written resignation from an elective township office, for circumstances other than a resignation related to a recall election, that specifies a date and time when the resignation is effective, the township board, within 30 days before that effective date and time, may appoint a person to fill the vacancy at the effective date and time of the resignation. The resigning official shall not vote on the appointment.

(4) Except as provided in subsection (5), if the township board does not make an appointment under subsection (3), or if a vacancy occurs in an elective township office and the vacancy is not filled by the township board or the board of county election commissioners within 45 days after the beginning of the vacancy, the county clerk of the county in which the township is located shall call a special election within 5 calendar days to fill the vacancy. Not later than 4 p.m. on the fifteenth calendar day after the county clerk calls a special election pursuant to this section, the township party committee for each political party in the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

township shall submit a nominee to fill the vacancy. The special election shall be held on the next regular election date that is not less than 60 days after the deadline for submitting nominees under this section or 70 days after the deadline for submitting nominees under this section if the next regular election date is the even year August primary or the general November election. Notice of the special election shall be given in the same manner required by section 653a. A special election called under this section does not affect the rights of a qualified elector to register for any other election. A person elected to fill a vacancy shall serve for the remainder of the unexpired term.

(5) Subsection (4) does not apply to the office of township constable. If a vacancy occurs in the office of township constable, the township board shall determine if and when the vacancy shall be filled by appointment. If the township board does not fill the vacancy by appointment, the office of township constable shall remain vacant until the next general or special election in which township offices are filled.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 36, Imd. Eff. May 21, 1968;—Am. 1980, Act 193, Imd. Eff. July 8, 1980;—Am. 1983, Act 226, Imd. Eff. Nov. 28, 1983;—Am. 1990, Act 83, Imd. Eff. May 25, 1990;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.370a Filling vacancy in township office; term of appointee; term of elected successor.

Sec. 370a. Notwithstanding the provisions of section 370, if a vacancy occurs in an elective or appointive township office, which vacancy is filled by appointment by the township board or the board of county election commissioners and the next general November election is to be held more than 182 days after the vacancy occurs, which election is not the general November election at which a successor in office would be elected if no vacancy, then the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

**History:** Add. 1968, Act 156, Imd. Eff. June 17, 1968;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 83, Imd. Eff. May 25, 1990.

**Popular name:** Election Code

### 168.371 Township officers; primary election, recount of votes.

Sec. 371. The votes cast for any candidate to a township office at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.372 Township officers; recall.

Sec. 372. Any person elected to a township office shall be subject to recall as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.373 Township clerk; appointment of substitute to perform election law duties.

Sec. 373. If neither the township clerk nor any deputy township clerk shall be available to perform any necessary functions in connection with registrations, nominations or elections during the usual or required times for performing such functions, the township board shall appoint some qualified person who is a registered elector of the township to perform such functions until such time as the clerk or a deputy resume their duties. Any such person so appointed shall have all of the powers and authority of a deputy appointed by the clerk pertaining to registrations, nominations and elections.

**History:** Add. 1957, Act 221, Eff. Sept. 27, 1957.

**Popular name:** Election Code

## CHAPTER XVII
## VILLAGE OFFICES

### 168.381 Village officers; qualifications, nomination, election, appointment, term, and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**removal; temporary appointment of trustees for transaction of business; expiration of appointment; filing for office; nominating petitions; September election.**

Sec. 381. (1) Except as provided in this section and sections 383, 641, 642, and 644g, the qualifications, nomination, election, appointment, term of office, and removal from office of a village officer shall be as determined by the charter provisions governing the village.

(2) If the membership of the village council of a village governed by the general law village act, 1895 PA 3, MCL 61.1 to 74.25, is reduced to less than a quorum of 4 and a special election for the purpose of filling all vacancies in the office of trustee is called under section 13 of chapter II of the general law village act, 1895 PA 3, MCL 62.13, temporary appointments of trustees shall be made as provided in this subsection. The board of county election commissioners of the county in which the largest portion of the population of the village is situated shall make temporary appointment of the number of trustees required to constitute a quorum for the transaction of business by the village council. A trustee appointed under this subsection shall hold the office only until the trustee's successor is elected and qualified. A trustee who is temporarily appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive village office.

(3) Notwithstanding another provision of law or charter to the contrary, an appointment to an elective or appointive village office made by a quorum constituted by temporary appointments under this subsection expires upon the election and qualification of trustees under the special election called to fill the vacancies in the office of trustee.

(4) Filing for a village office shall be with the township clerk if the township is conducting the election or if the village is located in more than 1 township with the township in which the largest number of the registered electors of the village reside. Except as provided in subsection (5), nominating petitions for village offices shall be filed with the appropriate township clerk by 4 p.m. on the twelfth Tuesday before the general November election. After a nominating petition is filed for a candidate for a village office, the candidate is not permitted to withdraw unless a written withdrawal notice, signed by the candidate, is filed with the appropriate township clerk not later than 4 p.m. of the third day after the last day for filing the nominating petition.

(5) If a village council adopts a resolution in compliance with section 642(7) to hold its regular election at the September election, the nominating petitions for village offices to be filled at the September election shall be filed with the village clerk by 4 p.m. on the twelfth Tuesday before the September election. After a nominating petition is filed for a candidate for a village office, the candidate is not permitted to withdraw unless a written withdrawal notice, signed by the candidate, is filed with the village clerk not later than 4 p.m. of the third day after the last day for filing the nominating petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 60, Imd. Eff. Apr. 1, 1980;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1991, Act 16, Imd. Eff. May 1, 1991;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 290, Imd. Eff. July 23, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2006, Act 122, Imd. Eff. Apr. 14, 2006;—Am. 2010, Act 184, Imd. Eff. Sept. 30, 2010.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## 168.382 Village officers; nomination and election.

Sec. 382. Except as otherwise provided in this act, the general law village act, 1895 PA 3, MCL 61.1 to 74.25, or the home rule village act, 1909 PA 278, MCL 78.1 to 78.28, if the charter of a village does not specify the time, manner, and means of nominating and electing its public officers, the village shall nominate and elect its officers in accordance with the provisions governing the selection of township officers, as provided in chapter XV.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 8, Imd. Eff. Dec. 27, 1963;—Am. 1973, Act 147, Imd. Eff. Nov. 21, 1973;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** At the end of this section, the reference to "chapter XV" evidently should read "chapter XVI".

**Popular name:** Election Code

## 168.383 Removal of village officers by governor; grounds; action on charges; service of charges; hearing; eligibility for election or appointment following removal or conviction.

Sec. 383. The governor shall remove all village officers chosen by the electors of a village when the governor is satisfied from sufficient evidence submitted to the governor that the officer has been guilty of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

official misconduct, wilful neglect of duty, extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it appears by a certified copy of the judgment of a court of record of this state that a village officer, after the officer's election or appointment, has been convicted of a felony. The governor shall not take action upon any charges made to the governor against a village officer until the charges have been exhibited to the governor in writing, verified by the affidavit of the party making them, that the party believes the charges to be true. A village officer shall not be removed for misconduct or neglect until charges of misconduct or neglect have been exhibited to the governor as provided in this section and a copy of the charges served on the officer and an opportunity given the officer of being heard in his or her defense. The service of the charges upon the person or persons complained against shall be made by personal service to the officer of a copy of the charges, together with all affidavits or exhibits which may be attached to the original petition, if the officer can be found; and if not, by leaving a copy of the charges at the last known place of residence of the officer with a person of suitable age, if a person of suitable age can be found; and if not, by posting the copy of the charges in a conspicuous place at the officer's last known place of residence. An officer who has been removed from office pursuant to this section shall not be eligible for election or appointment to any office for a period of 3 years from the date of the removal from office. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible for election or appointment to an elective or appointive village office for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

## CHAPTER XVIII
## JUSTICES OF THE SUPREME COURT

### 168.391 Office of justice of supreme court; eligibility; violation of MCL 38.412a.

Sec. 391. (1) A person shall not be eligible to the office of justice of the supreme court unless the person is a registered and qualified elector of this state by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and at the time of election or appointment is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of justice of the supreme court for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.392 Candidates for justice of supreme court; nomination at fall state convention.

Sec. 392. At its fall state convention, each political party may nominate the number of candidates for the office of justice of the supreme court as are to be elected at the next ensuing general election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.392a Candidates for justice of supreme court; incumbents, affidavit of candidacy for re-election.

Sec. 392a. Any incumbent justice of the supreme court may become a candidate for re-election as a justice of the supreme court by filing with the secretary of state an affidavit of candidacy not less than 180 days prior to the expiration of his term of office.

The affidavit of candidacy shall contain statements that the affiant is an incumbent supreme court justice, that he is domiciled within the state, that he will not have attained the age of 70 years prior to the date of election and a declaration that he is a candidate for election to the office of supreme court justice.

**History:** Add. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.393 Candidates for justice of supreme court; canvass by state central committee of each political party.

Sec. 393. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of the convention and determine the nominee or nominees of the convention for the office or offices of justice of the supreme court. Not more



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of the candidate or candidates nominated at the convention for the office or offices of justice of the supreme court. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat. The name of each nominee on the list shall be printed upon a nonpartisan judicial ballot containing no party designation together with the names of incumbent justices filing an affidavit under section 392a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.394 Candidates for justice of supreme court; withdrawal; notice.

Sec. 394. Any person who has been certified by the state central committee of any party as nominated for the office of justice of the supreme court or who filed an affidavit according to section 392a may withdraw by filing a written notice of withdrawal with the secretary of state or his or her duly authorized agent and a copy with the chairperson and secretary of the state central committee of the party not later than 4 p.m., eastern standard time, of the fourth business day following the conclusion of the convention.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.395 Candidates for justice of supreme court; death, withdrawal, disqualification; selection of new candidate, certification; ballots.

Sec. 395. Whenever a candidate of a political party, after having been nominated to the office of justice of the supreme court or having filed an affidavit according to section 392a, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of any party which is thereby left without a candidate nominated or indorsed by that party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.396 Supreme court justices; election.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 396. Subject to section 6 of the schedule to the state constitution, 2 justices of the supreme court shall be elected at the general election in 1966 and at the general election every 2 years thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.397 Supreme court justices; certificate of determination by board of state canvassers.

Sec. 397. The board of state canvassers shall determine which candidates for justices of the supreme court have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.398 Supreme court justices; certificate of election.

Sec. 398. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the office of justice of the supreme court a certificate of election, certified by him under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.399 Supreme court justices; term of office.

Sec. 399. The term of office of justice of the supreme court shall be 8 years, beginning on the first day of January next following the election and shall continue until a successor is elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.400 Supreme court justices; oath of office, deposit.

Sec. 400. Every person elected to the office of justice of the supreme court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall deposit said oath with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.401 Supreme court justices; resignation, notice.

Sec. 401. Any person duly elected to the office of justice of the supreme court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.402 Supreme court justices; vacancy, creation.

Sec. 402. The office of justice of the supreme court shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.403 Supreme court justices; impeachment; removal from office, service of charges, hearing.

Sec. 403. Any person holding the office of justice of the supreme court may be removed from office by impeachment for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any justice of the supreme court upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the constitution of this state. Such person shall be served



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator with a copy to the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.404 Office of supreme court justice; vacancy; appointment; election.

Sec. 404. (1) The governor shall appoint a successor to fill the vacancy in the office of justice of the supreme court. The person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election, at which a successor is elected and qualified.

(2) At the next general November election held at least 105 days after the vacancy occurs, a person nominated under section 392 shall be elected to fill that office. The person elected shall hold the office for the remainder of the unexpired term.

(3) A candidate receiving the highest number of votes for that office who has subscribed to the oath as provided in section 1 of article XI of the state constitution is considered to be elected and qualified even though a vacancy occurs before the time he or she has entered upon the duties of his or her office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.405 Supreme court justices; election, recount of votes.

Sec. 405. The votes cast for any candidate for justice of the supreme court at any election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.406 Supreme court justices; not subject to recall.

Sec. 406. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 61, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER XVIIIA
## JUDGES OF THE COURT OF APPEALS

### 168.409 Office of judge of court of appeals; eligibility; violation of MCL 38.412a.

Sec. 409. (1) A person shall not be eligible for the office of judge of the court of appeals unless the person is a registered and qualified elector of the appellate court district in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and, at the time of election or appointment, is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of judge of the court of appeals for a period of 20 years after conviction.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.409a Candidates for appeals court judge; nomination at general nonpartisan primary election; omission.

Sec. 409a. A general nonpartisan primary election shall be held in every appellate court district of this state on the Tuesday succeeding the first Monday in August preceding every general November election in which judges of the court of appeals are to be elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of the court of appeals: Provided, however, That if, upon expiration of the time for filing petitions for the primary election of said judge of the court of appeals in any appellate court district, it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the secretary of state shall certify to the county board or boards of election



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

commissioners the names of such candidates for court of appeals judge whose nominating petitions, filing fee or affidavit of candidacy have been properly filed, and such candidates shall be the nominees for judge of the court of appeals and shall be so certified. As to such office there shall be no primary election and this office shall be omitted from the judicial primary ballot.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409b Judge of court of appeals other than incumbent; candidate; nominating petitions; signatures, addresses, and dates of signing; validity of filed petitions; using petition specifying new or existing judgeship to qualify candidate for another judicial office of same court prohibited; filing for election to more than 1 judgeship; withdrawal; incumbent judge as candidate in primary election; affidavit of candidacy; contents; primary and general election for 2 or more judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (8).

Sec. 409b. (1) To obtain the printing of the name of a qualified person other than an incumbent judge of the court of appeals as a candidate for nomination for the office of judge of the court of appeals upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the appellate court district as determined under section 544f. The provisions of sections 544a and 544b apply. The secretary of state shall receive nominating petitions up to 4 p.m. on the fourteenth Tuesday preceding the primary.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with subsection (8):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(3) Nominating petitions specifying a new or existing court of appeals judgeship may not be used to qualify a candidate for another judicial office of the same court in the same judicial district. A person who files nominating petitions for election to more than 1 court of appeals judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(5) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position subsequent to the deadline shall bear an office designation of nonincumbent position. All signatures collected prior to the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

(6) An incumbent judge of the court of appeals may become a candidate in the primary election for the office of which he or she is the incumbent by filing with the secretary of state an affidavit of candidacy not less than 134 days before the date of the primary election. However, if an incumbent judge of the court of appeals was appointed to fill a vacancy and the judge entered upon the duties of office less than 137 days before the date of the primary election but before the fourteenth Tuesday preceding the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office. The affidavit of candidacy shall contain statements that the affiant is an incumbent judge of the court of appeals, is domiciled within the district, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the court of appeals.

(7) In the primary and general November election for 2 or more judgeships of the court of appeals in a judicial district, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (8):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for the judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(8) If the death or disqualification of an incumbent judge triggers the application of section 409d(2), then for the purposes of subsections (2) and (7), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 409d(2).

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.409c Candidates for nomination; withdrawal; notice.

Sec. 409c. After the filing of a nominating petition or affidavit of candidacy by or in behalf of a proposed candidate for the office of judge of the court of appeals, the proposed candidate is not permitted to withdraw unless he or she serves a written notice of withdrawal on the secretary of state or his or her duly authorized agent. The notice must be served not later than 3 days after the last day for filing nominating petitions if a nominating petition was filed for the proposed candidate, and not later than 3 days after the last day for filing affidavits of candidacy if an affidavit of candidacy was filed for the proposed candidate. If the third day falls on a Saturday, Sunday, or legal holiday, the notice of withdrawal may be served on the secretary of state or his or her duly authorized agent at any time on or before 4 p.m., eastern standard time, on the next secular day.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.409d Candidates for judge of court of appeals; declaration of nominees; certification of nomination; death or disqualification of candidate.

Sec. 409d. (1) In each appellate court district the candidates for office of judge of the court of appeals receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers and election precincts, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominees for the office at the next general November election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 409b, there are fewer candidates for nomination or nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 409b. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 409b, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners of each county in the appellate court district for the general November election.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.409e Judge of court of appeals; election; death or disqualification of nominee; term of office.

Sec. 409e. (1) Except as otherwise provided in this section, a judge or judges of the court of appeals shall be elected in each appellate court district at the general November election in which judges of the court of appeals are to be elected as provided by law.

(2) If there are fewer nominees for the office of judge of the court of appeals than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the court of appeals for which there is no nominee.

(3) The term of office for judge of the court of appeals shall be 6 years, commencing at 12 noon on January 1 next following his or her election and shall continue until a successor is elected and qualified.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.409f Appeals court judges; certificate of determination by board of state canvassers.

Sec. 409f. The board of state canvassers shall determine which candidate or candidates for the office of judge of the court of appeals in each district received the greatest number of votes and shall declare such candidate or candidates duly elected. The board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver it to the secretary of state.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409g Appeals court judges; certificate of election.

Sec. 409g. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the office of judge of the court of appeals a certificate of election certified by him and under the great seal of the state.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409h Appeals court judges; oath of office, filing.

Sec. 409h. Every person elected to the office of judge of the court of appeals before entering upon the duties of his office shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with the court administrator.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409i Appeals court judges; resignation, notice.

Sec. 409i. Any person duly elected to the office of judge of the court of appeals who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and the secretary of state.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409j Appeals court judges; vacancy, creation.

Sec. 409j. The office of judge of the court of appeals shall become vacant upon the happening of any of the following events before the expiration of the term of office: the death of the incumbent; his resignation; his removal from office for cause; his ceasing to have his domicile in the district from which he was elected; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit it in the manner and within the time prescribed by law.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409k Appeals court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.

Sec. 409k. Any person holding the office of judge of the court of appeals may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any judge of the court of appeals upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in section 25 of article 6 of said constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy occurs in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator, with a copy to the governor.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409/ Judge of court of appeals; appointment to fill vacancy; nominations to fill vacancy;



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**election.**

Sec. 409*l*. (1) If a vacancy occurs in the office of judge of the court of appeals, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 409b(8), the person appointed by the governor shall be considered an incumbent for purposes of this act. The person appointed by the governor shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 409d(2), candidates shall be nominated at the next fall primary held at least 105 days after the vacancy occurs, to fill the vacancy in the manner provided in this chapter for the nomination of candidates for judge of the court of appeals. The vacancy shall be filled at the general November election next following the primary in the manner provided for in this chapter for the election of judges of the court of appeals. The person elected shall hold office for the remainder of the unexpired term.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 31, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.409m Appeals court judges; primary or election, recount of votes.

Sec. 409m. The votes cast for any candidate for judge of the court of appeals at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.409n Appeals court judges; not subject to recall.

Sec. 409n. Judges of the court of appeals are not subject to recall as provided by section 8 of article 2 of the state constitution.

**History:** Add. 1964, Act 228, Eff. Aug. 28, 1964.

**Popular name:** Election Code

## CHAPTER XIX
## JUDGES OF THE CIRCUIT COURT

### 168.411 Judge of circuit court; eligibility; violation of MCL 38.412a.

Sec. 411. (1) A person shall not be eligible to the office of judge of the circuit court unless the person is a registered and qualified elector of the judicial circuit in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, as provided in section 11 of article VI of the state constitution of 1963, is licensed to practice law in this state, and, at the time of election, is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of judge of the circuit court for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.412 Candidates for circuit court judge; nomination at general nonpartisan primary election; omission.

Sec. 412. A general nonpartisan primary election shall be held in every county of this state on the Tuesday succeeding the first Monday in August prior to the general election at which judges of the circuit court are elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of the circuit court. If, upon the expiration of the time for filing petitions or incumbency affidavits of candidacy for the primary election of said judge of the circuit court in any judicial circuit, it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the secretary of state shall certify to the county board of election commissioners the name of such candidate for circuit court judge whose petitions or affidavits have been properly filed, and such candidate shall be the nominee for the judge of the circuit court and shall be so certified. As to such office, there shall be no primary election and this office shall be omitted from the judicial primary ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.413 Judge of circuit court; nominating petitions; filing; signatures, addresses, and dates



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**of signing; affidavit; receiving petitions; applicability of MCL 168.544a and 168.544b; receipt of incorrect or inaccurate written information from secretary of state or bureau of elections; equitable relief; challenge.**

Sec. 413. (1) To obtain the printing of the name of a person as a candidate for nomination for the office of judge of the circuit court upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the judicial circuit as determined under section 544f or by the filing of an affidavit according to section 413a. The secretary of state shall receive the nominating petitions up to 4 p.m. of the fourteenth Tuesday before the primary. The provisions of sections 544a and 544b apply.

(2) If a candidate for nomination for the office of judge of the circuit court receives incorrect or inaccurate written information from the secretary of state or the bureau of elections concerning the number of nominating petition signatures required under section 544f and that incorrect or inaccurate written information is published or distributed by the secretary of state or the bureau of elections, the candidate may bring an action in a court of competent jurisdiction for equitable relief. A court may grant equitable relief to a candidate under this subsection if all of the following occur:

(a) The candidate brings the action for equitable relief within 6 days after the candidate is notified by the secretary of state or the bureau of elections that the candidate's nominating petition contains insufficient signatures.

(b) The candidate files an affidavit certifying that he or she contacted and received from the secretary of state or the bureau of elections incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f.

(c) The secretary of state or the bureau of elections published or distributed the incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f before the filing deadline under subsection (1).

(d) The secretary of state or bureau of elections did not inform the candidate at least 14 days before the filing deadline under subsection (1) that incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f had been published or distributed.

(3) If a court grants equitable relief to a candidate under subsection (2), the candidate shall be given the opportunity to obtain additional nominating petition signatures to meet the requirements under section 544f. The additional nominating petition signatures obtained by a candidate shall be filed with the secretary of state no later than 4 p.m. on the fifth business day after the date that the court order granting equitable relief is filed.

(4) The nominating petition signatures filed pursuant to this section are subject to challenge as provided in section 552.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 293, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2009, Act 206, Imd. Eff. Jan. 4, 2009.

**Popular name:** Election Code

### 168.413a Circuit judge; affidavit of candidacy.

Sec. 413a. Any incumbent circuit court judge may become a candidate in the primary election for the office of which he or she is an incumbent by filing with the secretary of state an affidavit of candidacy not less than 134 days prior to the date of the primary election. However, if an incumbent judge of the circuit court was appointed to fill a vacancy and the judge entered upon the duties of office less than 137 days before the date of the primary election but before the fourteenth Tuesday preceding the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office.

The affidavit of candidacy shall contain statements that the affiant is an incumbent circuit court judge for the circuit in which election is sought, that he or she is domiciled within the circuit, and that he or she will not attain the age of 70 by the date of election, and shall contain a declaration that he or she is a candidate for election to the office of circuit court judge.

**History:** Add. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1966, Act 38, Imd. Eff. May 26, 1966;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.414 Candidates for nomination; withdrawal; notice.

Sec. 414. After the filing of a nominating petition or affidavit of candidacy by or in behalf of a proposed candidate for the office of judge of the circuit court, the proposed candidate is not permitted to withdraw



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

unless he or she serves a written notice of withdrawal on the secretary of state or his or her duly authorized agent. The notice must be served not later than 3 days after the last day for filing nominating petitions if a nominating petition was filed for the proposed candidate, and not later than 3 days after the last day for filing affidavits of candidacy if an affidavit of candidacy was filed for the proposed candidate. If the third day falls on a Saturday, Sunday, or legal holiday, the notice of withdrawal may be served on the secretary of state or his or her duly authorized agent at any time on or before 4 p.m., eastern standard time, on the next secular day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 173, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.415 Candidates for judge of circuit court; declaration of nominees; certification of nomination; death or disqualification of candidate.

Sec. 415. (1) The candidates for the office of judge of the circuit court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various county boards of canvassers and election precincts or as determined by the board of state canvassers as the result of a recount, shall be declared the nominees for the office at the next general election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 413, there are fewer candidates for nomination or nominees for the office of judge of the circuit court than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 413. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 413, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.416 Judge of circuit court; election; death or disqualification of nominee.

Sec. 416. (1) Except as otherwise provided in this section, a judge or judges of the circuit court shall be elected in each judicial circuit at the general election in which judges of the circuit court are to be elected as provided by law.

(2) If there are fewer nominees for the office of judge of the circuit court than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the circuit court for which there is no nominee.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.416a Circuit court judges; incumbents, expiration, extension of terms.

Sec. 416a. The terms of office of all elected circuit court judges serving as of December 31, 1965 expire at 12 noon, January 1, 1967, except those circuit court judges elected at the general election in November, 1964, pursuant to the provisions of Act No. 198, Act No. 262 and Act No. 264 of the Public Acts of 1964, and except that those circuit court judges elected at the general election in November, 1964, pursuant to the provisions of Act No. 172 of the Public Acts of 1963, shall expire at noon, January 1, 1973, and the terms of the judges elected pursuant to the provisions of Act No. 32 and Act No. 179 of the Public Acts of 1963, as amended, shall expire at 12 noon, January 1, 1971.

**History:** Add. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1965, Act 393, Eff. Oct. 26, 1965;—Am. 1966, Act 38, Imd. Eff. May 26, 1966.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.416b Circuit court judges; 1966 election; terms; nominating petitions; subsequent elections.

Sec. 416b. (1) The first general election of judges of the circuit court shall be held in 1966. In that election only, the terms of office of the judges of the circuit court shall be as set forth below, and candidates shall run for a specific term which shall be identified on the ballot.

| No. of Judges In a Circuit | Length of Term of Judges |
|---|---|
| 1 | 6 years |
| 2 | 1 judge 6 years; 1 judge 8 years |
| 3 | 1 judge 6 years; 1 judge 8 years; 1 judge 10 years |
| 4 | 2 judges 6 years; 1 judge 8 years; 1 judge 10 years |
| 5 | 2 judges 6 years; 2 judges 8 years; 1 judge 10 years |
| 6 | 2 judges 6 years; 2 judges 8 years; 2 judges 10 years |
| 7 | 3 judges 6 years; 2 judges 8 years; 2 judges 10 years |
| 8 | 3 judges 6 years; 3 judges 8 years; 2 judges 10 years |
| 9 | 3 judges 6 years; 3 judges 8 years; 3 judges 10 years |
| 10 | 4 judges 6 years; 3 judges 8 years; 3 judges 10 years |
| 11 | 4 judges 6 years; 4 judges 8 years; 3 judges 10 years |
| 12 | 4 judges 6 years; 4 judges 8 years; 4 judges 10 years |
| 13 | 5 judges 6 years; 4 judges 8 years; 4 judges 10 years |
| 14 | 5 judges 6 years; 5 judges 8 years; 4 judges 10 years |
| 15 | 5 judges 6 years; 5 judges 8 years; 5 judges 10 years |
| 16 | 6 judges 6 years; 5 judges 8 years; 5 judges 10 years |
| 17 | 6 judges 6 years; 6 judges 8 years; 5 judges 10 years |
| 18 | 6 judges 6 years; 6 judges 8 years; 6 judges 10 years |
| 19 | 7 judges 6 years; 6 judges 8 years; 6 judges 10 years |
| 20 | 7 judges 6 years; 7 judges 8 years; 6 judges 10 years |

(2) A candidate may file nominating petitions or an affidavit of candidacy for only 1 such office, and such office shall be designated on the nominating petitions or affidavit of candidacy.

(3) Subsequent elections for circuit judges shall be held in November immediately prior to the expiration of the terms of office of circuit judges.

**History:** Add. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.416c Circuit court judges; 1966 election, terms in certain judicial circuits.

Sec. 416c. Notwithstanding the provisions of subsection (1) of section 416b, at the 1966 general election of circuit judges the judges in the following judicial circuits shall be elected for terms of office as follows:

(a) In the third judicial circuit 9 judges shall be elected for a term of 8 years, 9 judges for a term of 10 years, and 3 judges for a term of 6 years.

(b) In the sixth judicial circuit 3 judges shall be elected for a term of 6 years, 2 judges for a term of 8 years and 2 judges for a term of 10 years.

(c) In the ninth judicial circuit 1 judge shall be elected for a term of 6 years and 1 judge for a term of 8 years.

(d) In the sixteenth judicial circuit 2 judges shall be elected for a term of 6 years, 2 judges for a term of 8 years and 2 judges for a term of 10 years.

(e) In the seventeenth judicial circuit 2 judges shall be elected for a term of 6 years, 1 judge for a term of 8 years, and 1 judge for a term of 10 years.

(f) In the twenty-second judicial circuit 1 judge shall be elected for a term of 6 years and 1 judge for a term of 8 years.

**History:** Add. 1965, Act 393, Eff. Oct. 26, 1965;—Am. 1966, Act 38, Imd. Eff. May 26, 1966.

**Popular name:** Election Code

### 168.416d Circuit court judges; 1965 special election, terms.

Sec. 416d. Notwithstanding the provisions of section 2 of Act No. 284 of the Public Acts of 1965, the 4 additional circuit judges for the third judicial circuit who are elected in a special election to be held on November 2, 1965, shall be elected for terms of office expiring at 12 noon, January 1, 1973.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1965, Act 393, Imd. Eff. Oct. 26, 1965.

**Popular name:** Election Code

### 168.417 Circuit court judges; certificate of determination by board of state canvassers.

Sec. 417. The board of state canvassers shall determine which candidate or candidates for the office of judge of the circuit court received the greatest number of votes and shall declare such candidate or candidates duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.418 Circuit court judges; preservation of statement and determination; certificate of election.

Sec. 418. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the person or persons thereby declared to be elected to the office of judge of the circuit court a certificate of election certified by him and under the great seal of the state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.419 Circuit court judges; terms of office.

Sec. 419. With the exception of the terms of certain judges elected in 1966, the term of office for judge of the circuit court shall be 6 years, commencing at 12 noon on January 1 next following his election and shall continue until a successor shall have been elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.420 Circuit court judges; oath of office, filing.

Sec. 420. Every person elected to the office of judge of the circuit court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with each county clerk in his circuit.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.421 Circuit court judges; resignation, notice.

Sec. 421. Any person duly elected to the office of judge of the circuit court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.422 Circuit court judges; vacancy, creation.

Sec. 422. The office of circuit judge shall become vacant upon the happening of any of the following events before the expiration of the term of office: The death of the incumbent; his resignation; his removal from office for cause; his ceasing to be an inhabitant of the circuit for which he shall have been elected or appointed or within which the duties of his office are required to be discharged; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.423 Circuit court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.

Sec. 423. Any person holding the office of circuit judge may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any circuit judge upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

stated at length in such resolution, as provided in the constitution of this state. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the supreme court, with a copy to the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.424 Judge of circuit court; appointment to fill vacancy; nominations to fill vacancy; election; term.

Sec. 424. (1) If a vacancy occurs in the office of circuit judge, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 424a(3), the person appointed by the governor shall be considered an incumbent for purposes of this act. The person appointed by the governor shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 415(2), at the next fall primary election held at least 105 days after the vacancy occurs, candidates shall be nominated to fill the vacancy in the manner provided in this chapter for the nomination of candidates for circuit judge. The vacancy shall be filled at the general November election next following the primary in the manner provided in this chapter for the election of circuit judges. The person elected shall hold office for the remainder of the unexpired term.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 236, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.424a Primary and general election for 2 or more judgeships; listing categories of candidates on ballot; validity of filed petitions; death or disqualification of incumbent judge; filing for election to more than 1 circuit judgeship; withdrawal; office designation.

Sec. 424a. (1) In the primary and general election for 2 or more judgeships of the circuit court, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (3):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(2) Nominating petitions filed under section 413 are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with subsection (3):

(a) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(b) A new judgeship.

(c) An unspecified existing judgeship for which the incumbent judge is seeking election.

(3) If the death or disqualification of an incumbent judge triggers the application of section 415(2), then for the purposes of subsections (1) and (2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 415(2).

(4) A person who files nominating petitions for election to more than 1 circuit judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(5) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(6) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position subsequent to the deadline shall bear an office designation of nonincumbent position. All signatures collected prior to the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1977, Act 134, Eff. Mar. 30, 1978;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.425 Circuit court judges; primary or election, recount of votes.

Sec. 425. The votes cast for any candidate for circuit judge at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.426 Circuit court judges; not subject to recall.

Sec. 426. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964.

**Popular name:** Election Code

## CHAPTER XIXA
## JUDGES OF MUNICIPAL COURTS OF RECORD

### 168.426a Judge of municipal court; nomination and election.

Sec. 426a. In every city having a municipal court of record having general criminal jurisdiction over felonies and having a population of 1,000,000 or more, candidates for the office of a judge of the municipal court shall be nominated at the August primary for state offices and elected at the general election in even years.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965;—Am. 1978, Act 540, Imd. Eff. Dec. 22, 1978.

**Popular name:** Election Code

### 168.426b Judge of municipal court; eligibility; violation of MCL 38.412a.

Sec. 426b. (1) A person shall not be eligible to the office of judge of a municipal court of record as described in section 426a unless the person is a registered and qualified elector of the municipality in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and, at the time of election, is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of judge of a municipal court of record as described in section 426a for a period of 20 years after conviction.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.426c Candidates for municipal court judge; nomination at general nonpartisan primary election.

Sec. 426c. A general nonpartisan primary election shall be held in every municipality described in section 426a, on the Tuesday succeeding the first Monday in August preceding any general November election, at which judges of the municipal courts of record therein are to be elected; at which time the qualified and registered voters may vote for nonpartisan candidates for the office of judge of such municipal court of record. If, upon the expiration of the time for filing petitions, for the primary election of the municipal judge or judges in any municipality, there are not to exceed twice the number of candidates than persons to be elected, then the city clerk shall certify through the city board of canvassers the names of the candidates for judge of the municipal court of record whose petitions have been properly filed, who shall be the nominees for judges of the municipal court of record and shall be so certified, there shall be no primary election, for this office and it shall be omitted from the official primary ballot.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426d Judge of municipal court of record; candidate; nominating petitions; signatures, addresses, and dates of signing; incumbent judge as candidate in primary election; affidavit of candidacy; validity of filed petitions; filing for election to more than 1 judgeship; withdrawal; office designation.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 426d. (1) To obtain the printing of the name of a person on the ballot as a candidate for the office of judge of the municipal court of record, there shall be filed with the city clerk nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in that city as determined under section 544f. The city clerk shall receive nominating petitions up to 4 p.m. of the fourteenth Tuesday preceding the August primary. The provisions of sections 544a and 544b apply.

(2) An incumbent judge of the municipal court of record may become a candidate in the primary election for the office of which the judge is the incumbent by filing, with the city clerk, an affidavit of candidacy not less than 134 days before the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent judge of the municipal court of record, is domiciled within the city, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the municipal court of record.

(3) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 426k(3):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(4) A person who files nominating petitions for election to more than 1 municipal court of record judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(5) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (3) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(6) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position subsequent to the deadline shall bear an office designation of nonincumbent position. All signatures collected prior to the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 59, Eff. Mar. 24, 1964;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.426e Candidates for nomination; affidavit as to eligibility and candidacy.

Sec. 426e. Any candidate for judge of a municipal court of record shall file an affidavit which contains statements that the affiant is domiciled within the municipality; and that he will not attain the age of 70 years by the date of election, and that he is a candidate for the office of municipal judge.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426f Candidates for judge of municipal court; declaration of nominees; death or disqualification of candidate; certification of nomination.

Sec. 426f. (1) The candidates for the office of judge of the municipal court of record receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected, as set forth in the report of the city canvassers, based on returns from the various local boards of canvassers and election precincts, shall be declared the nominees for the office at the next general election.

(2) If, after the deadline for filing nominating petitions under section 426d, there are fewer candidates for nomination or nominees for the office of judge of a municipal court of record than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 426d. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 426d, whichever is less.

(3) The city clerk shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners of the city for the general November election.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.426g Municipal court judges; first general election, terms of office.

Sec. 426g. The first general election of judges of the municipal court of record shall be held in the year 1966. In that election only, the terms of office of the judges shall be as set forth below; in each case beginning at 12 o'clock noon on January 1, 1967.

LENGTH OF TERM OF JUDGES

| No. of Judges | Category A | Category B | Category C |
|---|---|---|---|
| 1 | 6 years | | |
| 2 | 1 judge 6 years | 1 judge 8 years | |
| 3 | 1 judge 6 years | 1 judge 8 years | 1 judge 10 years |
| 4 | 2 judges 6 years | 1 judge 8 years | 1 judge 10 years |
| 5 | 2 judges 6 years | 2 judges 8 years | 1 judge 10 years |
| 6 | 2 judges 6 years | 2 judges 8 years | 2 judges 10 years |
| 7 | 3 judges 6 years | 2 judges 8 years | 2 judges 10 years |
| 8 | 3 judges 6 years | 3 judges 8 years | 2 judges 10 years |
| 9 | 3 judges 6 years | 3 judges 8 years | 3 judges 10 years |
| 10 | 4 judges 6 years | 3 judges 8 years | 3 judges 10 years |
| 11 | 4 judges 6 years | 4 judges 8 years | 3 judges 10 years |
| 12 | 4 judges 6 years | 4 judges 8 years | 4 judges 10 years |
| 13 | 5 judges 6 years | 4 judges 8 years | 4 judges 10 years |
| 14 | 5 judges 6 years | 5 judges 8 years | 4 judges 10 years |
| 15 | 5 judges 6 years | 5 judges 8 years | 5 judges 10 years |

The length of term of each elected judge shall be based on the number of votes received by each, those highest on the list respectively filling the 10-year terms as specified in category C, the next highest below category C filling the 8-year terms under category B, and the remainder 6-year terms under category A.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426h Municipal court judges; 1966 general election, judges on separate judicial ballot, terms of office.

Sec. 426h. In any municipal court of record which has a separate traffic and ordinance division, the judges of which run separately on judicial ballot from the other judges of the court, the terms of office of such judges elected in 1966 only shall follow the same pattern, though under separate schedule to that set up in section 426g for the other judges of the municipal court of record.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426i Judge of municipal court; election; death or disqualification of nominee.

Sec. 426i. (1) Except as otherwise provided in this section, subsequent elections for judges of a municipal court of record shall be held at the general November election immediately prior to the expiration of the term of each judge.

(2) If there are fewer nominees for the office of judge of a municipal court of record than there are persons to be elected at the general November election because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the municipal court of record for which there is no nominee.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.426j Municipal court judges; terms of office.

Sec. 426j. With the exception of the terms of the judges elected in 1966 to terms specified in categories C and B, the terms of office for judges of municipal courts of record shall be 6 years, commencing at noon on January 1 next following election and shall continue until successors shall have been elected and qualified.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426k Primary and general election; incumbent judge as candidate; printing designation



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**of office on ballot; 2 or more judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (3).**

Sec. 426k. (1) In the primary and general election for a judge of the municipal court of record, an incumbent judge who is a candidate shall have printed upon the ballot under the name of the candidate the designation of that office.

(2) In the primary and general election for 2 or more judgeships of the municipal court of record, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (3):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(3) If the death or disqualification of an incumbent judge triggers the application of section 426f(2), then for the purposes of subsection (2) and section 426d(3), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 426f(2).

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.426*l* Municipal court judges; certificate of determination by city board of canvassers.

Sec. 426*l*. The city board of canvassers shall determine which candidates for judge of the municipal court of record received the highest number of votes and on that basis shall declare the candidates duly elected, specifying the terms to which each was elected. The board shall forthwith make and subscribe on its statements of returns a certificate of such determination and deliver it to the city clerk.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426m Municipal court judges; certificate of election.

Sec. 426m. The city clerk shall file in his office and preserve the results of such election and cause to be delivered to the persons declared to be elected to the office of judge of the municipal court of record certificates of election certified by him.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.426n Municipal court judges; oath of office.

Sec. 426n. Every person elected to the office of judge of the municipal court of record, before entering upon the duties of such office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and file same with the city clerk and a copy with the court administrator.

**History:** Add. 1965, Act 85, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

## CHAPTER XX
## JUDGE OF PROBATE

### 168.431 Judge of probate; eligibility; violation of MCL 38.412a.

Sec. 431. (1) A person shall not be eligible to the office of judge of probate unless the person is a registered and qualified elector of the county in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, as provided in section 16 of article VI of the state constitution of 1963, is licensed to practice law in this state except as provided in section 7 of the schedule and temporary provisions of the state constitution of 1963, and, at the time of election, is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of judge of probate for a period of 20 years after conviction.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.432 Candidates for probate judge; nomination at general nonpartisan primary election; omission.

Sec. 432. A general nonpartisan primary election shall be held in every county of this state on the Tuesday succeeding the first Monday in August preceding every general November election at which judges of probate are to be elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of probate. If upon the expiration of the time for filing petitions or incumbency affidavits of candidacy for the primary election of said probate judges in any county it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the county clerk shall certify to the county board of election commissioners the name of such candidate for probate judge whose petitions have been properly filed and such candidate shall be the nominee for the judge of probate and shall be so certified. As to such office, there shall be no primary election and this office shall be omitted from the judicial primary ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.433 Judge of probate; candidate; nominating petitions; signatures, addresses, and dates of signing; validity of filed petitions; filing for election to more than 1 probate judgeship; withdrawal; office designation; receipt of incorrect or inaccurate information from county clerk or secretary of state; equitable relief; challenge.

Sec. 433. (1) Except as otherwise provided in this subsection, to obtain the printing of the name of a person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the county clerk of each county nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the county as determined under section 544f or by the filing of an affidavit according to section 433a. In the case of a probate court district, to obtain the printing of the name of a person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the probate court district as determined under section 544f or by the filing of an affidavit according to section 433a. The county clerk or, in the case of a probate court district, the secretary of state shall receive nominating petitions up to 4 p.m. on the fourteenth Tuesday before the August primary. The provisions of sections 544a and 544b apply.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 435a(2):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(3) A person who files nominating petitions for election to more than 1 probate judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(5) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position after the deadline shall bear an office designation of nonincumbent position. All signatures collected before the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

(6) If a candidate for nomination for the office of judge of probate receives incorrect or inaccurate written information from the county clerk or, in the case of a probate court district, the secretary of state concerning the number of nominating petition signatures required under section 544f and that incorrect or inaccurate written information is published or distributed by the county clerk or, in the case of a probate court district, the secretary of state, the candidate may bring an action in a court of competent jurisdiction for equitable relief. A court may grant equitable relief to a candidate under this subsection if all of the following occur:

(a) The candidate brings the action for equitable relief within 6 days after the candidate is notified by the county clerk or, in the case of a probate court district, the secretary of state that the candidate's nominating



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

petition contains insufficient signatures.

(b) The candidate files an affidavit certifying that he or she contacted and received from the county clerk or, in the case of a probate court district, the secretary of state incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f.

(c) The county clerk or, in the case of a probate court district, the secretary of state published or distributed the incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f before the filing deadline under subsection (1).

(d) The county clerk or, in the case of a probate court district, the secretary of state did not inform the candidate at least 14 days before the filing deadline under subsection (1) that incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f had been published or distributed.

(7) If a court grants equitable relief to a candidate under subsection (6), the candidate shall be given the opportunity to obtain additional nominating petition signatures to meet the requirements under section 544f. The additional nominating petition signatures obtained by a candidate shall be filed with the county clerk or, in the case of a probate court district, the secretary of state no later than 4 p.m. on the fifth business day after the date that the court order granting equitable relief is filed.

(8) The nominating petition signatures filed pursuant to this section are subject to challenge as provided in section 552.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 293, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2009, Act 208, Imd. Eff. Jan. 4, 2010.

**Popular name:** Election Code

### 168.433a Probate judge; affidavit of candidacy.

Sec. 433a. Any incumbent probate court judge may become a candidate in the primary election for the office of which he or she is an incumbent by filing with the county clerk, or in case of a probate district with the secretary of state, an affidavit of candidacy not less than 134 days prior to the date of the primary election. However, if an incumbent judge of probate was appointed to fill a vacancy and the judge entered upon the duties of office less than 137 days before the date of the primary election but before the fourteenth Tuesday preceding the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office.

The affidavit of candidacy shall contain statements that the affiant is an incumbent probate court judge of the county or district of which election is sought, that he or she is domiciled within the county or district, and that he or she will not attain the age of 70 years by the date of election, and shall contain a declaration that he or she is a candidate for election to the office of probate court judge.

**History:** Add. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.434 Candidates for nomination; withdrawal; notice.

Sec. 434. After the filing of a nominating petition or affidavit of candidacy by or in behalf of a proposed candidate for the office of judge of probate, the proposed candidate is not permitted to withdraw unless he or she serves a written notice of withdrawal on the secretary of state or his or her duly authorized agent. The notice must be served not later than 3 days after the last day for filing nominating petitions if a nominating petition was filed for the proposed candidate, and not later than 3 days after the last day for filing affidavits of candidacy if an affidavit of candidacy was filed for the proposed candidate. If the third day falls on a Saturday, Sunday, or legal holiday, the notice of withdrawal may be served on the secretary of state or his or her duly authorized agent at any time on or before 4 p.m., eastern standard time, on the next secular day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.435 Candidates for judge of probate court; declaration of nominees; certification of nominations; death or disqualification of candidate.

Sec. 435. (1) The candidates for the office of judge of probate receiving the largest number of votes at any primary election, to a number equal to twice the number of places to be filled as set forth in the report of the board of county canvassers, based on the returns from the various election precincts or as determined by the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

board of county canvassers as the result of a recount, shall be declared the nominees for the office at the next November election. The board of county canvassers shall certify the nominations to the county election commission.

(2) If, after the deadline for filing nominating petitions under section 433, there are fewer candidates for nomination or nominees for the office of judge of probate than there are persons to be elected because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions with the county clerk or, in case of a probate district, with the secretary of state in the manner required by section 433. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 433, whichever is less.

(3) The county clerk or, in case of a probate district, the secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.435a Primary and general election for 2 or more probate judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (2); incumbent judge as candidate; printing designation of office on ballot.

Sec. 435a. (1) In the primary and general election for 2 or more probate judgeships, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (2):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(2) If the death or disqualification of an incumbent judge triggers the application of section 435(2), then for the purposes of subsection (1) and section 433(2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 435(2).

(3) In the primary or general election for a judge of probate, any incumbent judge who is a candidate shall have printed upon the ballot under the name of the candidate the designation of that office.

**History:** Add. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.436 Judge or judges of probate; election in probate court district and county; death or disqualification of nominee.

Sec. 436. (1) Except as otherwise provided in this section, a judge or judges of probate shall be elected in each probate court district created pursuant to law and each county at the general November election in which judges of probate are to be elected as provided by law. Each probate court district created pursuant to law and each county shall have that number of judges of probate as provided by law.

(2) If there are fewer nominees for the office of judge of probate than there are persons to be elected because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of probate for which there is no nominee.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.436a-168.436c Repealed. 1982, Act 149, Imd. Eff. May 6, 1982.

**Compiler's note:** The repealed sections pertained to election of probate judges in single-judge counties, two-judge counties, and multi-judge counties.

**Popular name:** Election Code

### 168.436d Probate judges; time of election.

Sec. 436d. Elections for judges of probate shall be held in November immediately prior to the expiration of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the terms of office of probate judges.

**History:** Add. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.437 Probate judges; certificate of election by board of county canvassers.

Sec. 437. The board of county canvassers shall determine which candidate or candidates for the office of judge of probate received the greatest number of votes and shall declare such candidate or candidates duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.438 Probate judges; certificate of election.

Sec. 438. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be delivered to the person or persons thereby declared to be elected to the office of probate judge a certificate of election, certified by him and under the seal of the county.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.439 Probate judges; term of office.

Sec. 439. With the exception of certain judges elected in 1964, the term of office for judge of probate shall be 6 years commencing at 12 noon January 1 next following his election, and shall continue until a successor shall have been elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.440 Probate judges; oath of office.

Sec. 440. Every person elected to the office of judge of probate, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.441 Probate judges; resignation, notice.

Sec. 441. Any person duly elected to the office of judge of probate who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.442 Probate judges; vacancy, creation.

Sec. 442. The office of probate judge shall become vacant upon the happening of any of the following events before the expiration of the term of office: The death of the incumbent; his resignation; his removal from office; his ceasing to be an inhabitant of the county for which he shall have been elected or appointed, or within which the duties of his office are required to be discharged; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.443 Probate judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.

Sec. 443. Any person holding the office of judge of probate may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any judge of probate upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

stated at length in such resolution, as provided in the constitution of this state. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator with a copy to the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.444 Judge of probate; appointment to fill vacancy; nominations to fill vacancy; election; term.

Sec. 444. (1) If a vacancy occurs in the office of judge of probate, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 435a(2), the person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 435(2), at the next primary election held at least 105 days after the vacancy occurs, candidates shall be nominated to fill the vacancy in the manner provided for in this chapter for the nomination of candidates for judge of probate. The vacancies shall be filled at the general November election next following the primary in the manner provided for in this chapter for the election of judges of probate. The person elected shall hold office for the remainder of the unexpired term.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 236, Eff. Sept. 27, 1957;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.445 Probate judges; primary or election, recount of votes.

Sec. 445. The votes cast for any candidate for judge of probate at any primary or election shall be subject to recount as provided in chapter 33 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.446 Probate judges; not subject to recall.

Sec. 446. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 58, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

## CHAPTER XXI
## CIRCUIT COURT COMMISSIONER

### 168.451-168.458 Repealed. 1967, Act 35, Eff. Nov. 2, 1967.

**Compiler's note:** The repealed sections pertained to circuit court commissioner, eligibility, election, nomination, certification, number and term.

**Popular name:** Election Code

### 168.459 Repealed. 1960, Act 69, Eff. Aug. 17, 1960;—1967, Act 35, Eff. Nov. 2, 1967.

**Compiler's note:** The repealed section established circuit court commissioner term of office.

**Popular name:** Election Code

### 168.460-168.466 Repealed. 1967, Act 35, Eff. Nov. 2, 1967.

**Compiler's note:** The repealed sections pertained to circuit court commissioner, oath, resignation, causes for vacancy, impeachment, recount and recall.

**Popular name:** Election Code

## CHAPTER XXIA
## JUDGES OF THE DISTRICT COURT

### 168.467 Judge of district court; eligibility; violation of MCL 38.412a.

Sec. 467. (1) A person shall not be eligible for the office of judge of the district court unless the person is a registered and qualified elector of the judicial district and election division in which election is sought by the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and, at the time of election or appointment, is less than 70 years of age.

(2) A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for election or appointment to the office of judge of the district court for a period of 20 years after conviction.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.467a Judge of district court; general nonpartisan primary election; time; exception; certification by secretary of state of candidates to be nominees; omission of office from judicial primary ballot.

Sec. 467a. Except as provided in section 467n, a general nonpartisan primary election shall be held in every district and election division of this state on the Tuesday succeeding the first Monday in August prior to the general election at which judges of the district court are elected, at which time the qualified and registered electors may vote for nonpartisan candidates for judge of the district court. If upon the expiration of the time for filing petitions of candidacy for the primary election of the judge of the district court in any district or election division, it appears that there are not to exceed twice the number of candidates as there are persons to be elected, the secretary of state shall certify to the county board of election commissioners the name of those candidates for district court judge whose petitions or affidavits of candidacy have been properly filed and those candidates shall be the nominees for the judge of the district court and shall be so certified. As to that office, there shall not be a primary election and this office shall be omitted from the judicial primary ballot.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1981, Act 4, Eff. Apr. 30, 1981.

**Popular name:** Election Code

### 168.467b Judge of district court; candidate; nominating petitions; signatures, addresses, and dates of signing; validity of filed petitions; filing for election to more than 1 district judgeship; withdrawal; office designation; receipt of incorrect or inaccurate information from secretary of state or bureau of elections; equitable relief; challenge.

Sec. 467b. (1) To obtain the printing of the name of a person as a candidate for nomination for the office of judge of the district court upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the judicial district or division as determined under section 544f. An incumbent district court judge may also become a candidate by the filing of an affidavit in lieu of petitions according to section 467c. The secretary of state shall receive nominating petitions up to 4 p.m. on the fourteenth Tuesday before the primary. The provisions of sections 544a and 544b apply.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 467c(4):

(a) An unspecified existing judgeship for which the incumbent judge is seeking election.

(b) An unspecified existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

(3) A person who files nominating petitions for election to more than 1 district judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(5) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position after the deadline shall bear an office designation of nonincumbent position. All signatures collected before the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

(6) If a candidate for nomination for the office of judge of the district court receives incorrect or inaccurate written information from the secretary of state or the bureau of elections concerning the number of nominating petition signatures required under section 544f and that incorrect or inaccurate written information



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

is published or distributed by the secretary of state or the bureau of elections, the candidate may bring an action in a court of competent jurisdiction for equitable relief. A court may grant equitable relief to a candidate under this subsection if all of the following occur:

(a) The candidate brings the action for equitable relief within 6 days after the candidate is notified by the secretary of state or the bureau of elections that the candidate's nominating petition contains insufficient signatures.

(b) The candidate files an affidavit certifying that he or she contacted and received from the secretary of state or the bureau of elections incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f.

(c) The secretary of state or the bureau of elections published or distributed the incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f before the filing deadline under subsection (1).

(d) The secretary of state or bureau of elections did not inform the candidate at least 14 days before the filing deadline under subsection (1) that incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f had been published or distributed.

(7) If a court grants equitable relief to a candidate under subsection (6), the candidate shall be given the opportunity to obtain additional nominating petition signatures to meet the requirements under section 544f. The additional nominating petition signatures obtained by a candidate shall be filed with the secretary of state no later than 4 p.m. on the fifth business day after the date that the court order granting equitable relief is filed.

(8) The nominating petition signatures filed pursuant to this section are subject to challenge as provided in section 552.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1981, Act 4, Eff. Apr. 30, 1981;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2009, Act 207, Imd. Eff. Jan. 4, 2010.

**Popular name:** Election Code

### 168.467c Incumbent judge as candidate in primary election; affidavit of candidacy; contents; printing name on ballot; primary and general election for 2 or more judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (4).

Sec. 467c. (1) An incumbent district court judge may become a candidate in the primary election for the office of which he or she is an incumbent by filing with the secretary of state an affidavit of candidacy in lieu of nominating petitions not less than 134 days prior to the date of the primary election. However, if an incumbent district court judge was appointed to fill a vacancy and the judge entered upon the duties of office less than 137 days before the date of the primary election but before the fourteenth Tuesday preceding the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office. The affidavit of candidacy shall contain statements that the affiant is an incumbent district court judge for the district or election division in which election is sought, that he or she is domiciled within the district or election division, and that he or she will not attain the age of 70 by the date of election, and a declaration that the affiant is a candidate for election to the office of district court judge.

(2) There shall be printed upon the ballot under the name of each incumbent district judge who is a candidate for nomination or election to the same office the designation of that office.

(3) In the primary and general election for 2 or more judgeships of the district court, each of the following categories of candidates shall be listed separately on the ballot, consistent with subsection (4):

(a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.

(b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.

(c) The names of candidates for a newly created judgeship or judgeships.

(4) If the death or disqualification of an incumbent judge triggers the application of section 467e(2), then for the purposes of subsection (3) and section 467b(2), that judgeship shall be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to qualify as a nominee under section 467e(2).

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.467d Candidates for nomination; withdrawal; notice.

Sec. 467d. After the filing of a nominating petition or affidavit of candidacy by or in behalf of a proposed candidate for the office of judge of the district court, the proposed candidate is not permitted to withdraw unless he or she serves a written notice of withdrawal on the secretary of state or his or her duly authorized agent. The notice must be served not later than 3 days after the last day for filing nominating petitions if a nominating petition was filed for the proposed candidate, and not later than 3 days after the last day for filing affidavits of candidacy if an affidavit of candidacy was filed for the proposed candidate. If the third day falls on a Saturday, Sunday, or legal holiday, the notice of withdrawal may be served on the secretary of state or his or her duly authorized agent at any time on or before 4 p.m., eastern standard time, on the next secular day.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.467e Candidates for judge of district court; declaration of nominees; certification of nomination; death or disqualification of candidate.

Sec. 467e. (1) The candidates for the office of judge of the district court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various county boards of canvassers and election precincts or as determined by the board as the result of a recount, shall be declared the nominees for the office at the next general November election. The board of state canvassers shall certify the nomination to the county election commissions.

(2) If, after the deadline for filing nominating petitions under section 467b, there are fewer candidates for nomination or nominees for the office of judge of the district court than there are persons to be elected because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 467b. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day preceding the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 467b, whichever is less.

(3) The secretary of state shall certify the nomination of each person who qualifies as a nominee under subsection (2) to the board of election commissioners specified by section 687 for the general November election.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.467f Judge of district court; election; death or disqualification of nominee.

Sec. 467f. (1) Except as otherwise provided in this section, judges of the district court shall be elected in each judicial district and election division of a judicial district at the general election to fill vacancies in office as of the following January 1.

(2) If there are fewer nominees for the office of judge of the district court than there are persons to be elected because of the death or disqualification of a nominee less than 66 days before the general November election, then a person shall not be elected at that general November election to any office of judge of the district court for which there is no nominee.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.467g District court judges; certificate of determination by board of state canvassers.

Sec. 467g. The board of state canvassers shall determine which candidate or candidates for the office of judge of the district court received the greatest number of votes and shall declare such candidate or candidates duly elected. The board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver it to the secretary of state.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968.

**Popular name:** Election Code

### 168.467h District court judges; certificate of election.

Sec. 467h. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

deliver to the persons thereby declared to be elected to the office of judge of the district court a certificate of election certified by him and under the great seal of the state.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968.

**Popular name:** Election Code

### 168.467i Judge of district court; term of office.

Sec. 467i. Except as otherwise provided by law, the term of office for judge of the district court shall be 6 years, commencing at 12 noon on January 1 next following the judge's election and shall continue until a successor is elected and qualified.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1981, Act 4, Eff. Apr. 30, 1981;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990.

**Popular name:** Election Code

### 168.467j District court judges; oath of office.

Sec. 467j. Every person elected to the office of judge of the district court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with each county clerk in his district.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968.

**Popular name:** Election Code

### 168.467k District court judges; resignation.

Sec. 467k. Any person duly elected to the office of judge of the district court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968.

**Popular name:** Election Code

### 168.467*l* District court judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.

Sec. 467l. Any person holding the office of district judge may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any district judge upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the state constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy occurs in any of the offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state with a copy to the governor and the supreme court.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968.

**Popular name:** Election Code

### 168.467m Judge of district court; appointment to fill vacancy; nominations to fill vacancy; election; term.

Sec. 467m. (1) If a vacancy occurs in the office of district judge, the governor shall appoint a successor to fill the vacancy. Except as otherwise provided in section 467c(4), the person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general November election at which a successor is elected and qualified.

(2) Except as otherwise provided in section 467e(2), candidates shall be nominated at the next fall primary held at least 105 days after the vacancy occurs, to fill the vacancy in the manner provided for in this chapter for the nomination of candidates for district court judge. The vacancy shall be filled at the general November election next following the primary in the manner provided for in this chapter for the election of district court judges. The person elected shall hold office for the remainder of the unexpired term.

**History:** Add. 1968, Act 155, Imd. Eff. June 17, 1968;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.467n Judge of district court; filling new offices created for thirty-sixth district; special odd year general election; nomination of candidates; nominating petitions; certification of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**secretary of state; elections commission of city of Detroit; preparation and distribution of ballots.**

Sec. 467n. (1) If new offices of judge of the district court are created by law for the thirty-sixth district to be filled by election in 1981, the offices shall be filled in a special odd year general election held in the city of Detroit on November 3, 1981.

(2) Candidates for the offices described in subsection (1) shall be nominated at a special odd year primary election held in the city of Detroit on September 15, 1981. The secretary of state shall receive the nominating petitions of a person seeking to have his or her name printed on the special odd year primary election ballot up to 4 p.m. on July 14, 1981. The secretary of state shall certify to the Wayne county board of election commissioners and the elections commission of the city of Detroit the names of the persons whose petitions have been properly filed.

(3) The elections commission of the city of Detroit shall be responsible for the preparation and distribution of ballots for the elections provided for in this section.

**History:** Add. 1981, Act 4, Eff. Apr. 30, 1981.

**Popular name:** Election Code

### 168.467p Judge of district court; filling new office created for fifty-fourth-b district in odd year general election; nomination of candidates; nominating petitions; certification of secretary of state; preparation and distribution of ballots.

Sec. 467p. (1) If a new office of judge of the district court is created by law for the fifty-fourth-b district to be effective January 1, 1990, the office shall be filled in an odd year general election held in the city of East Lansing on November 7, 1989.

(2) Candidates for the office described in subsection (1) shall be nominated at an odd year primary election held in the city of East Lansing on August 8, 1989. The secretary of state shall receive the nominating petitions of a person seeking to have his or her name printed on the odd year primary election ballot up to 4 p.m. on June 20, 1989. The secretary of state shall certify to the Ingham county board of election commissioners and the city of East Lansing the names of the persons whose petitions have been properly filed.

(3) The city of East Lansing shall be responsible for the preparation and distribution of ballots for the elections provided for in this section.

**History:** Add. 1988, Act 133, Imd. Eff. May 27, 1988.

**Compiler's note:** Section 2 of Act 133 of 1988 provides: "For any additional judgeships created by a 1988 amendatory act to be filled by election in 1988, for that election only, in lieu of the nominating petitions required by the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, a person may have his or her name printed on the primary election ballot by filing an affidavit stating the person is eligible for the judicial office he or she is seeking, and paying a filing fee of $500.00. The filing fee shall not be refundable except for the 2 persons receiving the greatest number of votes in the primary election. The secretary of state shall receive nominating petitions or filing fees and the required affidavits under sections 544b and 558 of Act No. 116 of the Public Acts of 1954, being sections 168.544b and 168.558 of the Michigan Compiled Laws, from a candidate for a judgeship created in 1988 up to 4 p.m. on Friday, June 3, 1988. A candidate for a judgeship shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 p.m. on Monday, June 6, 1988."

**Popular name:** Election Code

## CHAPTER XXII
## INITIATIVE AND REFERENDUM

### 168.471 Petitions proposing constitutional amendments; filing.

Sec. 471. Petitions under section 2 of article XII of the state constitution of 1963 proposing an amendment to the constitution shall be filed with the secretary of state at least 120 days before the election at which the proposed amendment is to be voted upon. Initiative petitions under section 9 of article II of the state constitution of 1963 shall be filed with the secretary of state at least 160 days before the election at which the proposed law is to be voted upon. Referendum petitions under section 9 of article II of the state constitution of 1963 shall be filed with the secretary of state not more than 90 days following the final adjournment of the legislative session at which the law that is the subject of the referendum was enacted.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 9, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.472 Initiative petitions; filing.

Sec. 472. Petitions to initiate legislation shall be filed with the secretary of state not less than 10 days



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

before the beginning of a session of the legislature.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Constitutionality:** The requirements of this section constitute an unnecessary and unreasonable restraint on the constitutional right to initiate legislation, as provided for by Const 1963, art 2, § 9. *Wolverine Golf Club v Secretary of State*, 384 Mich 461; 185 NW2d 392 (1971).

**Popular name:** Election Code

### 168.472a Presumption as to signature on petition.

Sec. 472a. It shall be rebuttably presumed that the signature on a petition that proposes an amendment to the constitution or is to initiate legislation, is stale and void if the signature was made more than 180 days before the petition was filed with the office of the secretary of state.

**History:** Add. 1973, Act 24, Imd. Eff. June 12, 1973;—Am. 1973, Act 112, Imd. Eff. Aug. 19, 1973;—Am. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.473 Referendum petitions; filing.

Sec. 473. Referendum petitions shall be presented to and filed with the secretary of state within 90 days after the final adjournment of the legislature.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.473b Filing petition after November election.

Sec. 473b. Signatures on a petition to propose an amendment to the state constitution of 1963 or a petition to initiate legislation collected prior to a November general election at which a governor is elected shall not be filed after the date of that November general election.

**History:** Add. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.474 Board of state canvassers; duties; statement of purpose of proposed constitutional amendment.

Sec. 474. Wherever the phrases “the state officer authorized by law” or “the person authorized by law”, are used in section 9 of article 2 or section 2 of article 12 of the constitution of this state, such phrases shall mean and have reference to the board of state canvassers and such board shall exercise the duties prescribed in such constitutional provisions. The preparing of a statement of the purpose of any such proposed amendment or question to be designated on the ballots for submission to the electors in not more than 100 words, exclusive of the caption, which said statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such proposal shall be the duty of the director of elections with the approval of the board of state canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 9, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.474a Assignment of number designation to appear on ballot for question submitted on statewide basis.

Sec. 474a. (1) The board of state canvassers shall assign a number designation to appear on the ballot for each question to be submitted on a statewide basis. The designation shall be assigned not less than 60 days before the election. If the question is to appear on a general election ballot the designation shall not be assigned earlier than the primary election preceding that general election.

(2) The number designation under subsection (1) shall consist of 3 or 4 digits. The first 2 digits shall be the last 2 digits of the year of the election. The next digit or, if necessary, 2 digits shall indicate the chronological order in which the question was filed to appear on the ballot. For the purposes of this subsection, a question shall be considered to be filed to appear on the ballot as follows:

(a) A general revision of the constitution under section 3 of article XII of the state constitution of 1963 shall be considered to be the first question filed to appear on the ballot for those elections at which a general revision of the constitution will appear on the ballot.

(b) An amendment to the constitution proposed under section 2 of article XII of the state constitution of 1963, legislation initiated under section 9 of article II of the state constitution of 1963, or a referendum invoked under section 9 of article II of the state constitution of 1963 shall be considered to be filed to appear on the ballot when the petition is filed with the secretary of state.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) An amendment to the constitution proposed under section 1 of article XII of the state constitution of 1963 shall be considered to be filed to appear on the ballot when the joint resolution proposing the amendment is filed with the secretary of state.

(d) A referendum under section 34 of article IV of the state constitution of 1963 shall be considered to be filed to appear on the ballot when the legislation is filed with the secretary of state.

**History:** Add. 1978, Act 246, Imd. Eff. June 20, 1978;—Am. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.475 Filing of petition; notificaton of board of state canvassers; supplemental filings.

Sec. 475. (1) Upon the filing of a petition under this chapter, the secretary of state shall immediately notify the board of state canvassers of the filing of the petition. The notification shall be by first-class mail.

(2) After the day on which a petition under this chapter is filed, the secretary of state shall not accept further filings of that petition to supplement the original filing.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 338, Imd. Eff. July 11, 1978;—Am. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.476 Petitions; canvass by board of state canvassers; use of qualified voter file; hearing upon complaint; investigations; completion date; disposition of challenges; report.

Sec. 476. (1) Upon receiving notification of the filing of the petitions, the board of state canvassers shall canvass the petitions to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. The qualified voter file shall be used to determine the validity of petition signatures by verifying the registration of signers and the genuineness of signatures on petitions when the qualified voter file contains digitized signatures. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid. If the board is unable to verify the genuineness of a signature on a petition using the digitized signature contained in the qualified voter file, the board may cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which the petitions were circulated, to determine the authenticity of the signatures or to verify the registrations. Upon request, the clerk of any political subdivision shall cooperate fully with the board in determining the validity of doubtful signatures by rechecking the signature against registration records in an expeditious and proper manner.

(2) The board of state canvassers may hold hearings upon any complaints filed or for any purpose considered necessary by the board to conduct investigations of the petitions. To conduct a hearing, the board may issue subpoenas and administer oaths. The board may also adjourn from time to time awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete the canvass at least 2 months before the election at which the proposal is to be submitted.

(3) At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the bureau of elections shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials pursuant to subsection (1), the board of state canvassers shall make that document available to petitioners and challengers on a daily basis.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1999, Act 219, Eff. Mar. 10, 2000;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.477 Petitions; official declaration of sufficiency or insufficiency by board of state canvassers; publication of statement of purpose, expense; effectiveness of law that is subject of referendum.

Sec. 477. (1) The board of state canvassers shall make an official declaration of the sufficiency or insufficiency of a petition under this chapter at least 2 months before the election at which the proposal is to be submitted. If the board of state canvassers declares that the petition is sufficient, the secretary of state shall send copies of the statement of purpose of the proposal as approved by the board of state canvassers under section 474 to the several daily and weekly newspapers published in this state, with the request that the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

newspapers give as wide publicity as possible to the proposed amendment or other question. Publication of any matter by any newspaper under this section shall be without expense or cost to the state of Michigan.

(2) For the purposes of the second paragraph of section 9 of article II of the state constitution of 1963, a law that is the subject of the referendum continues to be effective until the referendum is properly invoked, which occurs when the board of state canvassers makes its official declaration of the sufficiency of the referendum petition. The board of state canvassers shall complete the canvass of a referendum petition within 60 days after the petition is filed with the secretary of state, except that 1 15-day extension may be granted by the secretary of state if necessary to complete the canvass.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1999, Act 219, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.478 Petitions; notice of approval or rejection by board of state canvassers to persons filing.

Sec. 478. At the time of filing any such petition, the person or persons filing the same may request a notice of the approval or rejection of said petitions to be forwarded by said board to such person or persons or any other persons so designated at the time of the filing of such petitions. In any case where such a request is made at the time of filing of the petitions, it shall be the duty of the secretary of state, immediately upon the determination thereof, to transmit by registered or certified mail to said person or persons an official notice of the sufficiency or insufficiency of said petitions.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.479 Review of determination; mandamus, certiorari or other remedy.

Sec. 479. Any person or persons, feeling themselves aggrieved by any determination made by said board, may have such determination reviewed by mandamus, certiorari, or other appropriate remedy in the supreme court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.480 Proposed constitutional amendment or question; certification; copies to voting precincts, posting.

Sec. 480. Whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the state for a popular vote, the secretary of state shall, not less than 49 days before the election, certify the same to the clerk of each county in the state, together with the form in which such amendment or other special questions shall be submitted. The secretary of state shall also furnish the several county clerks in the state 2 copies of the text of each amendment or question and 2 copies of each said statement for each voting precinct in their respective counties. The county clerk shall furnish the said copies of such statement to the several township and city clerks in his county at the time other supplies for the election are furnished; and each such township or city clerk shall, before the opening of the polls on election day, deliver the copies of such text and statement to which each voting precinct in his township or city is entitled to the board of election inspectors of said precinct, who shall post the same in conspicuous places in the room where such election is held.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.481 Proposed constitutional amendment or question; form.

Sec. 481. Whenever any proposed constitutional amendment or other question is to be submitted to the electors, the board of election commissioners of each county shall cause such proposed constitutional amendment or other special question to be printed in accordance with the form submitted by the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.482 Petitions; size; form; contents.

Sec. 482. (1) Each petition under this section shall be 8-1/2 inches by 14 inches in size.

(2) If the measure to be submitted proposes a constitutional amendment, initiation of legislation, or referendum of legislation, the heading of each part of the petition shall be prepared in the following form and printed in capital letters in 14-point boldfaced type:



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION
OR
INITIATION OF LEGISLATION
OR
REFERENDUM OF LEGISLATION
PROPOSED BY INITIATIVE PETITION

(3) The full text of the amendment so proposed shall follow and be printed in 8-point type. If the proposal would alter or abrogate an existing provision of the constitution, the petition shall so state and the provisions to be altered or abrogated shall be inserted, preceded by the words:

"Provisions of existing constitution altered or abrogated by the proposal if adopted."

(4) The following statement shall appear beneath the petition heading:

"We, the undersigned qualified and registered electors, residents in the
city
township (strike 1) of ..... in the county of .....,
state of Michigan, respectively petition for (amendment to constitution) (initiation of legislation) (referendum of legislation) (other appropriate description).".

(5) The following warning shall be printed in 12-point type immediately above the place for signatures, on each part of the petition:

WARNING

A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

(6) The remainder of the petition form shall be as provided following the warning to electors signing the petition in section 544c(1). In addition, the petition shall comply with the requirements of section 544c(2).

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 312, Eff. Jan. 1, 1966;—Am. 1993, Act 137, Eff. Jan. 1, 1994;—Am. 1998, Act 142, Eff. Mar. 23, 1999.

**Popular name:** Election Code

### 168.483, 168.484 Repealed. 1965, Act 312, Eff. Jan. 1, 1966.

**Compiler's note:** The repealed sections required circulator of petition to affix address below his signature, prohibited circulation in more than one city or township and prescribed penalty for fictitious signing.

**Popular name:** Election Code

### 168.485 Questions submitted to electors; form.

Sec. 485. A question submitted to the electors of this state or the electors of a subdivision of this state shall, to the extent that it will not confuse the electorate, be worded so that a “yes” vote will be a vote in favor of the subject matter of the proposal or issue and a “no” vote will be a vote against the subject matter of the proposal or issue. The question shall be worded so as to apprise the voters of the subject matter of the proposal or issue, but need not be legally precise. The question shall be clearly written using words that have a common everyday meaning to the general public. The language used shall not create prejudice for or against the issue or proposal.

**History:** Add. 1969, Act 152, Eff. Mar. 20, 1970;—Am. 1994, Act 152, Eff. Jan. 1, 1995.

**Popular name:** Election Code

### 168.486 Certifying and transmitting language of constitutional amendment or legislation initiated by petition.

Sec. 486. If the qualified electors of this state approve a constitutional amendment or legislation initiated by petition, the board of state canvassers shall certify to the secretary of state the language of the amendment or legislation. The secretary of state shall transmit the language of the amendment or legislation to the director of the department of management and budget.

**History:** Add. 1978, Act 482, Imd. Eff. Nov. 30, 1978.

**Popular name:** Election Code

### 168.487 Reimbursement to county, city, and township for cost of conducting special election.

Sec. 487. (1) If a statewide special election is called to submit a proposed constitutional amendment to the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

electors of this state, this state shall reimburse each county, city, and township for the cost of conducting the special election as provided in this section. The reimbursement shall not exceed the verified account of actual costs of the special election. This state shall reimburse each county, city, and township under this section notwithstanding that the county, city, or township also holds a local special election in conjunction with the statewide special 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 department of treasury and the secretary of state agree as to what constitutes valid costs of conducting an election. 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 statewide special election.

(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 before the expiration of 90 days after the date of the statewide special election. This state shall pay or disapprove all or a portion of the verified account before the expiration of 90 days after this state receives a verified account of actual costs under this subsection.

(5) If this state disapproves all or a portion of a verified account of actual costs under subsection (4), this state shall send a notice of disapproval along with the reasons for the disapproval to the county, city, or township. Upon request of a county, city, or township whose verified account or portion of a verified account was disapproved under this section, this state shall review the disapproved costs with the county, city, or township.

**History:** Add. 1994, Act 181, Imd. Eff. June 20, 1994.

**Popular name:** Election Code

### 168.488 Applicability of MCL 168.544c and 168.482(1), (4), (5), and (6).

Sec. 488. (1) Section 544c applies to a nominating petition for an office in a political subdivision under a statute that refers to this section, and to the circulation and signing of the petition.

(2) Section 482(1), (4), (5), and (6) apply to a petition to place a question on the ballot before the electorate of a political subdivision under a statute that refers to this section, and to the circulation and signing of the petition.

(3) A person who violates a provision of this act applicable to a petition pursuant to subsection (1) or (2) is subject to the penalties prescribed for that violation in this act.

**History:** Add. 1998, Act 142, Eff. Mar. 23, 1999.

**Popular name:** Election Code

## CHAPTER XXIII
## REGISTRATION OF ELECTORS

### 168.491 Inspectors of election; vote of registered electors required.

Sec. 491. The inspectors of election at an election or primary election in this state, or in a district, county, township, city, or village in this state, shall not receive the vote of a person whose name is not registered in the registration book or listed on the computer voter registration precinct list of the township, ward, or precinct in which he or she offers to vote unless the person has met the requirements of section 507b.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1989, Act 142, Imd. Eff. June 29, 1989.

**Popular name:** Election Code

### 168.492 Qualifications for registration as elector.

Sec. 492. Each person who has the following qualifications of an elector, or who will have those qualifications at the next election or primary election, is entitled to register as an elector in the township, city, or village in which he or she resides. The person shall be a citizen of the United States; not less than 18 years of age; a resident of the state for not less than 30 days; and a resident of the township, city, or village on or before the thirtieth day before the next regular or special election or primary election. For purposes of registering to vote and voting at an election or special election for the office of judge of a municipal court that exercises jurisdiction over another city pursuant to section 9928(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928, a person who resides in the other city over which municipal court jurisdiction is exercised is considered a resident of the city in which the municipal court is located.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1972, Act 17, Imd. Eff. Feb. 19, 1972;—Am. 1972, Act 370, Imd. Eff. Jan. 9, 1973;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

—Am. 2010, Act 253, Imd. Eff. Dec. 14, 2010.

**Popular name:** Election Code

### 168.492a Registration of persons confined in jail.

Sec. 492a. A person confined in a jail, who is otherwise a qualified elector, prior to trial or sentence may, upon request, register under section 504. The person shall be deemed a resident of the city, township, and address at which he resided next prior to confinement. A person while confined in a jail after being convicted and sentenced shall not be eligible to register.

**History:** Add. 1975, Act 178, Imd. Eff. July 25, 1975.

**Popular name:** Election Code

### 168.493 Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Compiler's note:** The repealed section pertained to registration cards.

**Popular name:** Election Code

### 168.494 Registration cards; file; definitions.

Sec. 494. The term "registration cards", as used in this chapter, shall be construed as meaning either cards or loose leaf sheets, and either may be used in the discretion of the township, city or village clerk, as the case may be. The term "file", as used in this chapter, shall be construed as meaning either a file or loose leaf book.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.495 Registration affidavit; contents.

Sec. 495. The registration affidavit required under section 493 shall contain all of the following:

(a) The name of the elector.

(b) The residence address of the elector, including the street and number or rural route and box number and the apartment number, if any.

(c) The birthplace and date of birth of the elector.

(d) The driver's license or state personal identification card number of the elector, if available.

(e) A statement that the elector is a citizen of the United States.

(f) A statement that the elector is at the time of completing the affidavit, or will be on the date of the next election, not less than 18 years of age.

(g) A statement that the elector has or will have lived in this state not less than 30 days before the next election.

(h) A statement that the elector has or will have established his or her residence in the township, city, or village in which the elector is applying for registration not less than 30 days before the next election.

(i) A statement that the elector is or will be a qualified elector of the township, city, or village on the date of the next election.

(j) A space in which the elector shall state the place of the elector's last registration, if any.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1966, Act 102, Imd. Eff. June 16, 1966;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1972, Act 17, Imd. Eff. Feb. 19, 1972;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 87, Imd. Eff. June 20, 1995.

**Popular name:** Election Code

### 168.495a Removal of preference from precinct and master registration file; release of record containing declaration of party preference prohibited.

Sec. 495a. (1) If an elector declared a party preference or no party preference as previously provided under this act for the purpose of voting in a statewide presidential primary election, a clerk or authorized assistant to the clerk may remove that declaration from the precinct registration file and the master registration file of that elector and the precinct registration list, if applicable.

(2) Beginning on the effective date of the amendatory act that added this sentence, a person making a request under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, is not entitled to receive a copy of a portion of a voter registration record that contains a declaration of party preference or no party preference of an elector. Beginning on the effective date of the amendatory act that added this sentence, a clerk or any other person shall not release a copy of a portion of a voter registration record that contains a declaration of party preference or no party preference of an elector.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 213, Imd. Eff. Nov. 29, 1995.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.496 Registration of electors; duties of secretary of state.

Sec. 496. It shall be the duty of the secretary of state to make the proper forms for use in the registration of electors, in recommending the use of the same to the several clerks of the townships, cities and villages of this state, and in instructing the several township, city and village clerks in this state as to the requirements of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.497 Application for registration; validity of registrations; execution; filing; notice; exception.

Sec. 497. (1) A person who is not registered but possesses the qualifications of an elector as set forth in section 492, may apply for registration to the clerk of the county, township, city, or village in which he or she resides on a day other than Saturday, Sunday, a legal holiday, or the day of a regular, primary, school, or special election. Registrations accepted between the thirtieth day preceding an election and the day of the election, unless the thirtieth day falls on a Saturday, Sunday, or legal holiday, in which event registration shall be accepted during the following day, are not valid for the election but are valid for subsequent regular, primary, school, or special elections that are held so that not less than 30 days intervene between the date the person registered and the date of the election.

(2) Except as otherwise provided in sections 499a to 499c, 500a to 500j, and 504, an application for registration shall not be executed at a place other than the office of the county, township, city, or village clerk or a public place or places designated by the clerk or deputy registrar for receiving registrations, but the clerk or deputy registrar may receive an application wherever he or she may be. If a county, township, city, or village clerk does not regularly keep his or her office open daily during certain hours, the clerk shall not be required to be at his or her office for the purpose of receiving applications for registration on a particular day nor during specific hours of a day, except as provided in section 498. Registrations taken after the time of closing registrations before an election need not be processed until the date immediately following that election. A registration shall not be placed in a precinct registration file until the date immediately following that election. If a person registers at a time that registrations are closed for an election, the person shall be given a notice, signed by the clerk, on a form developed by the secretary of state, informing him or her that he or she is not eligible to vote in the election and indicating the first date on which he or she is eligible to vote. Except as provided in sections 500a to 500j, the provisions of this section relating to registration shall apply.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 10, Imd. Eff. Dec. 27, 1963;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1968, Act 46, Imd. Eff. May 24, 1968;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973;—Am. 1975, Act 28, Eff. July 1, 1975;—Am. 1981, Act 61, Imd. Eff. June 5, 1981;—Am. 1989, Act 142, Imd. Eff. June 29, 1989.

**Popular name:** Election Code

### 168.497a School millage elections to which limitation in MCL 168.497 inapplicable; validity of registration.

Sec. 497a. The 30-day limitation contained in section 497 shall not apply to a second school millage election allowable under section 36(3) of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.36 of the Michigan Compiled Laws, or to a first school millage election held under section 36(2) during calendar year 1986 if a school district's operating revenue is less than the total operating revenue for the previous school year. For those elections, a registration taken on the days intervening between the tenth day preceding the election and the day of the election shall not be valid for that election but shall be valid for a subsequent regular, primary, or special election of the district.

**History:** Add. 1977, Act 219, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1981, Act 127, Imd. Eff. Sept. 29, 1981;—Am. 1981, Act 140, Imd. Eff. Oct. 30, 1981;—Am. 1986, Act 142, Imd. Eff. July 2, 1986;—Am. 1986, Act 220, Imd. Eff. Sept. 23, 1986.

**Popular name:** Election Code

### 168.498 Clerk of township, city, or village; office hours, days, and place for receiving applications for registration; public notice; notice of registration for school millage election; agreement to jointly publish public notice.

Sec. 498. (1) The governing body of a township, city, or village may provide by resolution that in that township, city, or village the clerk shall be at the clerk's office, or in some other convenient place designated



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

by the clerk, during the hours designated by the governing body on the thirtieth day preceding an election or primary election in the township, city, or village, unless the thirtieth day falls on a Saturday, Sunday, or legal holiday, in which event registration shall be accepted during the same hours on the following day.

(2) In a township, city, or village in which the clerk does not maintain regular daily office hours, the township board or the legislative body of the city or village may require that the clerk of the township, city, or village shall be at the clerk's office or other designated place for the purpose of receiving applications for registration on the days which the board or legislative body designates, but not more than 5 days before the last day for registration.

(3) The clerk of each township, city, and village shall give public notice of the days and hours that the clerk will be at the clerk's office or other designated place for the purpose of receiving registrations before an election or primary election by publication of the notice, except as provided in subsection (4) and section 497(2), in a newspaper published or of general circulation in the township, city, or village and, if considered advisable by the township, city, or village clerk, by posting written or printed notices in at least 2 of the most conspicuous places in each election precinct. Except as provided in subsection (4), the publication or posting shall be made not less than 7 days before the last day for receiving registrations. The notice of registration shall include the offices to be filled that will appear on the ballot. If the notice of registration is for an election that includes a ballot proposal, a caption or brief description of the ballot proposal along with the location where an elector can obtain the full text of the ballot proposal shall be stated in the notice.

(4) Notice of registration for a school millage election that will be held pursuant to section 36 of the general property tax act, 1893 PA 206, MCL 211.36, shall be required to be published once and shall be made not less than 5 days before the last day for receiving registrations as provided in section 497a.

(5) A county clerk may enter into an agreement with the clerk of 1 or more townships or cities in the county or the clerks of 1 or more cities or townships in a county may enter into an agreement to jointly publish the notice required in subsection (3). The notice shall be published in a newspaper of general circulation in the cities and townships listed in the notice.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1969, Act 345, Imd. Eff. Jan. 5, 1970;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973;—Am. 1977, Act 241, Imd. Eff. Nov. 30, 1977;—Am. 1980, Act 171, Eff. Mar. 31, 1981;—Am. 1981, Act 61, Imd. Eff. June 5, 1981;—Am. 1981, Act 127, Imd. Eff. Sept. 29, 1981;—Am. 1981, Act 140, Imd. Eff. Oct. 30, 1981;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982;—Am. 1984, Act 89, Imd. Eff. Apr. 19, 1984;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.499 Registration of elector; registration application; oaths; interpreter; false material statement as misdemeanor; accepting fee as misdemeanor; voter identification card; effect of voter identification card returned to post office.

Sec. 499. (1) An elector entitled to registration in an election precinct may become registered in the precinct by applying in person and signing the registration application before the clerk or assistant clerk of the township, city, or village in which the precinct is located. For the performance of his or her duties under this act, each clerk and assistant clerk has the power to administer oaths and to swear persons as to the truth of statements contained in an application. For a better examination of the applicant, a clerk may employ and swear an interpreter to interpret all questions put to applicants and the answers to those questions. If the applicant, in answer to a question or in the registration application, makes a material statement that is false, the applicant is guilty of a misdemeanor.

(2) A clerk or assistant clerk shall not accept a fee from an elector applying for registration, either for the registering of the elector or for the taking of the acknowledgment on the application. A person who violates this subsection is guilty of a misdemeanor.

(3) The clerk, immediately after receiving the registration or change of address of an elector, shall prepare a voter identification card for the elector. The clerk shall also prepare and send a corrected voter identification card to an elector affected by a change in United States representative, state senatorial, state representative, or county commissioner district or precinct. The clerk shall forward by first-class mail the voter identification card to the elector at the elector's registration address. The voter identification card shall contain the name and address of the registrant and the United States representative, state senatorial, state representative, or county commissioner district and precinct in which the registrant is an elector. If the original voter identification card is returned to the clerk by the post office as nondeliverable, the clerk shall reject the registration and send the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

individual a notice of rejection. If a duplicate voter identification card is returned to the clerk by the post office, the clerk shall accept this as information that the elector has moved and the clerk shall proceed in conformity with section 509aa.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 224, Eff. Sept. 27, 1957;—Am. 1961, Act 171, Eff. Sept. 8, 1961;—Am. 1964, Act 18, Imd. Eff. Apr. 14, 1964;—Am. 1975, Act 28, Eff. July 1, 1975;—Am. 1977, Act 260, Eff. Mar. 30, 1978;—Am. 1984, Act 105, Imd. Eff. May 24, 1984;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 213, Imd. Eff. Nov. 29, 1995;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### 168.499a-168.499d Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Compiler's note:** The repealed sections pertained to appointment, duties, jurisdiction, and training of deputy registrars.

**Popular name:** Election Code

### 168.500 Registration of electors; procedure for applicant unable to write.

Sec. 500. If the applicant for registration is unable to write, then he shall execute the registration affidavit by making his mark and there shall be noted upon the registration card the month, day and year of his birth and any other identifying information which shall be used in identifying said person at the time he makes application for voting as hereinafter more specifically provided.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.500a Registration or change in registration of person applying for renewal of operator's or chauffeur's license; application; contents; signing and stamping application; verification receipt; forwarding application to county clerk or city or township clerk.

Sec. 500a. (1) The secretary of state or the secretary of state's agent shall afford a person who appears in a department of state branch office or a person who applies for renewal of an operator's or chauffeur's license under section 307 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.307 of the Michigan Compiled Laws, an opportunity to complete an application to register to vote or to change the person's voting registration name or address, if the applicant possesses the qualifications of an elector on the date of application or will possess the qualifications at the next election. This subsection does not require a registered elector to periodically reregister or to renew his or her registration. The application for registration made under this section shall contain all of the following:

(a) The name of the applicant.

(b) The residence address of the applicant, including the street and number or rural route and box number and apartment number, if any.

(c) The city or township and county of residence of the applicant, and the school district of the applicant, if known.

(d) The date of birth of the applicant.

(e) The birthplace of the applicant.

(f) The driver's license or state personal identification card number of the applicant, if available.

(g) A statement that the applicant has the qualifications of an elector as of the date of applying for registration, or will have the qualifications of an elector at the next election.

(h) A statement that the registration is not effective until processed by the clerk of the city or township in which the applicant resides.

(i) A statement that the applicant, if qualified, may vote at an election occurring not less than 30 days after the date of completing the application.

(j) A space to indicate the applicant's last place of registration, if any.

(k) A statement authorizing the cancellation of registration at the applicant's last place of registration.

(*l*) A space for the applicant to sign and certify to the truth of the statements on the application.

(2) The applicant shall sign the application. Upon receipt of the application, the agent shall sign the application, stamp the application with a validation stamp, and provide the applicant with a receipt verifying the registration application. The agent shall promptly forward the application to the county clerk of the applicant's residence or to a city or township clerk designated by the secretary of state.

**History:** Add. 1975, Act 28, Eff. July 1, 1975;—Am. 1978, Act 173, Imd. Eff. May 30, 1978;—Am. 1980, Act 512, Imd. Eff. Jan. 26, 1981;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1994, Act 4, Imd. Eff. Feb. 18, 1994;—Am. 1995, Act 87, Imd. Eff. June 20, 1995.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.500b Forwarding application for registration to clerk of city or township; compensation of county clerks; obtaining additional information; transmitting application to appropriate clerk; electronic transmission of address change.

Sec. 500b. (1) Not more than 5 business days after receipt of an application for registration, the county clerk shall forward the application for registration to the clerk of the city or township in which the applicant resides.

(2) Compensation to be paid county clerks for transmitting applications shall be appropriated by the legislature to the secretary of state for equitable distribution by the secretary of state to the county clerks. The city or township clerk shall obtain needed additional information on an application that is not completed properly or return to the secretary of state's election division an application needing additional information or not completed properly. An application received by the clerk of a city or township in which the applicant does not reside shall be transmitted promptly to the appropriate county clerk of the county in which the applicant resides. If the city or township clerk knows the city or township in which the applicant resides, the clerk shall inform the county clerk of the county in which the applicant resides and forward the application directly to the clerk of the city or township in which the applicant resides.

(3) The secretary of state may electronically transmit to the qualified voter file voter registration change of address information received from a registered elector who is changing the address on his or her operator's or chauffeur's license issued pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or official state personal identification card issued pursuant to 1972 PA 222, MCL 28.291 to 28.300. The secretary of state is not required to transmit a paper copy of an elector's voter registration change of address information if the elector's signature is already captured or reproduced under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, and has been transmitted to the qualified voter file. This subsection applies to address changes made within a city or township and to address changes made from 1 city or township to another city or township.

**History:** Add. 1975, Act 28, Eff. July 1, 1975;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.500c Issuance of voter identification card; effect of returning card as nondeliverable.

Sec. 500c. The clerk of a city or township, upon receiving an application for registration from an applicant the clerk determines to be qualified as an elector, shall forward to the applicant a voter identification card as provided in section 499. A person to whom the voter identification card is sent shall be registered for all elections, including village elections, upon its receipt. A voter identification card returned by the post office as nondeliverable shall be attached to the application by the clerk, and the person shall be deemed not registered under this act.

**History:** Add. 1975, Act 28, Eff. July 1, 1975.

**Popular name:** Election Code

### 168.500d Elections in which applicant permitted to vote; determination and notice of nonqualification; presenting validated voter registration application receipt at polls.

Sec. 500d. A person who has properly completed an application for registration at an office of the secretary of state or his agent shall be permitted to vote in all elections occurring not less than 30 days after making application if the clerk determines the person is qualified and the identification card is not returned by the post office as provided by section 500c. If the clerk determines the person is not qualified, the clerk immediately shall send a notice to the applicant at the address stated in the application stating the determination and the reasons therefor. A person shall be permitted to vote if he presents at the polls a validated voter registration application receipt and the clerk determines the person is qualified.

**History:** Add. 1975, Act 28, Eff. July 1, 1975.

**Popular name:** Election Code

### 168.500e Preparation of registration forms; notice of cancellation.

Sec. 500e. The city or township clerk shall prepare the registration forms needed for the city or township from information contained on properly completed and validated applications for persons meeting the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

requirements of this act. The clerk of a city or township shall forward a notice of cancellation to the clerk of the place of the applicant's previous residence as indicated on the application.

**History:** Add. 1975, Act 28, Eff. July 1, 1975.

**Popular name:** Election Code

### 168.500f Transmitting information to village clerk.

Sec. 500f. In the case of an election for village officers only, the clerk of a township shall transmit to the village clerk of a village that lies partly or completely in the township and that holds its regular election in September under section 642(7) the information necessary to complete the village registration of a person registered under sections 500a to 500j.

**History:** Add. 1975, Act 28, Eff. July 1, 1975;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 291, Imd. Eff. July 23, 2004.

**Popular name:** Election Code

### 168.500g Repealed. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** The repealed section pertained to signing registration card.

**Popular name:** Election Code

### 168.500h Notifying clerks of changes of address, death notices, and names of drivers issued license in another state; evidence of elector's removal from municipality.

Sec. 500h. The secretary of state, or his or her agent, shall notify local clerks of changes of address. The secretary of state shall notify local clerks of death notices and names of drivers issued a license in another state received by the department of state. Notification to the clerk of a change of address outside of the city or township in which the person is registered or of the issuance of a driver's license in another state shall constitute reliable information that the registered elector has removed from the municipality and the clerk shall proceed in compliance with section 513. If the notifications required under this section are sent to the county clerk, the county clerk shall notify the local clerks of only the notices that affect the voter registration records of their jurisdictions.

**History:** Add. 1975, Act 28, Eff. July 1, 1975;—Am. 1989, Act 142, Imd. Eff. June 29, 1989.

**Popular name:** Election Code

### 168.500i “Agent” defined.

Sec. 500i. As used in sections 500a to 500j, “agent” means a person appointed by the secretary of state to act as an examining officer for the purpose of examining applicants for operator's and chauffeur's licenses under section 309 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.309 of the Michigan Compiled Laws.

**History:** Add. 1975, Act 28, Eff. July 1, 1975.

**Popular name:** Election Code

### 168.500j Rules.

Sec. 500j. The secretary of state may promulgate rules, including rules governing voter registration application by an illiterate or disabled person, necessary to implement sections 500a to 500j pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

**History:** Add. 1975, Act 28, Eff. July 1, 1975.

**Popular name:** Election Code

### 168.501 Registration cards; master file.

Sec. 501. The original registration cards shall be filed alphabetically hereinafter and shall be termed the "master file". The master file shall contain the signature of each elector registered in the city, township, or village, unless the clerk of the jurisdiction has access to the qualified voter file and the elector has a digitized signature in the qualified voter file.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.501a Repealed. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** The repealed section pertained to creation and arrangement of regitration list.

**Popular name:** Election Code

### 168.502 Registration cards; township, city or village clerk; custody of files.

Sec. 502. The master file and the precinct files shall at all times remain in the custody of the township, city or village clerk, as the case may be, except that the precinct files shall be delivered on election day to the inspectors of election in the several precincts who shall have custody of the same during any election or primary election and who shall return such files to the clerk immediately thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.502a Repealed. 1989, Act 142, Eff. Dec. 1, 1990.

**Compiler's note:** The repealed section pertained to examination of voter registration records and to inactive voter file.

**Popular name:** Election Code

### 168.503 Registration records; loss or destruction of registration card, execution of new registration affidavit; loss or destruction of files, re-registration of electors; noncompliance, correction or re-registration, expense.

Sec. 503. If either the original or duplicate registration card, or both, of any elector shall be lost, destroyed or mutilated, the clerk of the township, city or village shall require the execution of a new registration affidavit by such elector. If any such elector shall refuse or neglect to execute such affidavit within 60 days after the mailing of a letter to such elector at the last address from which he has registered, then the registration of such elector may be cancelled. If either the original or duplicate registration cards, or both, of any township, city, village, or any ward or precinct thereof, shall be lost or destroyed, the township board or the legislative body of the city or village shall require a re-registration of the electors in such township, city, village, ward or precinct. If upon an examination of the registration records of any city, township or village, the secretary of state determines that the registration records fail to comply with the requirements of this act, the secretary of state may order the clerk of the city, township or village to make the corrections in the records necessary to comply with the provisions of this act or, if he finds that it is impractical to correct the registration records, he may apply to the circuit court of the circuit in which the city, township or village is located for an order for re-registration of the qualified electors in the city, township or village. Upon a proper showing of need, the court shall issue the order. In case the secretary of state directs the corrections to be made or the circuit court orders a re-registration to be taken, the secretary of state shall prescribe in all particulars the time and manner in which the corrections shall be made or the re-registration shall be taken and the disposition of the old registration records. The cost of the corrections or re-registration shall be borne by the city, township or village involved.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 223, Imd. Eff. June 6, 1957.

**Popular name:** Election Code

### 168.504 Repealed. 2006, Act 605, Imd. Eff. Jan. 3, 2007

**Compiler's note:** The repealed section pertained to registration of disabled or absent electors.

**Popular name:** Election Code

### 168.505 Authorization to cancel previous registration; signature; form; notice of cancellation; effect of previous address in another state; duties of clerk; authorization to cancel or notice received from another state.

Sec. 505. (1) At the time an elector is applying for registration, the registration officer shall ascertain if the elector is already registered as a voter. If the elector is previously registered, the elector shall at the time of applying for registration sign an authorization to cancel a previous registration. The secretary of state shall prescribe forms for this purpose. The form may be a part of the application or a separate form. The clerk of the city or township in which the elector is newly registered shall notify the registration officer of the place of previous registration of the authorization to cancel.

(2) An authorization to cancel that indicates a previous address in a state other than this state shall be forwarded to the secretary of state of that state. Notice may be made by forwarding the separate cancellation form, by forwarding the portion of an application listing a previous place of registration, or by forwarding a list certified by the clerk containing the names of people authorizing cancellation.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) Notices of cancellation shall contain the name, birth date, and address at which the elector was previously registered, and the name of the city or township of previous registration of all persons authorizing cancellations. Notices shall be sent within 30 days after receipt, but not later than 5 days after the close of registration.

(4) Upon receipt of the notice, the clerk shall cancel the registration of the persons listed on the notice. The clerk receiving the notice shall also notify the clerk of each village in which a person listed on the notice resides of receipt of an authorization to cancel. An authorization to cancel a voter registration signed by the voter and received from another state or a notice from an election official of another state that an elector has registered in that state has the same force and effect as the notice of authorization to cancel of this state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1967, Act 52, Eff. Nov. 2, 1967;—Am. 1977, Act 234, Imd. Eff. Nov. 30, 1977;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.506 Change of residence within township, city, or village; transfer of registration by clerk.

Sec. 506. A registered elector may, upon change of residence within the township, city, or village, cause his registration to be transferred to his new address by sending to the clerk a signed request stating his present address, the date he moved thereto and the address from which he was last registered, or by applying in person for a transfer. The clerk shall strike through the last address, ward, and precinct number and record the new address, ward, and precinct number on the original and duplicate registration cards, and shall place the original registration card in the proper precinct file. Transfers shall not be made after the thirtieth day next preceding a regular or special election or primary election, unless the thirtieth day shall fall on a Saturday, Sunday or legal holiday, in which event registration transfers shall be accepted during the following day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973.

**Popular name:** Election Code

### 168.506a Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Compiler's note:** The repealed section pertained to declaration or change in party preference, request, failure to identify date of birth, recordation, and voter identification card.

**Popular name:** Election Code

### 168.507 Execution of transfer of registration request; comparison of signatures; certification; filing application for transfer; proper name of street or resident house number; notice; eligibility to vote.

Sec. 507. (1) A registered elector who has removed from 1 election precinct of a township, city, or village to another election precinct of the same township, city, or village and has not recorded the removal with the local clerk shall execute a transfer of registration request, listing the new residence address over his or her signature, with the election board in the precinct in which he or she is registered at the next ensuing primary or election.

(2) If an elector's signature contained in the qualified voter file is available in the polling place, the inspector of election in charge of the registration records shall compare the digitized signature provided by the qualified voter file with the signature and, if the signatures correspond, then the inspector shall certify the fact by affixing his or her initials upon the request. If an elector's signature is not contained in the qualified voter file, the election official shall process the transfer of registration request in the same manner as transfer of registration requests are processed when a voter registration list is used in the polling place. The applicant for transfer, after having signed an application to vote as provided in section 523, shall then be permitted to vote in the precinct for that primary or election only. The application for transfer shall be filed with the township, city, or village clerk who shall transfer the elector's registration pursuant to the application. If the name of a street or resident house number in a township, city, or village is changed, the township, city, or village clerk shall make the change to show the proper name of the street or resident house number in the registration records and notify the county clerk of the change. It is not necessary for the elector to change his or her registration to reflect the change in order to be eligible to vote.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 235, Eff. Sept. 6, 1963;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.507a Moving to another township or city; voting at place of last registration; affidavit; applicability of subsections (1) and (2); forms; cancellation of registration; voting in person or by absentee ballot.

Sec. 507a. (1) A registered and qualified elector of this state who has moved from the township or city of a county in which he or she is registered to another township or city of a different county within the state after the sixtieth day before an election or primary election shall be permitted to vote in the election or primary election at the place of last registration upon the signing of a form containing an affidavit stating that the move has taken place. This subsection shall apply if the county in which the elector is registered has implemented the county file as the official file pursuant to section 509e.

(2) A registered and qualified elector of this state who has moved from the city or township in which he or she is registered to another city or township within the state after the sixtieth day before an election or primary election shall be permitted to vote in the election or primary election at the place of last registration upon the signing of a form containing an affidavit stating that the move has taken place. This subsection shall apply if the county in which the elector is registered has not implemented the county file as the official file pursuant to section 509e.

(3) The form or forms required by this section shall be approved by the secretary of state and shall state that the move has taken place and shall authorize the clerk of the city or township to cancel the voter's registration. A voter coming under this section shall be permitted to vote either in person or by absentee ballot.

**History:** Add. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1973, Act 180, Imd. Eff. Dec. 28, 1973;—Am. 1989, Act 142, Imd. Eff. June 29, 1989.

**Popular name:** Election Code

### 168.507b Moving to another township or city; registration after close of registration and voting; conditions; voting at office of clerk or by absentee ballot; effective date.

Sec. 507b. (1) Notwithstanding any other provision of law, a registered and qualified elector who has moved from the township or city of a county in which the elector is registered to another township or city within the same county after the sixtieth day before an election and who has not registered in that township or city by the close of registration for an election shall be permitted to register after the close of registration and to vote at the election if all of the following occur:

(a) The elector applies for registration in person and executes the registration affidavit before the clerk or the clerk's agent of the township or city in which the elector resides.

(b) The elector provides proof of identification sufficient to satisfy the township or city clerk as to the identity and residence of the elector.

(c) The township or city clerk determines to his or her satisfaction that the elector is presently registered in another township or city of the same county.

(2) At the discretion of the township or city clerk, an elector meeting the requirements under subsection (1) shall vote at the office of the clerk on or before election day or at the election precinct in which the elector resides on election day. If the elector is required to vote at the office of the clerk, the elector may vote by absentee ballot.

(3) This section shall take effect January 1, 1994 or the date when a county implements the county file as the official file pursuant to section 509e, whichever is later.

**History:** Add. 1989, Act 142, Eff. Jan. 1, 1994.

**Popular name:** Election Code

### 168.508 Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Compiler's note:** The repealed section pertained to transfer of registration and notice to elector.

**Popular name:** Election Code

### 168.509 Repealed. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** The repealed section pertained to examination of voter registration records.

### 168.509a Repealed. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** The repealed section pertained to members of armed forces on active duty.

### 168.509b-168.509/ Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** The repealed sections pertained to definitions, statewide voter registration network, duties of secretary of state and clerks, county and state files, registration lists, and voting histories.

**Popular name:** Election Code

### 168.509m Purpose of MCL 168.509m to 168.509hh; definitions.

Sec. 509m. (1) The purposes of this section and sections 509n to 509hh are all of the following:

(a) To establish a statewide qualified voter file that consists of all qualified electors who wish to be registered to vote in local, state, and federal elections.

(b) To enhance the uniformity of the administration of elections by creating and maintaining a statewide qualified voter file.

(c) To increase the efficiency and decrease the public cost of maintaining voter registration files and implementing the national voter registration act of 1993.

(d) To increase the integrity of the voting process by creating a single qualified voter file that will permit the name of each citizen of this state to appear only once and that is compiled from other state files that require citizens to verify their identity and residence.

(e) To apply technology and information gathered by principal executive departments, state agencies, and county, city, township, and village clerks in a manner that ensures that accurate and current records of qualified voters are maintained.

(2) As used in sections 509n to 509hh:

(a) "Designated voter registration agency" means an office designated under section 509u to perform voter registration activities in this state.

(b) "Qualified voter file" means the statewide qualified voter file established according to section 509o.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

****** 168.509n THIS SECTION IS REPEALED BY ACT 441 OF 1994 IF THE NATIONAL VOTER REGISTRATION ACT OF 1993, PUBLIC LAW 103-31 IS FOUND TO BE UNCONSTITUTIONAL AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

### 168.509n Secretary of state; duties.

Sec. 509n. The secretary of state is responsible for the coordination of the requirements imposed under this chapter, the national voter registration act of 1993, and the help America vote act of 2002. The secretary of state shall do all of the following:

(a) Develop a mail registration form and make the form available for distribution through governmental and private entities, with special emphasis on making the form available to voter registration programs established for the purpose of registering citizens of this state to vote.

(b) Instruct designated voter registration agencies and county, city, township, and village clerks about the voter registration procedures and requirements imposed by law.

(c) By June 15 of each odd numbered year, submit to each member of the committees of the senate and house of representatives with primary responsibility for election matters a report on the qualified voter file. The report shall include, but need not be limited to, both of the following:

(*i*) Information on the efficiency and effectiveness of the qualified voter file as a voter registration system.

(*ii*) Recommendations of the secretary of state for amendments to this act to increase the efficiency and effectiveness of the qualified voter file as a voter registration system.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### 168.509o Qualified voter file; establishment and maintenance; persons considered registered voters; signed application.

Sec. 509o. (1) The secretary of state shall direct and supervise the establishment and maintenance of a statewide qualified voter file. The secretary of state shall establish the technology to implement the qualified



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

voter file on or before January 1, 1997. The qualified voter file shall be the official file for the conduct of all elections held in this state on or after January 1, 1998. The secretary of state may direct that all or any part of the city, township, or village registration files shall be used in conjunction with the qualified voter file at the first state primary and election held after the creation of the qualified voter file.

(2) Notwithstanding any other provision of law to the contrary, beginning January 1, 1998, a person who appears to vote in an election and whose name appears in the qualified voter file for that city, township, village, or school district is considered a registered voter of that city, township, village, or school district under this act.

(3) The secretary of state, a designated voter registration agency, or a county, city, township, or village clerk shall not place a name of an individual into the qualified voter file unless that person signs an application as prescribed in section 509r(3). The secretary of state or a designated voter registration agency shall not allow a person to indicate a different address than the address in either the secretary of state's or designated voter registration agency's files to be placed in the qualified voter file.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509p Qualified voter file; components.

Sec. 509p. The qualified voter file shall consist of all of the following components:

(a) A computer file that has the capacity to maintain a number of records equal to or greater than the voting age population of this state.

(b) An electronic network that allows participating designated executive departments, state agencies, and county, city, township, and village clerks to electronically add, change, or delete records contained in the qualified voter file.

(c) An interactive electronic communication system that allows access to records in the file of qualified voters residing in a county, city, or township for the purpose of receiving copies of the county, city, or township file, transmitting data to the county, city, or township file, or reviewing and printing the county, city, or township file. The interactive electronic communication system shall be designed to permit counties, cities, or townships that are capable of accessing the interactive electronic communication system to add, change, or delete records regarding qualified voters in the qualified voter file.

(d) A statewide street address index in an electronic medium that will accurately identify the city or township of each record and by January 1, 1998, accurately identify the precinct of each record in the qualified voter file.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509q Qualified voter file; information to be contained for each voter.

Sec. 509q. The qualified voter file shall contain all of the following information for each qualified voter:

(a) The name; residence address including house number and street name or rural route and box number, and the apartment number, if any; city; state; zip code; and date of birth.

(b) The driver's license number or state personal identification card number or similar number issued by a designated voter registration agency.

(c) Jurisdictional information including county and city or township; village, if any; and school district.

(d) Precinct numbers and ward numbers, if any.

(e) Any other information that the secretary of state determines is necessary to assess the eligibility of qualified electors or to administer voter registration or other aspects of the election process.

(f) Voting history for a 5-year period.

(g) The most recent digitized signature of an elector if captured or reproduced by the secretary of state or a county, city, or township clerk from a voter registration application pursuant to section 509hh, or captured or reproduced by the secretary of state pursuant to section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.509r Qualified voter file; establishment and maintenance of computer system and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**programs; access; verification of accuracy; compilation of electors; sources; person whose name does not appear in file; requirements; adding, deleting, or changing information.**

Sec. 509r. (1) The secretary of state shall establish and maintain the computer system and programs necessary to the operation of the qualified voter file. The secretary of state shall allow each county, city, township, or village access to the qualified voter file. The county, city, township, and village clerks shall verify the accuracy of the names and addresses of registered voters in the qualified voter file.

(2) Subject to subsection (3), the secretary of state and county, city, township, and village clerks shall compile the qualified voter file that consists of all qualified electors from the following sources and in the following priority:

(a) A driver's license or, if there is no driver's license, a state personal identification card, including renewals and changes of address with the department of state.

(b) An application for benefits or services, including renewals and changes of address, taken by a designated voter registration agency.

(c) An application to register to vote taken by a county, city, township, or village clerk.

(3) A person whose name does not otherwise appear in the qualified voter file shall be placed in the qualified voter file only if the person signs under penalty of perjury an application that contains an attestation that the applicant meets all of the following requirements:

(a) Is 17-1/2 years of age or older.

(b) Is a citizen of the United States and this state.

(c) Is a resident of the city or township where the person's street address is located.

(4) A designated voter registration agency or a county, city, township, or village clerk shall not add to, delete from, or change any information contained in the qualified voter file during the period beginning on the seventh day before an election and ending on the day of the election.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

**168.509s Implementation study of qualified voter file; presentation of results to governor and legislature; creation of system design and cost analysis; creation of design and programming schedule.**

Sec. 509s. (1) The secretary of state shall secure the necessary assistance to have an implementation study of the qualified voter file conducted before July 1, 1995 to do all of the following:

(a) Assess the hardware and software required to establish and maintain the qualified voter file.

(b) Determine the utility of any existing or planned communication networks that will enable electronic communication among designated voter registration agencies that are involved with the qualified voter file.

(c) Survey all available or planned communication networks that will allow the counties, cities, and townships to communicate with the qualified voter file.

(2) The secretary of state shall present the results of the implementation study to the governor, the senate majority leader, and the speaker of the house of representatives on or before October 1, 1995.

(3) The secretary of state shall create a system design and cost analysis for the establishment and maintenance of the qualified voter file on or before October 1, 1995. The secretary of state shall create a design and programming schedule to establish the qualified voter file on or before October 1, 1995.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

****** 168.509t THIS SECTION IS REPEALED BY ACT 441 OF 1994 IF THE NATIONAL VOTER REGISTRATION ACT OF 1993, PUBLIC LAW 103-31 IS FOUND TO BE UNCONSTITUTIONAL AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

**168.509t Person considered registered voter; persons required to vote in person; exceptions; prosecution not precluded in state.**

Sec. 509t. (1) Notwithstanding another provision of law to the contrary, a person who is a qualified elector in this state and who registers to vote in a manner consistent with the national voter registration act of 1993 is considered a registered voter under this act.

(2) A person who registers to vote in a jurisdiction in this state by mail shall vote in person and shall provide identification as required under section 303(b) of the help America vote act of 2002, 42 USC 15483, if that person has not previously voted in person in this state. This subsection does not apply to any of the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

following registered voters:

(a) A person entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act.

(b) A person who has a disability as defined in section 103 of the persons with disabilities civil rights act, 1976 PA 220, MCL 37.1103, or, for purposes of voting in person only, a person who is 60 years of age or older.

(c) A person who is entitled to vote other than in person under any other federal law.

(3) This section does not preclude this state from prosecuting a violation of this act that is also a violation of a federal election or voting rights law.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

****** 168.509u THIS SECTION IS REPEALED BY ACT 441 OF 1994 IF THE NATIONAL VOTER REGISTRATION ACT OF 1993, PUBLIC LAW 103-31 IS FOUND TO BE UNCONSTITUTIONAL AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

### 168.509u List designating executive departments, state agencies, or other offices performing voter registration activities; armed forces recruitment office as voter registration agency.

Sec. 509u. (1) Not later than the thirtieth day after the effective date of this section, the governor shall provide a list to the secretary of state designating the executive departments, state agencies, or other offices that will perform voter registration activities in this state.

(2) Pursuant to the national voter registration act of 1993, a recruitment office of the armed forces of the United States is a designated voter registration agency under this act.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

****** 168.509v THIS SECTION IS REPEALED BY ACT 441 OF 1994 IF THE NATIONAL VOTER REGISTRATION ACT OF 1993, PUBLIC LAW 103-31 IS FOUND TO BE UNCONSTITUTIONAL AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

### 168.509v Registration to vote at certain locations or by mail.

Sec. 509v. (1) A person who is not registered to vote at the address where he or she resides may apply to register to vote by submitting an application at any of the following locations:

(a) The office of the clerk of a county or the office of the clerk of the city or township in which the applicant resides, during regular office hours of that clerk.

(b) A department of state office.

(c) A designated voter registration agency when submitting an application, recertification, renewal, or change of address at the voter registration agency.

(2) A person who is not registered to vote at the address where he or she resides may apply for registration by submitting a completed mail registration application. A person may request a mail registration application from and submit the application to any of the following:

(a) The secretary of state.

(b) The clerk of the county, city, or township in which the applicant resides.

(c) A designated voter registration agency.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509w Person processing application; duties; transmitting application; cost of forwarding application.

Sec. 509w. (1) The person processing an application submitted in person at a department of state office, a designated voter registration agency, or the office of a county clerk shall do all of the following:

(a) Validate the application in the manner prescribed by the secretary of state.

(b) Issue a receipt to the applicant verifying the acceptance of the application.

(2) Except as otherwise provided in subsection (3), the department of state office, the designated voter registration agency, or the county clerk shall transmit the application not later than 7 days after receipt of the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

application to the clerk of the county, city, or township where the applicant resides.

(3) If an application under subsection (1) is made within 7 days before the close of registration for a federal election, the department of state office, the designated voter registration agency, or the county clerk shall transmit the application not later than 1 business day to the clerk of the county, city, or township where the applicant resides.

(4) If a completed application is transmitted by the secretary of state or a designated voter registration agency to a county clerk, the secretary of state, to the extent funds are appropriated, shall compensate the county clerk for the cost of forwarding the application to the proper city or township clerk of the applicant's residence from funds appropriated to the secretary of state for that purpose.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509x Application considered as received; requirements.

Sec. 509x. An application for registration is considered to be received on or before the close of registration, if 1 of the following requirements is met:

(a) An application is received at a department of state office, a designated voter registration agency, or the office of a county, city, or township clerk on or before the close of registration.

(b) An application is received through the mail that is postmarked on or before the close of registration.

(c) An application is received through the mail on or before the seventh day immediately following the close of registration, if the postmark is missing or is unclear and the application, on its face, is dated by the applicant on or before the close of registration. The clerk shall consider an application received pursuant to this subdivision as received before the close of registration.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509y Repealed. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** The repealed section pertained to failure to register to vote.

### 168.509z Notice to clerk of certain information.

Sec. 509z. The secretary of state shall notify each clerk of the following information regarding residents or former residents of the clerk's city or township:

(a) Driver license or state personal identification card changes of address received by the secretary of state, and whether the person submitted an application for the new address.

(b) The names and addresses in this state of persons who have been issued a driver license in another state.

(c) Death notices received by the secretary of state.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509aa Updating registration upon receipt of certain information; duties of clerk; instruction by clerk to challenge voter; cancellation of registration.

Sec. 509aa. (1) A clerk may use change of address information supplied by the United States postal service or other reliable information received by the clerk that identifies registered voters whose addresses may have changed as provided in this section.

(2) Upon receipt of reliable information that a registered voter has moved his or her residence within the city or township, the clerk shall send by forwardable mail all of the following to the voter:

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence within the city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice explaining that, if the address information is correct and the voter has moved his or her residence within the city or township, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the voter has moved his or her residence within the city or township and does not complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election, the voter will be required to vote in his or her former precinct of residence in the city or township. The voter will also be required to submit an address correction before being permitted to vote.

(3) Upon the receipt of reliable information that a registered voter has moved his or her residence to another city or township, the clerk shall send by forwardable mail all of the following to the voter:



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence to another city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice containing all of the following information:

(*i*) If the address information is incorrect and the voter has not moved to another city or township and wishes to remain registered to vote, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the card is not completed and returned with a postmark of 30 days or more before the date of the next election, the voter may be required to affirm his or her current address before being permitted to vote. Further, if the voter does not vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date on the notice, the registration of the voter will be canceled and his or her name will be removed from the registration record of that city or township.

(*ii*) If the voter has moved his or her residence to another city or township, information on how the voter can become registered to vote at the next election in his or her new city or township.

(4) If a notice sent under this section is returned to the clerk by the post office as undeliverable, the clerk shall identify the registration record of a voter as challenged as provided in this act. The clerk shall instruct the board of election inspectors to challenge that voter at the first election at which the voter appears to vote. If in response to the challenge the voter indicates that he or she resides at the registration address or has changed addresses within the city or township, the voter shall be permitted to vote a regular ballot rather than a challenged ballot. The voter shall complete a change of address form at the polling place, if applicable. If the person does not appear to vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date of the notice, the clerk shall cancel the registration of the voter and remove his or her name from the registration record of the city or township.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.509bb Failure to vote; cancellation of registration prohibited.

Sec. 509bb. A clerk shall not cancel or cause the cancellation of the registration of a voter from the registration record of the city or township based solely upon that registered voter's failure to vote.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

## 168.509cc Challenge of registration; response by voter; duties of clerk.

Sec. 509cc. (1) If a registration is challenged under this act and the challenged voter does not respond in the manner provided in this act, the registration record of that voter remains challenged and election officials shall not allow the challenged voter to vote until he or she answers the grounds of the challenge in the manner



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

provided in this act. If a registration is challenged under this act and an election official determines, based upon the response of the challenged voter, that the voter is qualified to vote, the election official shall allow the voter to vote and the clerk shall remove the identification as challenged from the registration record of that voter.

(2) If a clerk does not independently determine that a challenged voter is qualified to vote or if the challenged voter does not respond to the challenge or fails to prove in his or her response to the challenge that he or she is qualified to vote during the period beginning on the date of the notice of challenge under this act and ending on the first business day immediately following the second November general election that is held after the date of the notice, the clerk shall cancel the registration of the voter and remove his or her name from the registration record of the city or township.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509dd Program to register voters or remove names.

Sec. 509dd. (1) A clerk may conduct a program to register qualified electors or to remove names of registered voters who are no longer qualified to vote in the city or township from the registration records of that city or township. A clerk who conducts a program to register voters or to remove names under this section shall administer the program in a uniform manner to the entire city or township. The clerk shall use nondiscriminatory procedures that comply with the requirements of the voting rights act of 1965, Public Law 89-110, 79 Stat. 437.

(2) The clerk shall complete any program to remove names conducted under this section 90 days or more before the date of a federal election. The 90-day deadline under this subsection does not apply to the removal of names from the registration records of a city or township under 1 of the following circumstances:

(a) At the request or authorization of a voter.

(b) Upon the death of a voter.

(c) Upon notice that a voter has moved from the city or township and has completed an application at the new address.

(3) Subject to the requirements of this section, a clerk may use 1 or more of the following to conduct a program to register voters or remove names under this section:

(a) A house-to-house canvass.

(b) A general mailing to voters for address verifications.

(c) Participation in the national change of address program established by the postal service.

(d) Other means the clerk considers appropriate.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

****** 168.509ee THIS SECTION IS REPEALED BY ACT 441 OF 1994 IF THE NATIONAL VOTER REGISTRATION ACT OF 1993, PUBLIC LAW 103-31 IS FOUND TO BE UNCONSTITUTIONAL AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

### 168.509ee Transmission of report by voter registration agency to secretary of state.

Sec. 509ee. Not later than 90 days after the request of the secretary of state, a designated voter registration agency shall transmit to the secretary of state a report including all of the following:

(a) Information requested by the secretary of state necessary to administer the provisions of sections 509m to 509gg and the national voter registration act of 1993.

(b) Any other information considered necessary by the secretary of state.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509ff Records; purpose; maintenance; availability to public; names and addresses to whom notice sent.

Sec. 509ff. (1) The secretary of state and each county, city, township, or village clerk shall maintain all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of registration records under this chapter for 2 years or more. Except to the extent that the records maintained pursuant to this section relate to a declination to register to vote or to the identity of a designated voter registration agency through which any particular voter applied for registration pursuant to section 509gg, the secretary of state or a county, city, township, or village clerk shall make the records



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

available for public inspection under reasonable conditions and, if available, for photocopying at a reasonable cost.

(2) The secretary of state or a county, city, township, or village clerk shall include in the records maintained under this section a list of the names and addresses of all persons to whom a notice under section 509aa is sent and if the person has responded to the notice as of the date the inspection of the records is made.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Popular name:** Election Code

### 168.509gg Information exempt from freedom of information act.

Sec. 509gg. The information described in this section that is contained in a registration record is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The secretary of state, a designated voter registration agency, or a county, city, township, or village clerk shall not release a copy of that portion of a registration record that contains any of the following:

(a) The record that a person declined to register to vote.

(b) The office that received a registered voter's application.

(c) A registered voter's driver's license or state personal identification card number.

(d) The month and day of birth of a registered voter.

(e) The telephone number provided by the registered voter.

(f) The digitized signature of an elector that is captured or reproduced and transmitted to the qualified voter file by the secretary of state or a county, city, or township clerk under section 509hh or by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

**History:** Add. 1994, Act 441, Imd. Eff. Jan. 10, 1995;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.509hh Capture or reproduction of signature.

Sec. 509hh. (1) The secretary of state may capture or reproduce the signature of an elector from a voter registration application or pursuant to section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, and transmit the signature to the qualified voter file pursuant to section 509q.

(2) The county, city, or township clerk may capture or reproduce the signature of an elector from a voter registration application and transmit the signature to the qualified voter file pursuant to section 509q.

**History:** Add. 2005, Act 71, Imd. Eff. July 14, 2005.

**Popular name:** Election Code

### 168.510 Deceased electors; cancellation of registration.

Sec. 510. At least once a month, the county clerk shall forward a list of the last known address and birth date of all persons over 18 years of age who have died within the county to the clerk of each city or township within the county. The city or township clerk shall compare this list with the registration records and cancel the registration of all deceased electors.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 224, Eff. Sept. 6, 1963;—Am. 1972, Act 45, Imd. Eff. Feb. 19, 1972.

**Popular name:** Election Code

### 168.511 Cancellation of registration; authorization from elector.

Sec. 511. Upon the receipt of an authorization of cancellation of registration from the elector, the clerk shall cancel said registration.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.512 Challenge of elector; affidavit, contents; answering affidavit; cancellation of registration; indiscriminate challenge, penalty.

Sec. 512. Any elector of the municipality may challenge the registration of any registered elector by submitting to the clerk of that municipality a written affidavit that such elector is not qualified to vote, which affidavit shall specify the grounds upon which the challenged elector is disqualified. Upon receipt of such affidavit, the clerk shall forthwith send by registered or certified mail to the challenged elector at his



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

registered or last known address a notification of the challenge, which shall include the grounds for such challenge as stated in the affidavit. The challenged elector may within 30 days appear before the clerk and answer the questions and take the oath required of persons challenged on the same grounds at election, or in lieu of appearing in person the challenged elector, within a like period of time, may elect to file with the clerk an affidavit setting forth specifically his qualifications as an elector of the municipality and answering the grounds of the challenge. If within the 30-day period the person challenged shall fail to appear and be sworn or to file an affidavit, or if his statements do not show him to be a qualified elector of the municipality, the clerk shall forthwith cancel his registration. The 30-day period referred to in this section shall be the 30 days immediately following the date of mailing the notice to the challenged elector.

Any person who shall challenge under the provisions of this section, indiscriminately and without good cause or for the purpose of harassment, shall be guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 48, Eff. Mar. 19, 1959.

**Popular name:** Election Code

### 168.513 Repealed. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

**Compiler's note:** The repealed section pertained to cancellation of registration.

**Popular name:** Election Code

### 168.514 Cancellation of registration.

Sec. 514. If the registration of an elector is cancelled, the clerk shall make a proper entry on the original and duplicate registration cards, indicating the date and the cause for cancellation, and shall affix his or her signature to the entries. All copies of the cancelled registration cards shall be filed in the office of the clerk. All duplicates of the original registration cards so cancelled may be destroyed 2 years after the registrations are cancelled. The clerk may also destroy the original registration cards of an elector 10 years after the date of cancellation of the elector's registration, if the registration is not reinstated within that period. The clerk may also destroy any cancelled original registration cards 2 years after the date of cancellation if the cancelled registration cards are reproduced pursuant to the records media act and the reproductions are on file in the office of the clerk. The reproductions may be destroyed after the expiration of the statutory retention date of the reproduced records. The registration records, if combustible, shall be destroyed by burning.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 183, Eff. Sept. 27, 1957;—Am. 1992, Act 195, Imd. Eff. Oct. 5, 1992.

**Popular name:** Election Code

### 168.515 Registration records; verification by house-to-house canvass.

Sec. 515. The several township, city and village clerks may conduct a house-to-house canvass or use such other means of checking the correctness of registration records as may seem expedient.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.516 Registration records; public inspection.

Sec. 516. The registration record shall be open for public inspection under rules and regulations prescribed by the clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.517 Division of ward or precinct; transfer of registration cards, notations, notice to electors.

Sec. 517. Whenever any ward or precinct of any township, city or village shall be divided or changed pursuant to law, then the clerk of such township, city or village shall transfer the precinct cards accordingly and shall make the proper notations upon the cards in both the master and precinct files and notify the registrant of such change.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.518 Organization of new township; first registration of electors; records; notice; incorporation of new city; registration records; annexation to city; statement by township clerk.

Sec. 518. Whenever a new township shall be organized, the persons designated to act as inspectors for the first election to be held therein shall constitute a board of registration for the purpose of making the first



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

registration of qualified electors therein. Said board shall be authorized to procure the necessary books or files and forms to conduct such registration in accordance with the provisions of this act. Subsequent to the election, the records shall be delivered to the persons elected to the office of clerk of the township. At least 10 days' public notice shall be given of the time and place for holding the registration. Such notice shall be given by posting written or printed notices in at least 5 of the most conspicuous places in said township, city or village, or by publication in a newspaper of general circulation therein. Whenever a new city is incorporated from the territory of a township, the registration records of the portion of the township incorporated as a city shall constitute the registration records of the newly incorporated city. Township registration records shall be available and used in connection with the election on the adoption of the charter of any new city or village and for the first election of such city's or village's officers.

Whenever any territory of a township is annexed to a city, the clerk of the township from which the territory was detached shall, not less than 5 days prior to the effective date of the annexation, forward to the clerk of the city to which the territory was annexed all of the current registration records of the registered electors residing in the annexed territory. Such records shall thereafter be a part of the registration records of such city and the electors whose registration records were so transferred shall be registered electors of such city.

All such transfers of registration shall be accompanied by a statement signed by the township clerk certifying that all of the current registrations of persons residing within the annexed or incorporated area according to his records are included therein.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 123, Imd. Eff. Apr. 13, 1956;—Am. 1959, Act 160, Eff. Mar. 19, 1960.

**Popular name:** Election Code

### 168.519 Illegal or fraudulent registration; penalty.

Sec. 519. No township, city or village clerk or assistant clerk shall register any person whom such clerk shall know or have good reason to believe not to be a resident and so qualified, nor shall any person knowingly or having good reason to believe himself not to be such a resident and so qualified, cause himself to be registered as an elector. Every person so offending, or who shall aid or abet another in so offending, shall upon conviction be adjudged guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.520 Illegal or fraudulent registration; township, city or village clerk, powers and duties; assistance by police or sheriff; assistant examiners, appointment, expenses.

Sec. 520. Whenever it shall come to the knowledge of any township, city or village clerk that there is probable illegal or fraudulent registration in his township, city or village, or in any ward or precinct thereof, he shall have power and it shall be his duty to make full investigation of the facts concerning such registration and to ascertain whether any names have been illegally or fraudulently registered. To this end, such clerk is hereby authorized and empowered to call upon the police department of the city or the sheriff of his county, or both, to assist in making such investigation, and said police department and said sheriff are hereby required to render such assistance whenever such clerk shall make request therefor, and to furnish such clerk at his request with all available men to assist in making such investigation. Any such clerk is hereby further authorized and empowered whenever he deems it necessary or advisable to appoint assistant examiners for the purpose of such investigation. Bills for the services of such examiner shall be approved by such clerk and shall be audited and paid by the township board or legislative body of the city or village, as the case may be, in the same manner as the expenses of conducting elections are paid.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.521 Illegal or fraudulent registration; removal of names, notice; reinstatement; review by mandamus; challenge.

Sec. 521. Whenever any township, city or village clerk shall determine that any name has been illegally or fraudulently entered upon the registration records of any precinct in his township, city or village, he shall remove such name from the registration records and shall notify the person whose name is removed of such removal by registered or certified mail directed to him at the address given on the registration records, and any person representing himself to be the person whose name is so removed shall not be permitted to vote unless he shall show to such clerk that his name was wrongfully removed from the registration records, in which case his name shall be reinstated: Provided, however, That any person aggrieved by such action of any such clerk may review such action and seek the reinstatement of his name by mandamus and the proceedings



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and judgment of the court in such case shall be subject to review in the supreme court, or if such clerk has good reason to believe that any name has been illegally or fraudulently entered upon said registration records and he shall not remove such name as herein provided, he shall write the word "challenged" upon the registration card of such person and shall lay before the prosecuting attorney of the county all the facts touching such registration. If any person whose registration card has been so marked shall offer to vote at any election, the inspectors of election shall at such time examine him under oath as to his qualifications as an elector in such ward or precinct, the same in all respects and with like effect as though he had been challenged at the election by a challenger thereof.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.522 Making, certifying, and delivering computer tape, disk, or listing of names and addresses of registered electors; year, month, and day of birth of elector; information exempt from disclosure.

Sec. 522. (1) A clerk of a city, township, or village who maintains a computerized file of registered voters and who does not have direct access to the qualified voter files shall make, certify, and deliver to any person, upon request, a computer tape, disk, or listing, as specified by the person, of the names and addresses of the registered electors of the city, township, village, school district, ward, or precinct upon the payment to the clerk of the cost of making, certifying, and delivering the tape, disk, or listing.

(2) A computer tape, disk, or listing provided under subsection (1) shall include, upon request, the year of birth of an elector but shall not include the month and day of birth of an elector. A computer tape, disk, or listing provided under subsection (1) shall not include a person's driver's license or state personal identification card number or any other information that is exempt from disclosure under section 509gg or other section of this chapter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1986, Act 168, Imd. Eff. July 7, 1986;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.522a Request under freedom of information act; year of elector's birth.

Sec. 522a. A person making a request under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, shall not be entitled to receive a copy of a portion of a voter registration record which contains the birth date of an elector other than the year of the elector's birth.

**History:** Add. 1986, Act 168, Imd. Eff. July 7, 1986.

**Popular name:** Election Code

### 168.523 Identification of registered elector; presenting official state identification card, operator's or chauffeur's license, or generally recognized picture identification card; execution of application; comparison of signature or other identification; challenge; affidavit; approval, initial, and notation of application; application as poll list; filing application; notations on cards or lists; record of voting participation.

Sec. 523. (1) At each election, before being given a ballot, each registered elector offering to vote shall identify himself or herself by presenting an official state identification card issued to that individual pursuant to Act No. 222 of the Public Acts of 1972, being sections 28.291 to 28.295 of the Michigan Compiled Laws, an operator's or chauffeur's license issued to that individual pursuant to the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or other generally recognized picture identification card and by executing an application showing his or her signature or mark and address of residence in the presence of an election official. If an elector's signature contained in the qualified voter file is available in the polling place, the election official shall compare the signature upon the application with the digitized signature provided by the qualified voter file. If an elector's signature is not contained in the qualified voter file, the election official shall process the application in the same manner as applications are processed when a voter registration list is used in the polling place. If voter registration lists are used in the precinct, the election inspector shall determine if the name on the application to vote appears on the voter registration list. If the name appears on the voter registration list, the elector shall provide further identification by giving his or her date of birth or other information stated upon the voter registration list. In precincts using voter registration lists, the date of birth may be required to be placed on the application to vote. If the signature or an item of information does not correspond, the vote of the person shall be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

challenged, and the same procedure shall be followed as provided in this act for the challenging of an elector. If the person offering to vote has signed the registration card or application by making a mark, the person shall identify himself or herself by giving his or her date of birth, which shall be compared with the date of birth stated upon the registration card or voter registration list, or shall give other identification as may be referred to upon the registration card or voter registration list. If the elector does not have an official state identification card, operator's or chauffeur's license as required in this subsection, or other generally recognized picture identification card, the individual shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, an elector being allowed to vote without the identification required under this subsection is subject to challenge as provided in section 727.

(2) If, upon a comparison of the signature or other identification as required in subsection (1), it is found that the applicant is entitled to vote, the election officer having charge of the registration list shall approve the application and write his or her initials on the application, after which the number on the ballot issued shall be noted on the application. The application shall serve as 1 of the 2 poll lists required to be kept as a record of a person who has voted. The application shall be filed with the township, city, or village clerk. If voter registration cards are used in the precinct, the date of the election shall be noted by 1 of the election officials upon the precinct registration card of each elector voting at an election. If voter registration lists are used in the precinct, the election official shall clearly indicate upon the list each elector voting at that election. The clerk of a city, village, or township shall maintain a record of voting participation for each registered elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 57, Eff. Sept. 8, 1961;—Am. 1963, 2nd Ex. Sess., Act 10, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 267, Eff. Aug. 28, 1964;—Am. 1978, Act 338, Imd. Eff. July 11, 1978;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 87, Imd. Eff. June 20, 1995;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.523a Individual not listed on voter registration list; issuance of ballot; procedure.

Sec. 523a. (1) If an individual who has applied to register to vote on or before the close of registration appears at a polling place on election day and completes an application under section 523 is not listed on the voter registration list, the election inspector shall issue a ballot to the individual as follows:

(a) For an individual who presents a receipt issued by a department of state office, a designated voter registration agency, or the elector's county, city, or township clerk's office verifying the acceptance of a voter registration application before the close of registration and completes a new voter registration application, the election inspector shall allow the individual to vote a ballot in the same manner as an elector whose name is listed on the voter registration list.

(b) For an individual who does not present a receipt verifying the acceptance of a voter registration application under subdivision (a), the election inspector shall determine whether the individual is in the appropriate polling place based on residence information provided by the individual. The election inspector shall review any documents or maps in the polling place or communicate with the city or township clerk to verify the appropriate polling place for the individual. The election inspector shall direct an individual who is not in the appropriate polling place to the appropriate polling place. If the individual refuses to go to the appropriate polling place, the election inspector shall issue the individual a provisional ballot that shall be processed according to subsection (5).

(2) Except for an individual who produces a receipt under subsection (1)(a), the election inspector shall require an individual who is not listed on the voter registration list to execute a sworn statement affirming that the individual submitted a voter registration application before the close of registration and is eligible to vote in the election. An individual who provides false information in a signed sworn statement under this subsection is guilty of perjury. An individual signing a sworn statement shall complete a new voter registration application. The individual shall state the approximate date and in what manner the registration application was submitted:

(a) To a department of state office.

(b) To a designated voter registration agency.

(c) To the office of his or her county, city, or township clerk.

(d) By a mailed application.

(3) The election inspector shall contact the city or township clerk to verify whether the individual who



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

signed the sworn statement is listed in the registration records of the jurisdiction or whether there is any information contrary to the content of the sworn statement.

(4) If the city or township clerk verifies the elector information and finds no information contrary to the information provided by the individual in the sworn statement and the individual presents a Michigan operator's or chauffeur's license, department of state issued personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address to establish his or her identity and residence address, the individual shall be permitted to vote a provisional ballot on election day. Before the provisional ballot is tabulated on election day, election inspectors shall process the ballot as a challenged ballot under sections 745 and 746.

(5) If the election inspector is not able to contact the city or township clerk, the individual is not in the correct precinct, the individual presents identification other than a Michigan operator's or chauffeur's license, department of state issued personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address, or the individual is unable to present any identification, the individual shall be issued a provisional ballot that is not tabulated on election day but is secured for verification after the election. A provisional ballot shall also be issued under this subsection to a voter who presents a Michigan operator's license, chauffeur's license, department of state personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that does not bear the voter's current residence address, if the voter also presents a document to establish the voter's current residence address. The election inspector shall accept a document containing the name and current residence address of the voter as sufficient documentation to issue a provisional ballot if it is 1 of the following documents:

(a) A current utility bill.

(b) A current bank statement.

(c) A current paycheck, government check, or other government document.

(6) A provisional ballot shall be placed in a provisional ballot return envelope prescribed by the secretary of state and delivered to the city or township clerk after the polls close in a manner as prescribed by the secretary of state.

(7) For a provisional ballot voted under subsection (4), the election inspector shall provide the voter with a notice that his or her ballot has been tabulated. For a provisional ballot voted under subsection (5), the election inspector shall provide the voter with a notice that the voter's information will be verified by the clerk of the jurisdiction within 6 days after the election to determine whether the ballot will be tabulated and, if the ballot is not tabulated, to determine the reason it was not tabulated. A clerk of a jurisdiction shall provide a free access system for the voter to determine whether the ballot was tabulated. The free access system may include a telephone number that does not require a toll charge, a toll-free telephone number, an internet website, or a mailed notice.

(8) As used in this section and sections 813 and 829, “provisional ballot” means a special ballot utilized for an individual who is not listed on the voter registration list at the polling place that is tabulated only after verification of the individual's eligibility to vote.

**History:** Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### 168.524 Number of eligible voters; reports by township, village and city clerks to county clerks after registration closing.

Sec. 524. Within 15 days after the close of registration prior to all primary and general elections, each township, village and city clerk shall report to his county clerk the total number of persons eligible to vote in the respective primary or general election.

**History:** Add. 1967, Act 170, Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.530 Repealed. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** The repealed section pertained to review of voter registration system by advisory committee.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

CHAPTER XXIV
PRIMARY ELECTIONS

### 168.531 Primary elections; nomination of candidates by direct vote.

Sec. 531. Whenever any primary election shall be held in this state or in any city, county or district in this state, the nomination of candidates shall be made by direct vote of the qualified and registered electors of each political party participating therein as hereinafter prescribed.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.532 Nomination by caucus or convention where principal candidate receives less than 5% of vote cast for candidates for secretary of state.

Sec. 532. A political party whose principal candidate received less than 5% of the total vote cast for all candidates for the office of secretary of state in the last preceding state election, either in the state or in any political subdivision affected, shall not make its nominations by the direct primary method. The nomination of all candidates of such parties shall be made by means of caucuses or conventions which shall be held and the names of the party's nominations filed at the time and manner provided in section 686a of this act. The term "principal candidate" of any party shall be construed to mean the candidate whose name shall appear nearest the top of the party column.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1973, Act 28, Imd. Eff. June 14, 1973.

**Popular name:** Election Code

### 168.533 Applicability of act.

Sec. 533. The provisions of this act relative to the conduct of elections shall be applicable as near as may be in all particulars to all regular and special primary elections except as the contrary is indicated.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.534 General primary; time; party candidates to be voted for; condition to nomination.

Sec. 534. A general primary of all political parties except as provided in sections 532 and 685 shall be held in every election precinct in this state on the Tuesday after the first Monday in August before every general November election, at which time the qualified and registered voters of each political party may vote for party candidates for the office of governor, United States senator, representative in congress, state senator, representative in the legislature, county executive, prosecuting attorney, sheriff, county clerk, county treasurer, register of deeds, county auditor, drain commissioner, public works commissioner, county road commissioner, county mine inspector, surveyor, and candidates for office in townships. A nomination for an office shall be made only if the official is to be elected at the next succeeding general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.535 General primary; nomination of nonpartisan candidates.

Sec. 535. A general primary shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered voters may vote for nonpartisan candidates for the office of judge of the court of appeals, judge of the circuit court, judge of probate and for circuit court commissioner in the years in which such officers are to be elected.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.536, 168.537 Repealed. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed sections provided for nomination in primary elections for certain local government offices.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.538 Primary election; notice; posting; publication.

Sec. 538. Primary election notices shall be published and posted as provided in section 653a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.539 City and county primary elections; not held when no opposition; certification of candidates; notice to city and township clerks, public notice.

Sec. 539. If, upon the expiration of the time for filing petitions in any primary for city or county, it appears that there is no opposition to any candidate for any office upon any ticket, then the city or county clerk, as the case may be, shall certify to the board of election commissioners the names of all persons whose petitions have been properly filed and the office for which such petitions were filed, and such persons shall be declared by such board of election commissioners nominees for the respective offices, and such county clerk shall forthwith notify the several clerks of the townships and cities interested, if any, and give notice that the primary will not be held as contemplated, giving the reasons therefor, and a public notice shall be given of such determination by a brief notice published by such clerk in a newspaper circulated in such county.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.540 Nonpartisan primary elections; when not held; certification of candidates.

Sec. 540. If, upon the expiration of the time for filing petitions for any nonpartisan primary election, it shall appear that as to any office on any nonpartisan ticket there are not to exceed twice the number of candidates as there are persons to be elected, then the officer with whom such petitions are filed shall certify to the proper board of election commissioners the names of such candidates whose petitions have been properly filed and such candidates shall be the nominees for such offices and shall be so certified. As to such offices, there shall be no primary election and such offices shall be omitted from the primary ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.541 District primary elections; not held when no opposition; certification of candidates; notice to city and township clerks.

Sec. 541. If upon the expiration of the time for filing petitions in any primary, the secretary of state shall find within a given district that there is no opposition for any office upon any ticket, he shall forthwith give notice to the clerk of the several counties embraced, at the same time certifying the names of the candidates and the office to which they aspire to the state board of canvassers, who shall declare them the nominees for the respective offices, and shall give notice to the clerk of the several counties embraced in such district, and if the clerk shall find that there is no opposition for any office upon any ticket for a county office, then it shall be the duty of such clerk to forthwith give notice to the several city and township clerks interested that a primary will not be held as contemplated, but in no event shall a primary election be abandoned in any township, city, county or district wherein there shall be opposition for any office upon any ticket.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

PREPARATION AND FILING OF NOMINATING PETITIONS; FEES

### 168.542 Nominating petitions; provisions governing.

Sec. 542. The printing of the name of any person as a candidate for nomination by any political party for any office except a city or village under the particular party heading upon the official ballots for any primary election held in this state shall be obtained by following the provisions as set forth in the chapters of this act relative to the respective offices.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.543, 168.544 Repealed. 1965, Act 312, Eff. Jan. 1, 1966.

**Compiler's note:** The repealed sections prescribed requirements for primary election nominating petitions.

**Popular name:** Election Code

### 168.544a Nonpartisan nominating petitions; size, form, contents.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 544a. The form, size and contents of all nonpartisan nominating petitions shall be the same as is provided in section 544c for partisan nominating petitions, except that under the heading “nominating petition” shall be printed in 12-point type the word “nonpartisan”. The petition shall contain no reference to any political party.

**History:** Add. 1960, Act 23, Eff. Aug. 17, 1960;—Am. 1965, Act 312, Eff. Jan. 1, 1966.

**Popular name:** Election Code

### 168.544b Candidates for judicial office; affidavit of qualifications to be filed with nominating petitions.

Sec. 544b. (1) Except as provided in subsection (2), a person shall not qualify as a candidate for any judicial office of this state unless the person files an affidavit with his or her nominating petitions on a form prescribed by the secretary of state stating that he or she possesses the constitutional qualifications set forth in section 19 of article VI of the state constitution.

(2) In cases where candidates for judicial office are nominated at political party conventions, the chairperson and secretary of the party shall file the affidavit with the secretary of state not more than 1 business day after the conclusion of the convention.

**History:** Add. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.544c Nominating petition; type size; form; contents; circulation and signing; unlawful signature; false statement; misdemeanor; sanctions; applicability of section.

Sec. 544c. (1) A nominating petition shall be 8-1/2 inches by 14 inches in size. On a nominating petition, the words "nominating petition" shall be printed in 24-point boldface type. "We, the undersigned," et cetera shall be printed in 8-point type. "Warning" and language in the warning shall be printed in 12-point boldface type. The balance of the petition shall be printed in 8-point type. The name, address, and party affiliation of the candidate and the office for which petitions are signed shall be printed in type not larger than 24-point. The petition shall be in the following form:

```
                        NOMINATING PETITION
                              (PARTISAN)
     We, the undersigned, registered and qualified voters
of the city or township of ................. , in the county
         (strike 1)
of .................. and state of Michigan, nominate,
..............................................................  ,
                      (Name of Candidate)
..............................................................  ,
  (Street Address or Rural Route)      (City or Township)
as a candidate of the .................. party for the
office of  ......................... ,
..............................................................  ,
                      (District, if any)
to be voted for at the primary election to be held on
the ........... day of ............ , 20 ........ .
                            WARNING
     A person who knowingly signs more petitions for the same
office than there are persons to be elected to the office or
signs a name other than his or her own is violating the
provisions of the Michigan election law.
```

| | Printed Name and Signature | Street Address or Rural Route | Zip Code | Date of Signing Mo. | Day | Year |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |

numbered lines as above

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is qualified to circulate this petition



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a qualified registered elector of the city or township listed in the heading of the petition, and the elector was qualified to sign the petition.

Circulator—Do not sign or date certificate until after circulating petition.

```
_____________________________________________
(Printed Name and Signature of Circulator)  (Date)

_____________________________________________
(City or Township Where Registered)
[or, for petitions under section 482,
"(City or Township Where Qualified to be
Registered)"]

_____________________________________________
(Complete Residence Address (Street and Number
or Rural Route)

_____________________________________________
  (Zip Code)
```

Warning-A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

(2) The petition shall be in a form providing a space for the circulator and each elector who signs the petition to print his or her name. The secretary of state shall prescribe the location of the space for the printed name. The failure of the circulator or an elector who signs the petition to print his or her name, to print his or her name in the location prescribed by the secretary of state, or to enter a zip code or his or her correct zip code does not affect the validity of the signature of the circulator or the elector who signs the petition. A printed name located in the space prescribed for printed names does not constitute the signature of the circulator or elector.

(3) At the time of circulation, the circulator of a petition shall be a registered elector of this state. At the time of executing the certificate of circulator, the circulator shall be registered in the city or township indicated in the certificate of circulator on the petition. However, the circulator of a petition under section 482 need only be qualified to be a registered elector of this state at the time of circulation and at the time of executing the certificate of circulator.

(4) The circulator of a petition shall sign and date the certificate of circulator before the petition is filed. A circulator shall not obtain electors' signatures after the circulator has signed and dated the certificate of circulator. A filing official shall not count electors' signatures that were obtained after the date the circulator signed the certificate or that are contained in a petition that the circulator did not sign and date.

(5) Except as provided in section 544d, a petition sheet shall not be circulated in more than 1 city or township and each signer of a petition sheet shall be a registered elector of the city or township indicated in the heading of the petition sheet. The invalidity of 1 or more signatures on a petition does not affect the validity of the remainder of the signatures on the petition.

(6) An individual shall not sign more nominating petitions for the same office than there are persons to be elected to the office. An individual who violates this subsection is guilty of a misdemeanor.

(7) An individual shall not do any of the following:

(a) Sign a petition with a name other than his or her own.

(b) Make a false statement in a certificate on a petition.

(c) If not a circulator, sign a petition as a circulator.

(d) Sign a name as circulator other than his or her own.

(8) An individual who violates subsection (7) is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 93 days, or both.

(9) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has knowingly and intentionally failed to comply with subsection (7), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Disqualify obviously fraudulent signatures on a petition form on which the violation of subsection (7) occurred, without checking the signatures against local registration records.

(b) Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed the violation of subsection (7) on a petition to nominate that candidate.

(10) If an individual violates subsection (7) and the affected petition sheet is filed, each of the following who knew of the violation of subsection (7) before the filing of the affected petition sheet and who failed to



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

report the violation to the secretary of state, the filing official, if different, the attorney general, a law enforcement officer, or the county prosecuting attorney is guilty of a misdemeanor, punishable by a fine of not more than $500.00 or imprisonment for not more than 1 year, or both:

(a) The circulator of the petition, if different than the individual who violated subsection (7).

(b) If the petition is a nominating petition, the candidate whose nomination is sought.

(c) If the petition is a petition for a ballot question or recall, the organization or other person sponsoring the petition drive.

(11) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has violated subsection (10), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Impose on the organization or other person sponsoring the petition drive an administrative fine of not more than $5,000.00.

(b) Charge the organization or other person sponsoring the petition drive for the costs of canvassing a petition form on which a violation of subsection (7) occurred.

(c) Disqualify an organization or other person described in subdivision (a) from collecting signatures on a petition for a period of not more than 4 years.

(d) Disqualify obviously fraudulent signatures on a petition form on which a violation of subsection (7) occurred without checking the signatures against local registration records.

(e) Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed a violation of subsection (7) on a petition to nominate that candidate.

(12) If an individual refuses to comply with a subpoena of the board of state canvassers in an investigation of an alleged violation of subsection (7) or (10), the board may hold the canvass of the petitions in abeyance until the individual complies.

(13) A person who aids or abets another in an act that is prohibited by this section is guilty of that act.

(14) The provisions of this section except as otherwise expressly provided apply to all petitions circulated under authority of the election law.

**History:** Add. 1965, Act 312, Eff. Jan. 1, 1966;—Am. 1972, Act 22, Imd. Eff. Feb. 19, 1972;—Am. 1982, Act 408, Eff. Mar. 30, 1983;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990;—Am. 1993, Act 137, Eff. Jan. 1, 1994;—Am. 1999, Act 219, Eff. Mar. 10, 2000;—Am. 2002, Act 431, Imd. Eff. June 6, 2002.

**Popular name:** Election Code

### 168.544d Nominating petitions for offices and purposes; circulation; form; identification of city or township; certificate of circulator; other form not prohibited.

Sec. 544d. Nominating petitions for the offices under this act and petitions for a constitutional amendment, initiation of legislation, or referendum of legislation or a local proposal may be circulated on a countywide form. Petitions circulated countywide shall be on a form prescribed by the secretary of state, which form shall be substantially as provided in sections 482, 544a, or 544c, whichever is applicable. The secretary of state may provide for a petition form larger than 8-1/2 inches by 13 inches and shall provide for identification of the city or township in which the person signing the petition is registered. The certificate of the circulator may be on the reverse side of the petition. This section does not prohibit the circulation of petitions on another form prescribed by this act.

**History:** Add. 1975, Act 327, Imd. Eff. Jan. 12, 1976;—Am. 1988, Act 114, Imd. Eff. May 2, 1988;—Am. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.544e Canvassing petitions; number designations for months.

Sec. 544e. When canvassing petitions filed pursuant to this act, the official canvassing the petitions shall accept number designations for the months of the year in lieu of the names of the months.

**History:** Add. 1975, Act 327, Imd. Eff. Jan. 12, 1976.

**Popular name:** Election Code

### 168.544f Number of signatures required.

Sec. 544f. The number of signatures of qualified and registered electors necessary for nominating petitions under this act, based upon the population of the district involved according to the most recent federal census,



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

is as follows:

| Population | Partisan Petition Min | Partisan Petition Max | Non Partisan Petition Min | Non Partisan Petition Max | Qualifying Petition Min | Qualifying Petition Max |
|---|---|---|---|---|---|---|
| 0 - 9,999 | 3 | 10 | 6 | 20 | 9 | 30 |
| 10,000 - 24,999 | 20 | 50 | 40 | 100 | 60 | 150 |
| 25,000 - 49,999 | 50 | 100 | 100 | 200 | 150 | 300 |
| 50,000 - 74,999 | 100 | 200 | 200 | 400 | 300 | 600 |
| 75,000 - 99,999 | 200 | 400 | 400 | 800 | 600 | 1,200 |
| 100,000 - 199,999 | 300 | 500 | 600 | 1,000 | 900 | 1,500 |
| 200,000 - 499,999 | 500 | 1,000 | 1,000 | 2,000 | 1,500 | 3,000 |
| 500,000 - 999,999 | 1,000 | 2,000 | 2,000 | 4,000 | 3,000 | 6,000 |
| 1,000,000 - 1,999,999 | 2,000 | 4,000 | 4,000 | 8,000 | 6,000 | 12,000 |
| 2,000,000 - 4,999,999 | 4,000 | 8,000 | 6,200 | 12,000 | 12,000 | 24,000 |
| Over 5 million (statewide) | 15,000 | 30,000 | 30,000 | 60,000 | 30,000 | 60,000 |

**History:** Add. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.545 Nominating petitions; combination of two offices.

Sec. 545. In those instances in which the duties of 2 offices are combined, all nominating petitions shall include and name the 2 offices.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.546 Nominating petitions; supply by county and city clerks; printing by candidate.

Sec. 546. The various county clerks and city clerks shall prepare and keep on hand blank forms of nominating petitions for use of the electors and candidates in said city or county. Nothing herein contained shall be construed to prohibit any candidate from having his own nominating petitions printed, but they must comply substantially with the above form.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.547 Repealed. 1965, Act 312, Eff. Jan. 1, 1966.

**Compiler's note:** The repealed section made it unlawful for voter to sign more than one nominating petition for the same office.

**Popular name:** Election Code

### 168.547a Nominating petitions; signatures by voters, number, counting.

Sec. 547a. If a qualified and registered voter signs nominating petitions for a greater number of candidates for public office than the number of persons to be elected thereto, his signatures, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date for only so many candidates as there are persons to be elected.

**History:** Add. 1959, Act 44, Eff. Mar. 19, 1960.

**Popular name:** Election Code

### 168.548 Nominating petitions; maximum number of signatures.

Sec. 548. It shall be unlawful for any candidate to wilfully and intentionally procure more names upon nominating petitions than the maximum number prescribed in this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.549 Nominating petitions; excess signatures, counting.

Sec. 549. If any nominating petitions contain more than the necessary percentage of names, the excess over 1% shall neither be considered nor counted.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.550 Candidates for nomination; qualification upon compliance with act.

Sec. 550. No candidate shall have his name printed upon any official primary election ballot of any political party in any voting precinct in this state unless he shall have filed nominating petitions according to



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the provisions of this act, and all other requirements of this act have been complied within his behalf, except in those counties qualifying candidates upon the payment of fees.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.551 Nominating petitions or filing fees; filing period.

Sec. 551. The secretary of state and the various county, township, and city clerks shall receive nominating petitions or filing fees filed in accordance with the provisions of this act up to 4 p.m., eastern standard time, of the twelfth Tuesday preceding the August primary. The provisions of this section do not apply to a city that does not nominate its officers under the provisions of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Popular name:** Election Code

### 168.551a Repealed. 1956, Act 37, Imd. Eff. Mar. 28, 1956.

**Compiler's note:** The repealed section provided for contents and filing of nominating petitions at any nonpartisan judicial primary.

**Popular name:** Election Code

### 168.552 Nominating petitions; certification by county or city clerk; sworn complaint; investigation to determine validity of signatures and genuineness of petition; examination of petitions; declaration of sufficiency or insufficiency of petitions; review; filing of nominating petitions with secretary of state; notification; canvass of petitions; hearing; subpoenas; oaths; adjournment; completion of canvass; availability to public; declaration; request for notice of approval or rejection of petition; judicial review; use of qualified voter file; certification to boards of election commissioners.

Sec. 552. (1) The county or city clerk, after the last day specified in this act for receiving and filing nominating petitions, shall immediately certify to the proper board or boards of election commissioners in the city, county, district, or state the name and post office address of each party candidate whose petitions meet the requirements of this act, together with the name of the political party and the office for which he or she is a candidate.

(2) If the county clerk receives a sworn complaint, in writing, questioning the registration or genuineness of the signature of the circulator or of a person signing a petition filed with the county clerk for an office, the county clerk shall commence an investigation. The county clerk shall cause the petition that he or she considers necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record as required by subsection (13). The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison. If the request has been made by the county clerk, the city clerk or township clerk shall complete the investigation and report his or her findings to the county clerk within 7 days after the request. The investigation shall include the validity of the signatures and the genuineness of a petition as is specified in the sworn complaint and may include any other doubtful signatures or petitions filed on behalf of the candidate against whose petitions the sworn complaint is directed, as the county clerk considers necessary. The county clerk is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or registration of the circulator, and unless the complaint is received by the county clerk within 7 days after the deadline for the filing of the nominating petitions.

(3) In addition to the duty specified in subsection (2) for the examination of petitions, the county clerk, on his or her own initiative, on receipt of the nominating petitions, may examine the petitions, and if after examination the county clerk is in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purported to have signed the petitions, the county clerk shall commence an investigation. Subject to subsection (13), the county clerk shall cause the petitions in question to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petitions with the signatures appearing on the registration records. The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison.

(4) The clerk of a political subdivision shall cooperate fully with the county clerk in a request made to the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

clerk by the county clerk in determining the validity of doubtful signatures by checking the signatures against registration records in an expeditious and proper manner.

(5) At least 2 business days before the county clerk makes a final determination on challenges to and sufficiency of a petition, the county clerk shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (2) or (3), the county clerk shall make that document available to petitioners and challengers on a daily basis.

(6) Upon the completion of the investigation or examination, the county clerk shall immediately make an official declaration of the sufficiency or insufficiency of nominating petitions for which a sworn complaint has been received or of the sufficiency or insufficiency of nominating petitions that the county clerk has examined or investigated on his or her own initiative. A person feeling aggrieved by a determination made by the county clerk may have the determination reviewed by the secretary of state by filing a written request with the secretary of state within 3 days after the official declaration of the county clerk, unless the third day falls on a Saturday, Sunday, or legal holiday, in which case the request may be filed not later than 4 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. Alternatively, the aggrieved person may have the determination of the county clerk reviewed by filing a mandamus, certiorari, or other appropriate remedy in the circuit court. A person who filed a nominating petition and feels aggrieved by the determination of the secretary of state may then have that determination reviewed by mandamus, certiorari, or other appropriate remedy in the circuit court.

(7) A city clerk with whom nominating petitions are filed may examine the petitions and investigate the validity and genuineness of signatures appearing on the petitions. Subject to subsection (13), the city clerk may check the signatures against registration records. The city clerk shall make a determination as to the sufficiency or insufficiency of the petitions upon the completion of the examination or investigation, and shall make an official declaration of the findings. A person feeling aggrieved by the determination has the same rights of review as in case of a determination by the county clerk.

(8) Upon the filing of nominating petitions with the secretary of state, the secretary of state shall notify the board of state canvassers within 5 days after the last day for filing the petitions. The notification shall be by first-class mail. Upon the receipt of the nominating petitions, the board of state canvassers shall canvass the petitions to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. Subject to subsection (13), for the purpose of determining the validity of the signatures, the board of state canvassers may cause a doubtful signature to be checked against the qualified voter file or the registration records by the clerk of a political subdivision in which the petitions were circulated. If the board of state canvassers receives a sworn complaint, in writing, questioning the registration of or the genuineness of the signature of the circulator or of a person signing a nominating petition filed with the secretary of state, the board of state canvassers shall commence an investigation. Subject to subsection (13), the board of state canvassers shall verify the registration or the genuineness of a signature as required by subsection (13). If the board is unable to verify the genuineness of a signature on a petition, the board shall cause the petition to be forwarded to the proper city clerk or township clerk to compare the signatures on the petition with the signatures on the registration record, or in some other manner determine whether the signatures on the petition are valid and genuine. The board of state canvassers is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or the registration of the circulator, and unless the complaint is received by the board of state canvassers within 7 days after the deadline for filing the nominating petitions. After receiving a request from the board of state canvassers under this subsection, the clerk of a political subdivision shall cooperate fully in determining the validity of doubtful signatures by rechecking the signatures against registration records in an expeditious and proper manner. The board of state canvassers may extend the 7-day challenge period if it finds that the challenger did not receive a copy of each petition sheet that the challenger requested from the secretary of state. The extension of the challenge deadline under this subsection does not extend another deadline under this section.

(9) The board of state canvassers may hold a hearing upon a complaint filed or for a purpose considered necessary by the board of state canvassers to conduct an investigation of the petitions. In conducting a hearing, the board of state canvassers may issue subpoenas and administer oaths. The board of state canvassers may also adjourn periodically awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete the canvass not less than 9 weeks before the primary election at which candidates are to be nominated. Before making a final determination, the board of state canvassers may consider any deficiency found on the face of the petition that does not require verification against data maintained in the qualified voter file or in the voter registration files maintained by a city or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

township clerk.

(10) At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the board shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (8), the board of state canvassers shall make that document available to candidates and challengers on a daily basis.

(11) An official declaration of the sufficiency or insufficiency of a nominating petition shall be made by the board of state canvassers not less than 60 days before the primary election at which candidates are to be nominated. At the time of filing a nominating petition with the secretary of state, the person filing the petition may request a notice of the approval or rejection of the petition. If a request is made at the time of filing the petition, the secretary of state, immediately upon the determination of approval or rejection, shall transmit by registered mail to the person making the request an official notice of the sufficiency or insufficiency of the petitions.

(12) A person who filed a nominating petition with the secretary of state and who feels aggrieved by a determination made by the board of state canvassers may have the determination reviewed by mandamus, certiorari, or other appropriate process in the supreme court.

(13) The qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid. The qualified voter file shall be used to determine the genuineness of a signature on a petition. Signature comparisons shall be made with the digitized signatures in the qualified voter file. The county clerk or the board of state canvassers shall conduct the signature comparison using digitized signatures contained in the qualified voter file for their respective investigations. If the qualified voter file does not contain a digitized signature of an elector, the city or the township clerk shall compare the petition signature to the signature contained on the master card.

(14) Not less than 60 days before the primary election at which candidates are to be nominated, the secretary of state shall certify to the proper boards of election commissioners in the various counties in the state, the name and post office address of each partisan or nonpartisan candidate whose petitions have been filed with the secretary of state and meet the requirements of this act, together with the name of the political party, if any, and the office for which he or she is a candidate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 125, Imd. Eff. Apr. 13, 1956;—Am. 1958, Act 25, Imd. Eff. Apr. 3, 1958 ;—Am. 1963, Act 193, Eff. Sept. 6, 1963;—Am. 1978, Act 338, Imd. Eff. July 11, 1978;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 220, Eff. Mar. 10, 2000;—Am. 2003, Act 188, Imd. Eff. Oct. 31, 2003;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.552a Validity of petition or signature.

Sec. 552a. (1) Notwithstanding any other provision of this act to the contrary, a petition or a signature is not invalid solely because the designation of city or township has not been made on the petition form if a city and an adjoining township have the same name.

(2) Notwithstanding any other provision of this act to the contrary, if a person who signs a petition uses his or her mailing address on the petition and that mailing address incorporates the political jurisdiction in which the person is registered to vote, that signature shall be counted if the signature is otherwise determined to be genuine and valid under this act.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.553 Nominating petitions; insufficiency, notice to candidate.

Sec. 553. In case it is determined that the nominating petitions of any candidate do not comply with the requirements of this act, or if for any other cause such candidate is not entitled to have his name printed upon the official primary ballots, it shall be the duty of the secretary of state or county or city clerk to immediately notify such candidate of such fact, together with a statement of the reasons why his name was not certified to the respective boards of election commissioners.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.554 List of candidates; posting.

Sec. 554. The secretary of state or county or city clerk shall forthwith prepare and publicly expose in his office a list of the candidates who have filed nominating petitions or filing fees in his office, as near as may be, as they will appear upon the official primary election ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.554a Repealed. 1971, Act 5, Eff. Mar. 30, 1972.

**Compiler's note:** The repealed section pertained to time for filing candidate's filing fee.

**Popular name:** Election Code

### 168.555 Nominating petitions and filing fees; public record, contents; public inspection.

Sec. 555. The various officers named herein shall keep a public record of the nominating petitions and filing fees filed in a book for that purpose, which record shall indicate the names of the candidates, the offices sought, and the dates when such nominating petitions or filing fees were filed. All such nominating petitions shall be open to public inspection and subject to examination after being filed in the office of the secretary of state, county clerk or city clerk, in accordance with such reasonable rules and regulations as may be prescribed by such officers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.556 Nominating petitions; final disposition, record.

Sec. 556. All nominating petitions filed under the provisions of this act shall be preserved by the secretary of state, county, city, village or township clerk, as the case may be, until the first day of January following the primary election for which the same were filed. At the expiration of that period, the secretary of state, county, city, village or township clerk may destroy all nominating petitions, the return of which has not been requested. In the record of nominating petitions, the various officers keeping such record shall cause entries to be made, stating the final disposition of each candidate's petition.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.557 Repealed. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Compiler's note:** The repealed section pertained to requirements for nominating petitions.

**Popular name:** Election Code

### 168.558 Filing nominating petition, filing fee, or affidavit of candidacy; affidavit of identity; noncompliance; selection of office to which candidacy restricted; failure to make selection.

Sec. 558. (1) When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an affidavit of identity. A candidate nominated for a federal, state, county, city, township, or village office at a political party convention or caucus shall file an affidavit of identity within 1 business day after being nominated with the secretary of state. The affidavit of identity filing requirement does not apply to a candidate nominated for the office of president of the United States or vice president of the United States.

(2) An affidavit of identity shall contain the candidate's name, address, and ward and precinct where registered, if qualified to vote at that election; a statement that the candidate is a citizen of the United States; the candidate's number of years of residence in the state and county; other information that may be required to satisfy the officer as to the identity of the candidate; the manner in which the candidate wishes to have his or her name appear on the ballot; and a statement that the candidate either is or is not using a name, whether a given name, a surname, or otherwise, that is not a name that he or she was given at birth. If a candidate is using a name that is not a name that he or she was given at birth, the candidate shall include on the affidavit of identity the candidate's full former name.

(3) The requirement to indicate a name change on the affidavit of identity does not apply if the name in question is 1 of the following:



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) A name that was formally changed at least 10 years before filing as a candidate.

(b) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(c) A name that was changed because of marriage.

(d) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(4) An affidavit of identity shall include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to $1,000.00 or imprisonment for up to 5 years, or both. If a candidate files the affidavit of identity with an officer other than the county clerk or secretary of state, the officer shall immediately forward to the county clerk 1 copy of the affidavit of identity by first-class mail. The county clerk shall immediately forward 1 copy of the affidavit of identity for state and federal candidates to the secretary of state by first-class mail. An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section.

(5) If petitions or filing fees are filed by or in behalf of a candidate for more than 1 office, either federal, state, county, city, village, township, or school district, the terms of which run concurrently or overlap, the candidate so filing, or in behalf of whom petitions or fees were so filed, shall select the 1 office to which his or her candidacy is restricted within 3 days after the last day for the filing of petitions or filing fees unless the petitions or filing fees are filed for 2 offices that are combined or for offices that are not incompatible. Failure to make the selection disqualifies a candidate with respect to each office for which petitions or fees were so filed and the name of the candidate shall not be printed upon the ballot for those offices. A vote cast for that candidate at the ensuing primary or general election shall not be counted and is void.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1964, Act 190, Imd. Eff. May 20, 1964;—Am. 1984, Act 394, Imd. Eff. Dec. 28, 1984;—Am. 1992, Act 264, Eff. Jan. 1, 1993;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 1999, Act 217, Eff. Mar. 10, 2000;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Popular name:** Election Code

PREPARATION AND DISTRIBUTION OF BALLOTS

### 168.559 Official primary election ballots; preparation, distribution.

Sec. 559. It shall be the duty of the board of election commissioners of each county in this state to prepare and furnish the necessary official primary election ballots, except for city offices, which may be required for use by the electors of any political party at the August primary.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.560 Official ballots; contents; exclusive use; size.

Sec. 560. Such ballots shall contain the instructions as to the method of voting. Ballots other than those furnished by the board of election commissioners, according to the provisions of this act, shall not be used, cast or counted in any election precinct at any such primary election. The size of all official ballots shall be such as the board of election commissioners shall prescribe.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.560a General election ballot; qualifying to list name, party vignette, and candidates thereon.

Sec. 560a. A political party the principal candidate of which received at the last preceding general election a vote equal to or more than 1% of the total number of votes cast for the successful candidate for secretary of state at the last preceding election in which a secretary of state was elected is qualified to have its name, party vignette, and candidates listed on the next general election ballot.

**History:** Add. 1976, Act 94, Imd. Eff. Apr. 22, 1976.

**Constitutionality:** The Michigan supreme court, in *Socialist Workers Party v Secretary of State*, 412 Mich 571; 317 NW2d 1 (1982), held that 1976 PA 94, which added this section, violates Const 1963, art 1, § 2 and art 2, § 4, and the first and fourteenth amendments to the United States Constitution.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.560b Name appearing on ballot; change; appearance of given and middle name; nickname; married name; violation.

Sec. 560b. (1) A candidate required to indicate a name change on the affidavit of identity under section 558 shall be listed on the ballot with his or her current name and former name as prescribed by the secretary of state.

(2) Subject to subsections (3) and (4), both a candidate's given name and surname that he or she was given at birth, and only those names, shall appear on the ballot, except under 1 of the following circumstances:

(a) The name in question, whether a given name, a surname, or otherwise, is a name that was formally changed.

(b) The candidate is subject to subsection (1).

(c) The name in question, whether a given name, a surname, or otherwise, is 1 of the following:

(*i*) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(*ii*) A name that was changed because of marriage.

(*iii*) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(3) A candidate may specify that both his or her given name and middle name, or only a middle name, shall appear on the ballot. A candidate may specify that either an initial or a recognized diminutive for the candidate's given or middle name, or for both, shall appear on the ballot.

(4) A candidate is prohibited from specifying that a nickname that is not a recognized diminutive of the candidate's given name or middle name appear on the ballot. A married individual is prohibited from specifying that his or her spouse's given name, or an alternative for that given name otherwise permitted under subsection (3), appear on the ballot.

(5) A ballot that would violate this section shall not be produced, printed, or distributed.

**History:** Add. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Compiler's note:** Former MCL 168.560b, which pertained to primary election ballot and rights of voters, was repealed by Act 116 of 1988, Imd. Eff. May 2, 1988.

**Popular name:** Election Code

### 168.561 Official primary election ballots; offices for which name of candidate to be included; filing request for clarifying designation of same or similar surnames; notice of determination; appeal; printing occupation, date of birth, or residence of candidate; incumbency designation; guidelines.

Sec. 561. (1) The ballots prepared by the board of election commissioners in each county for use by the electors of a political party at a primary election shall include the name of each candidate of the political party for the office of governor, United States senator, and district offices; for the county, the name of each candidate of the political party for county offices; and for each township, the name of each candidate of the political party for township offices.

(2) If, in a district that is a county or entirely within 1 county, 2 or more candidates, including candidates for nonpartisan offices, for the same office have the same or similar surnames, a candidate may file a written request with the board of county election commissioners for a clarifying designation. The request shall be filed not later than 3 days after the last date for filing nominating petitions. Not later than 3 days after the filing of the request, the board of county election commissioners shall determine whether a similarity exists and whether a clarifying designation should be granted. In a district located in more than 1 county, the board of state canvassers shall make a determination whether to grant a clarifying designation upon the written request of a candidate who files nominating petitions with the secretary of state. The request shall be filed with the state board of canvassers not later than 5 days after the last date for filing nominating petitions. The board of state canvassers shall make its determination at the same time it makes a declaration of the sufficiency or insufficiency of nominating petitions in compliance with section 552.

(3) In each instance, the determining board shall immediately notify each candidate for the same office as the requester that a request for a clarifying designation has been made and of the date, time, and place of the hearing. The requester and each candidate for the same office shall be notified of the board's determination by first-class mail sent within 24 hours after the final date for the determination. A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of the county where the board is located. A candidate who is dissatisfied with the determination of the board of state canvassers may file an appeal in the Ingham county circuit court. The appeal shall be filed within 14 days after the final date for determination by the board. The court shall hear the matter de novo. Except as



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

provided in subsection (4), in the case of the same surname or of a final determination by the board or by the court before the latest date that the board can arrange the ballot printing of the existence of similarity, the board shall print the occupation, date of birth, or residence of each of the candidates on the ballot or ballot labels under their respective names. The term "occupation" includes a currently held political office, even though it is not the candidate's principal occupation, but does not include reference to a previous position or occupation.

(4) If there are 2 candidates with the same or similar surnames and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, no other designation shall be provided for the other candidate with the same or similar surname. If there are more than 2 candidates with the same or similar surname and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, a clarifying designation may be given to the other candidates with the same or similar surname. Except for an incumbency designation under section 24 of article VI of the state constitution of 1963, if 2 or more candidates with the same or similar surnames are related, the board shall only print the residence or date of birth of each of the candidates as a clarifying designation. As used in this subsection, "related" means that the candidates with the same or similar surnames are related within the third degree of consanguinity.

(5) The board of state canvassers shall issue guidelines to ensure fairness and uniformity in the granting of designations and may issue guidelines relating to what constitutes the same or similar surnames. The board of state canvassers and the boards of county election commissioners shall follow the guidelines.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1966, Act 328, Imd. Eff. July 19, 1966;—Am. 1967, Act 36, Eff. Nov. 2, 1967;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.561a Official ballots; designation of candidate with same given and surname as incumbent.

Sec. 561a. In any primary election whenever any candidate for public office has the same given and surname as the name of the person last elected to such office, when the person last elected is not seeking renomination, below the name of said candidate on the ballot shall appear the words "not the present ....." and in said space shall be printed the title of the office sought. The size of type used in any other designation on the ballot shall not be reduced in size from the size of type normally used.

**History:** Add. 1960, Act 88, Imd. Eff. Apr. 25, 1960.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.562 Official ballots; delegates to county convention.

Sec. 562. The said ballots shall also contain as many lines as there are delegates to be elected to the county convention by the particular political party. Such lines shall be printed under the title "Delegates to county convention", and no ballot for a delegate to a county convention of any political party shall be counted unless



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

prepared and voted under authority of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.562a Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to delegate ballots.

**Popular name:** Election Code

### 168.562b Election as delegate to state convention or national convention; signing affidavit; voting for presidential candidate; filing affidavit.

Sec. 562b. (1) Before an individual may be elected as a delegate to the state convention or national convention of a political party, that individual shall sign an affidavit including 1 of the following:

(a) The name of a candidate for president of the United States of that individual's political party that he or she is bound to vote for at each stage of the nominating process until the end of the first ballot at the national convention of that political party unless otherwise released from that commitment under subsection (3). The requirements of this subdivision are met only if the designated presidential candidate's name appears on the presidential primary election ballot.

(b) A statement that the individual is uncommitted regarding the candidates for president of the United States.

(2) Except as provided in subsection (3), an individual elected as a delegate to the state convention or national convention of a political party is bound to vote at each stage of the presidential nomination process until the end of the first ballot at the national convention of that political party for the candidate for president of the United States that he or she designated a commitment to by written affidavit as required in subsection (1), if any, before his or her election.

(3) A delegate to the state convention or national convention is bound to vote for the presidential candidate the delegate is committed to under subsection (2) unless the delegate is released from that commitment by written notice to the chairperson of the state central committee by the presidential candidate or the presidential candidate publicly withdraws from contention for that party's nomination.

(4) An individual seeking election as a delegate to the state convention, or his or her designee, shall file the affidavit required under subsection (1) with the county chairperson or the chairperson of the district committee. The county chairperson or the chairperson of the district committee shall file a copy of that affidavit with the chairperson of the state central committee.

(5) An individual who has not filed an affidavit under subsection (4) and who is seeking election as a delegate to the national convention, or his or her designee, shall file the affidavit required under subsection (1) with the chairperson of the state central committee.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.563 Primary election ballots; number; weight and color of paper; printing and arrangement.

Sec. 563. The number of ballots to be printed for the use of the electors at any primary election in any election precinct shall be not less than 25% more than the total number of ballots cast therein at the corresponding primary election held 4 years previously. The ballot at any partisan primary election shall consist of 1 sheet of 70-pound white book paper, machine finished, or the equivalent. The elections commission may provide that 1 of the political party tickets shall be printed on each side thereof or that the party tickets shall appear on 1 side of the ballot only. If 3 or more parties are represented at a partisan primary, the ballots shall be arranged with a foldover extension or the election commission may provide that the parties shall appear on 1 side of the ballot only. If the ballots are printed on 1 side only the order of the parties on the ballot shall be the same as they will appear on the general election ballot. The parties shall be separated by a heavy black line. If ballots are printed on 2 sides or with a foldover extension the various party tickets shall be printed, as near as may be, in the manner herein before set forth and shall be rotated so that each party ticket will appear face up on alternate ballots. The election commission may provide for the printing of the ballots on colored paper as follows: State and county ballots, white paper; nonpartisan ballots, blue tinted paper; constitutional amendments and state propositions, red tinted paper; county propositions, green tinted paper; local propositions, buff paper; local candidates, white paper. If the election commission prints ballots on colored paper, all instruction ballots shall be printed on any color paper not used for official ballots.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1970, Act 34, Imd. Eff. June 16, 1970;—Am. 1972, Act 198, Imd. Eff. June 29, 1972.

**Popular name:** Election Code

### 168.564 Official ballots; failure of party to file required petitions, party ballot not printed.

Sec. 564. If in the case of any political party it shall appear that no person has filed the necessary number of nominating petitions, as required by this act, for nomination as a candidate of said party for any office, then no ballot for the use of said political party at the primary shall be printed.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.565 Filing, mailing, and correcting proof copies of ballots; affidavit.

Sec. 565. Proof copies of the ballots shall be placed on file in the office of the county clerk at least 14 days prior to the primary election, and, at the time of filing, 1 proof copy of the ballot shall be sent in counties with a population of 1,500,000 or more by registered or certified mail with return receipt demanded, and in counties with less than 1,500,000 by first class mail to the secretary of state and 1 to each candidate whose name appears upon the ballots, at his or her last known address. If a candidate desires to correct the ballot, the candidate shall forward the ballot to the county clerk within 2 business days of the receipt of the ballot, with the corrections noted on the ballot. The county clerk shall prepare and sign an affidavit when sending proof ballots which: attests that proof ballots were mailed as required; lists the candidates who were mailed ballots; the address to which the ballots were mailed; and lists the date or dates proof ballots were mailed.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1984, Act 113, Imd. Eff. May 29, 1984.

**Popular name:** Election Code

### 168.566 Official primary ballots; posting for public inspection.

Sec. 566. The official primary ballots shall be posted in a conspicuous place at the office of the county, city, village or township clerk, as the case may be, for public inspection at least 3 days prior to distribution for use at the primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.567 Official primary ballots; errors, correction by board of election commissioners.

Sec. 567. The boards of election commissioners shall correct such errors as may be found in said ballots, and a copy of such corrected ballots shall be sent to the secretary of state by the county clerk.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.568 Official primary election ballots; form; contents.

Sec. 568. The official primary election ballots shall be prepared in the following form: At the top of each ballot shall be printed in large type, “Official primary election ballot”. Underneath the heading shall be printed the date of the election at which the ballot is to be used, together with a designation of the political subdivision, as county, district, city, ward, et cetera, in which it is to be used. Then shall follow, in bold-faced type, the name of the political party and vignette, below which shall appear the following instructions to electors: “Make a cross or a check mark in the square to the left of not more than the number of names for each office as may be indicated under the title of each office.” Under this heading shall appear the names of the candidates seeking nomination for various offices on the ticket of the political party. The order of the offices on the ballot shall be the same, as near as may be, as is required by law in making up the ballot used at general elections. The title of the office shall be immediately above the names of the candidate or candidates for the nomination of each office, and under the title the words “Vote for not more than,” followed by the word “one” or “two” or such other word as will designate the number of candidates for the nomination to the office that may be voted for. The names of the different candidates shall be separated from each other by a light-faced rule with a square at the left of each name. The spaces devoted to the candidates for nomination to different offices shall be separated by a black-faced rule so as to separate each office division distinctly. However, the board of election commissioners in any county or city may, if considered desirable, arrange the ballots with an identification numeral to be placed in the same space with the name of each of the candidates, with the identification numeral to be rotated with the name of the candidate when rotated, regardless of where the name may appear upon the ballot.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Popular name:** Election Code

### 168.569 Official primary ballots; numbering; separation of columns.

Sec. 569. The ballots for each election district shall be numbered consecutively in the manner provided for the preparation of ballots for general election. Said ballot may be in 1 or more columns as may be determined by the board of election commissioners preparing the same. If 2 or more columns are used on the ballots, the columns shall be separated by a heavy black line.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.569a Rotation of names; manner; effect of using absent voter counting boards; section applicable to nonpartisan general elections and municipal elections.

Sec. 569a. (1) In all primary elections, if there are more names under the heading of an office than there are candidates to be nominated and the same office appears in more than 1 precinct, the names shall be rotated in the following manner: In printing each set of ballots for the several election precincts, the relative positions of the different names printed in each division shall be changed as many times as there are candidates in that division and as reasonably as possible a candidate's name shall not appear at the top of the ballot more times than any other candidate's name in that division. The names shall first be arranged alphabetically according to surnames on each ballot used in the precinct. In the next precinct the names shall appear in the same order on each ballot, except that the name appearing first under each office in the preceding precinct shall be last. The names shall be changed in that manner in every precinct of the city, village, township, or county.

(2) Where absent voter counting boards are used, each ballot form which contains identical offices and names shall be considered a separate precinct for the purposes of this section.

(3) Notwithstanding provisions of law or charter to the contrary, this section shall apply to nonpartisan general elections and to municipal elections.

**History:** Add. 1985, Act 24, Imd. Eff. May 24, 1985.

**Popular name:** Election Code

### 168.570 Paper ballots; numbering; identification; function of and requirements for detachable corner stub; distribution of ballots; form.

Sec. 570. Paper ballots shall be numbered consecutively and identified by use of the words "official primary ballot" on the upper right hand corner upon the front of the ballot with a perforated line across the corner and underneath the number and identification so that the corner with the number and identification may be torn off. The detachable corner stub shall serve for the several party tickets and the ballot number shall be printed upon the stub on 1 side only. A political party designation shall not appear upon a ballot corner so numbered and identified. After the ballots are trimmed and wrapped in sealed packages, they shall be distributed for use at the primary election in the same manner as is now provided by law for the distribution of ballots to be used at general elections. Ballots shall be prepared in substantially the following form:

```
                                        OFFICIAL PRIMARY BALLOT
                                               No.  ............
                 OFFICIAL PRIMARY ELECTION BALLOT
  Primary election to be held ....................... 19......
in the county of ..........................................  .
                                          ................party.
                                          (Vignette)
  You cannot split your ticket. If you vote for candidates on
more than 1 party ticket, your ballot will be rejected.
  Make a cross or a check mark in the square to the left of
not more than the number of names for each office as may be
indicated under the title of each office.
```

| State. | Legislative. |
|---|---|
| Governor. | State Senator. ..... District. |
| Vote for not more than one. | Vote for not more than one. |



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

```
[ ] 1 John Doe                    [ ] 7 John Doe
_____________________________________________________
[ ] 2 Richard Roe                 [ ] 8 Richard Roe
_____________________________________________________
[ ]                               [ ]
_____________________________________________________
         Congressional.                 Representative in State
                                              Legislature.
   United States Senator.....          .................District.
  Vote for not more than one.        Vote for not more than one.
_____________________________________________________
[ ] 3 John Doe                    [ ] 9 John Doe
_____________________________________________________
[ ] 4 Richard Roe                 [ ] 10 Richard Roe
_____________________________________________________
[ ]                               [ ]
_____________________________________________________
  Representative in Congress.               County.
..................... District.         Prosecuting Attorney.
  Vote for not more than one.        Vote for not more than one.
_____________________________________________________
[ ] 5 John Doe                    [ ] 11 John Doe
_____________________________________________________
[ ] 6 Richard Roe                 [ ] 12 Richard Roe
_____________________________________________________
[ ]                               [ ]
_____________________________________________________
```

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 108, Eff. Nov. 2, 1967;—Am. 1968, Act 46, Imd. Eff. May 24, 1968;—Am. 1985, Act 24, Imd. Eff. May 24, 1985;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Popular name:** Election Code

### 168.570a Official primary ballots; candidates for township offices, order of listing, party qualification; references to February primary and April election, definition.

Sec. 570a. The official primary ballot shall include candidates for township offices. Township offices and candidates shall follow state and county offices and candidates. Parties qualified to appear on the primary ballot for state and county offices and no others are qualified to appear and have the names of their candidates printed on the township portion of the primary ballot. Parties qualified to nominate candidates for state and county offices under the provisions of section 685 and no others are qualified to nominate candidates for township offices at the county caucuses provided in section 686a.

All references in the election law to a February primary shall be deemed to be references to the primary provided by the election law to be held in August prior to the general November election and all references to an April election shall be deemed to be references to the general November election.

**History:** Add. 1966, Act 58, Imd. Eff. June 7, 1966.

**Popular name:** Election Code

### 168.571 Repealed. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963.

**Compiler's note:** The repealed section provided that provisions pertaining to primary election ballots should apply to February primary.

**Popular name:** Election Code

### 168.572 Official primary ballots; provision for write-in votes.

Sec. 572. The ballots shall be prepared in such manner that the electors of each political party may write, print or paste the name of a candidate thereon.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.573 Official primary ballots; packaging, seal, certification.

Sec. 573. The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

some member of the board of county election commissioners, or his or its duly authorized agent, setting forth the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

CONDUCT OF PRIMARY ELECTIONS

### 168.574 Primary election; board of primary election inspectors, membership.

Sec. 574. Each primary election shall be presided over by a board of primary election inspectors, which board shall be composed of the members of the board of election inspectors as provided in section 674 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.575 Primary elections; furnishing ballots to electors.

Sec. 575. After the polls are opened at a primary election, any elector who is legally registered and qualified shall, before entering the booth or voting compartment, be furnished a party ballot, together with any other ballot or ballots to be voted at that primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.576 Marking ballot; voting for person not on ballot; effect of voting more than 1 party ticket; section subject to MCL 168.736a.

Sec. 576. (1) An elector, after having received a ballot or ballots, shall enter a booth or voting compartment and, while there concealed from view, shall vote the ballot or ballots by making a cross or a check mark in the square at the left of the names of those candidates for whom the elector desires to vote, but in no case for more candidates for any office than is indicated under the title of each office. However, an elector may vote for a person whose name is not printed on the ballot by inserting the name in a manner that will substitute it for any name that is printed on the ballot or where no candidate's name appears upon the ballot.

(2) The elector shall indicate his or her choice of candidate son 1 party ticket only and, after marking the ballot, the elector shall fold it for deposit pursuant to the provisions of this act. A ballot on which more than 1 party ticket has been voted is void.

(3) This section is subject to section 736a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### 168.576a Primary elections; electors, number of votes.

Sec. 576a. In all partisan and nonpartisan primary elections, the voter shall be entitled to vote for a number of candidates for each office equal to the number of persons to be elected for that office.

**History:** Add. 1969, Act 275, Imd. Eff. Aug. 11, 1969.

**Popular name:** Election Code

### 168.577 Primary elections; electors, folding and delivery of ballots.

Sec. 577. The elector shall then fold the ballot so that the perforated corner bearing the number and identification shall be on the outside, and shall present it to the proper member of the board of inspectors, who shall tear off the corner bearing the number and shall deposit the ballot in the ballot box.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.578 Primary elections; poll list, comparison of ballot number.

Sec. 578. When a duly registered and qualified elector shall ask for a ballot as before provided, the inspector shall enter his name upon the poll list, and the number of the ballot given to the elector. The inspector receiving the ballot after the same has been voted shall, before depositing it in the box, ascertain by comparison with such list whether the ballot given to him is the same ballot furnished to the elector, and if it is not the same ballot, he shall reject it and the elector shall not be allowed to vote at such primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.579 Primary elections; electors; exposure of ballot; rejection; applicability of section under MCL 168.736a.

Sec. 579. If an elector, after marking his or her ballot, exposes it to any person in a manner likely to reveal the name of any candidate for whom the elector voted, the board of election inspectors shall reject the ballot and the elector shall forfeit the right to vote at the primary. A note of the occurrence shall be made upon the poll list opposite the name of the elector. This section does not apply to an elector who exposes his or her ballot to a minor child accompanying that elector in the booth or voting compartment under section 736a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### 168.580 Counting ballots; candidates considered to have received votes; rejection of ballot.

Sec. 580. In counting the ballots after the closing of the polls, only those candidates having crosses or check marks marked in the squares to the left of their names shall be considered to have received votes, and any ballot upon which more votes have been recorded for candidates for any office than may, by law, be elected to that office shall be rejected as to all names appearing on the ballot for that office only.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Popular name:** Election Code

CANVASSING OF PRIMARY RETURNS

### 168.581 Primary elections; canvass of returns and declaration of results.

Sec. 581. The returns of said primary election shall be canvassed and the results declared in the same manner and within the same time after the primary election and by the same officers as provided for general elections, except that in the case of a primary election for the nomination of a candidate for the office of United States senator, or governor or for the nomination of candidates for district offices in districts comprising more than 1 county, the county clerk of each county affected shall transmit to the secretary of state, within 14 days after the primary election, a certified statement of the number of votes received by each person for nomination as a candidate of any political party for any of the said offices. The secretary of state shall call a meeting of the board of state canvassers at his office not later than 20 days after the primary election, which date he shall forthwith certify to the chairman and secretary of the state central committee of each political party, for the purpose of canvassing the returns and declaring the results of the primary election for the nomination of the candidates for such offices. The said board shall proceed in the same manner in canvassing the returns and in certifying, recording and determining results of a primary election for the nomination of candidates for United States senator and governor as is done in canvassing the returns in the case of the election of state officials. In canvassing the returns of a primary election for the nomination of candidates for the offices of representative in congress, state senator and representatives in the legislature, in districts composed of more than 1 county, said board shall proceed in like manner as is done in canvassing the returns in case of the election of representatives in congress.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 173, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 57, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.582 Person voted for on party ballot whose name is not printed on ballot and who has not filed nominating petition; votes required for nomination.

Sec. 582. A person who is voted for on a party ballot for a state, district, township, county, city, or ward office or for the office of United States senator or representative in Congress whose name is not printed on the ballot and who has not filed a nominating petition for the office voted for, shall not be considered nominated as the candidate of the party for the office, nor be certified as a nominee unless the person receives a total vote equal to not less than .15 of 1% of the total population, as reflected by the last official federal census, of the district for which nomination is sought, but not less than 10 votes for the office, or a total vote equal to 5% of the greatest number of votes cast by the party for any office at the primary in the state, congressional, or other district, township, county, city, or ward, for a candidate or for all candidates for nomination for an office for which only 1 person is to be nominated, whichever is greater. However, for an office to which more than 1 candidate is to be elected, the 5% limitation shall be based upon the greatest number of votes cast at the primary for any candidate for the same office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 226, Eff. Sept. 27, 1957;—Am. 1980, Act 160, Imd. Eff. June 18, 1980.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.583 Primary election day; service of civil process on electors prohibited.

Sec. 583. During the day on which any primary election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

VOTING MACHINES AT PRIMARIES

### 168.584 Voting machines authorized in primaries.

Sec. 584. At all state, county, city, village and township primaries, ballots or votes may be cast, registered, recorded or counted by means of voting machines as hereinafter provided.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 386, Eff. Mar. 31, 1966;—Am. 1972, Act 214, Imd. Eff. July 7, 1972.

**Popular name:** Election Code

### 168.585 Primary elections; use of voting machines; supplementary ballots.

Sec. 585. Any voting machine which is by law authorized to be used at a general election may, by the order of the board of supervisors of any county, the legislative body of any city, the township board of any township, or the village council of any village, be purchased and used therein at primary elections in like manner and to the same extent that such machines may be used at general elections, and in case there are more candidates than can have their names placed on any such machines so to be used, or in case such machine is so constructed that an elector cannot vote for candidates of more than 1 political party, then it shall be the duty of the proper election commission to designate what names shall be voted for on the machines, and to print the remaining names upon proper ballots in such manner as nearly as may be that the political party or parties polling the largest vote in such county for secretary of state at the last preceding election shall be placed upon the machine, and the candidates of smaller parties shall be placed upon ballots, but all the candidates of any party shall either be upon the machine or upon a ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.586 Provisions applicable to use of voting machines; appearance of names of candidates; determination of feasibility.

Sec. 586. The provisions relative to the use of voting machines at general elections shall apply, as near as may be, to the use of voting machines at primary elections. The names of all candidates of each political party, where feasible, shall appear on a single row of the voting machine assigned to that party. If not feasible because of limitations of space, the names of the candidates may appear on the next succeeding row or rows. Before providing that the names of candidates shall appear on a succeeding row, all available spaces on the row assigned to a party shall be used. The determination of the feasibility shall be made by the election commission of the political entity setting up the arrangement of the face of the machine. In determining feasibility the same consideration shall be given to nonpartisan and local candidates as is given to state and county candidates.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1961, Act 50, Eff. Sept. 8, 1961;—Am. 1968, Act 46, Imd. Eff. May 24, 1968;—Am. 1985, Act 24, Imd. Eff. May 24, 1985.

**Popular name:** Election Code

### 168.587 Primary elections; voting machines, straight ticket and excess voting prevented.

Sec. 587. Whenever a voting machine is used in a primary election, the party levers or bars, if any, shall be locked against voting so as to prevent straight ticket voting, and the machine shall be properly arranged so that the elector may vote for as many candidates for each office as there are candidates to be nominated to that office and no more.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.588 Primary elections; voting machines, number in precinct.

Sec. 588. More than 1 voting machine may be used in a precinct.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

CHAPTER XXIVA
CANDIDATES WITHOUT POLITICAL PARTY AFFILIATION

### 168.590 Qualifying petition; filing; filing fee in lieu of petition prohibited; qualifications.

Sec. 590. (1) For the purposes of this act, "qualifying petition" means a nominating petition required of and filed by a person to qualify to appear on an election ballot as a candidate for office without political party affiliation.

(2) A person may file a qualifying petition for a partisan office or office of justice of the supreme court. A filing fee shall not be tendered instead of a qualifying petition.

(3) A person filing a qualifying petition shall meet the qualifications prescribed by law to hold the office.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590a Qualifying petition; form, size, and contents; circulation on countywide basis.

Sec. 590a. (1) The form, size, and contents of a qualifying petition shall be prescribed by the secretary of state and in substantially the same form as provided in section 590h.

(2) A qualifying petition for the office of president of the United States, United States senator, representative in Congress, governor, secretary of state, attorney general, state senator, state representative, state board of education, board of regents of the university of Michigan, board of trustees of Michigan state university, board of governors of Wayne state university, or justice of the supreme court may be circulated on a countywide basis. The form of a qualifying petition that is circulated countywide shall be prescribed by the secretary of state and in substantially the same form as provided in section 590h.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590b Qualifying petition; signatures; time.

Sec. 590b. (1) Except as provided in subsection (2) and subject to the requirements prescribed in subsections (3) and (4), a qualifying petition for an office shall be signed by a number of qualified and registered electors of the district that is represented by the office being sought by the candidate equal to not less than 2% of the total number of votes cast for all candidates for governor in the district at the last election in which a governor was elected. In any case, at least 15 signatures shall be submitted.

(2) Subject to the requirements of subsections (3) and (4), if a qualifying petition is for a statewide elective office, the qualifying petition shall be signed by a number of qualified and registered electors of this state equal to not less than 1% of the total number of votes cast for all candidates for governor at the last election in which a governor was elected.

(3) All signatures on a qualifying petition shall be obtained not more than 180 days immediately before the date of filing under section 590c.

(4) As part of the minimum number of required signatures under this section, a qualifying petition for the office of president of the United States, United States senator, governor, attorney general, secretary of state, state board of education, board of regents of the university of Michigan, board of trustees of Michigan state university, board of governors of Wayne state university, or justice of the supreme court shall be signed by at least 100 registered electors in each of at least 1/2 of the congressional districts of the state.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 1989, Act 142, Imd. Eff. June 29, 1989;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.590c Qualifying petition; filing; time; filing notice of withdrawal.

Sec. 590c. (1) A qualifying petition for an office shall be filed with the filing officer authorized to receive a partisan nominating petition or a certificate of nomination for that office.

(2) A qualifying petition for an office elected at the general November election shall be filed not later than 4 p.m. of the one hundred-tenth day before the general election. A qualifying petition for an official elected at an election other than the general November election shall be filed not later than the deadline established by statute or charter for filing a partisan petition or certificate of nomination for the office or at least 90 days before that election, whichever is later.

(3) A candidate who files a qualifying petition shall not be permitted to withdraw his or her candidacy unless a written notice of withdrawal is filed with the filing officer who received the petition. The notice shall be filed not later than 4 p.m. of the third day after the last day for filing a qualifying petition.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590d Filing name of person to appear on ballot as candidate for lieutenant governor; form; qualification; noncompliance; filing name of person to appear on ballot as candidate for vice-president; qualifications and number of presidential electors; form; noncompliance.

Sec. 590d. (1) Not later than 66 days before the general November election, a candidate without political party affiliation for the office of governor shall file with the secretary of state the name of the person who shall appear on the ballot as candidate for lieutenant governor under section 706. This filing shall be on a form prescribed by the secretary of state. A candidate for lieutenant governor shall meet the qualifications of section 51. If a candidate for governor fails to comply with this subsection, the secretary of state shall not certify his or her name for printing on the general November election ballot.

(2) Not later than 66 days before the general November election, a candidate without political party affiliation for the office of president of the United States shall file with the secretary of state the names and addresses of persons chosen to be presidential electors and the name of the person who shall appear on the ballot as candidate for vice-president under section 706. Presidential electors certified under this subsection shall meet the qualifications of section 41. The number of electors chosen shall equal the number of electors permitted by law. This filing shall be on a form prescribed by the secretary of state. If a candidate for president fails to comply with this subsection, the secretary of state shall not certify his or her name for printing on the general November election ballot.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590e Providing blank qualifying petition forms.

Sec. 590e. Upon request, a county, city, township, or village clerk shall provide blank qualifying petition forms to a person who wishes to appear as a candidate on a ballot in the clerk's jurisdiction as a candidate without political party affiliation. A county clerk is the only officer required to supply qualifying petition forms for countywide circulation.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.590f Applicability of certain provisions; canvass; hearing; certification.

Sec. 590f. (1) Except as provided in subsections (2) and (3), sections 544c, 545, 552, 553, 555, 556, and 558 are applicable to a qualifying petition, a person filing a qualifying petition, and an officer receiving a qualifying petition.

(2) The board of state canvassers shall canvass a qualifying petition filed with the secretary of state and shall make an official declaration of the sufficiency or insufficiency of the qualifying petition at least 60 days before the election. A hearing under this subsection by the board of state canvassers shall be held as provided in section 552.

(3) A filing officer who receives a qualifying petition from a candidate who has met the requirements of this act shall certify to the proper board or boards of election commissioners the candidate's name, post office address, and office sought. If the election for the office is held at the general election, the filing officer shall make the certification not later than 60 days before the general election.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590g Person filing qualifying petition; restrictions; selecting single office to which candidacy restricted; failure to make selection.

Sec. 590g. (1) A person who files a qualifying petition shall not file a partisan nominating petition or filing fee, and shall not be nominated as a candidate by write-in vote or by a political party convention, caucus, or committee, for an office to be elected at the election for which the person has filed a qualifying petition or at an election held during the same calendar year as that election.

(2) A person who files a qualifying petition for more than 1 office, which offices are incompatible and the terms of which offices run concurrently or overlap, shall select the 1 office to which his or her candidacy is restricted not later than 4 p.m. of the third day after the last day for filing a qualifying petition. Failure to make this selection disqualifies the person as a candidate for the offices for which qualifying petitions were filed, and the petitions shall not be canvassed.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.590h Qualifying petition; size; type size; form; reference to political party prohibited; prohibited conduct.

Sec. 590h. (1) A qualifying petition for a candidate without political party affiliation shall be the same size and printed in the same type sizes as required in section 544c. The petition shall be in the following form:

```
                        QUALIFYING PETITION
                 (CANDIDATE WITHOUT PARTY AFFILIATION)
  We, the undersigned, registered and qualified electors of the
city or township of ............, in the county of  ..........,
    (strike 1)
and state of Michigan, nominate  ..............................,
                                     (Name of Candidate)
............................................................,
     (Street Address or R.R.)          (City or Township)
as a candidate without party affiliation for the office of
.............................................................  in
                 (Title of Office and District)
order that the name of the candidate be placed without party
affiliation on the ballot for the election to be held on
the ............. day of ........... , 20.... .
                                WARNING
```

Whoever knowingly signs more petitions for the same office than there are persons to be elected to the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

office or signs a name other than his or her own is violating the Michigan election law.

(2) The balance of the qualifying petition form shall be substantially as set forth in section 544c. A qualifying petition for a candidate without party affiliation shall not contain a reference to a political party.

(3) A person shall not knowingly sign more petitions for the same office than there are persons to be elected to the office or sign a name other than his or her own on the petition.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 2002, Act 431, Imd. Eff. June 6, 2002.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## CHAPTER XXV
## DELEGATES, CONVENTIONS AND PARTY COMMITTEES

### 168.591 Commencement of state convention in even numbered years; date, time, and location; issuance of calls.

Sec. 591. Except as provided in section 532, the state convention of all political parties for the nomination of candidates for state offices in the even numbered years shall commence not less than 60 days before the general November election. The date, time, and location of the state convention shall be designated by the state central committees of the various political parties in their call for a state convention. The calls shall be issued at least 60 days before the August primaries.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1983, Act 181, Imd. Eff. Oct. 25, 1983;—Am. 1988, Act 116, Eff. Nov. 9, 1988;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.592 County conventions in even numbered years; purpose; time; designation of date, place, and hour of meeting; issuance of call; number of delegates; counties having 2 or more congressional districts; committee; temporary chairperson; organization; election and certification of delegates.

Sec. 592. (1) Except as provided in section 532, the county conventions of all political parties for the election of delegates to a state convention for the nomination of state officers in the even numbered years shall be held not less than 8 days nor more than 25 days after the August primaries.

(2) All county conventions of a political party shall be held on the same day throughout the state. The date shall be designated by the state central committee of a political party in its call for the state convention. The place and hour of meeting of a county convention shall be designated in the call issued by the county committee of the political party in the county, which call shall be issued not less than 45 days before the August primaries. The number of delegates to the state convention to which the political party in the county is entitled shall be chosen at the county convention.

(3) In all counties having or which may hereafter have 2 or more congressional districts or parts of congressional districts within the boundaries of the county, the congressional districts or a part of a congressional district within the counties shall each be considered a county within the provisions of this section for the holding of the county conventions provided for in this section, and shall be in place of the county convention. The nominee for congress of the congressional district in the preceding primary election, the county chairperson, and the county secretary of the several political parties shall constitute a committee in each congressional district to name the temporary chairperson of the first district convention held under this act. Thereafter, the district chairperson shall act as temporary chairperson. The convention shall organize the same as county conventions and shall elect delegates to the state convention. The chairperson and secretary of the convention shall certify to the state central committee the names and addresses of the delegates elected, and, when certified, those delegates shall become the delegates from the district to the state convention.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 82, Imd. Eff. Apr. 5, 1956;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1980, Act 261, Imd. Eff. July 30, 1980;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.593 State conventions in odd years; time, issuance of calls; apportionment of delegates among counties.

Sec. 593. A state convention of all political parties shall be held not less than 37 days before the first Monday of April in every odd numbered year. The state central committee of each political party shall cause to be forwarded by mail to the chairman of the county committee of such political party in each county a copy of the call for said state convention of such political party, showing the number of delegates to which each county shall be entitled in the state convention of such political party; and the said state central committee shall apportion such delegates to the several counties in proportion and according to the number of votes cast for the candidate of such party for secretary of state in each of said counties, respectively, at the last preceding November election. The particular day and the hour and place of meeting shall be designated by the state central committees of the various political parties in the call issued therefor by the respective state central committees of the several political parties. A certified copy of such call shall be immediately filed with the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 11, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.594 County convention in odd years; time and place, issuance of call; election of delegates to state convention; congressional district conventions, committee, temporary chairman, election of delegates, certification.

Sec. 594. The county conventions of all political parties for the election of delegates to a state convention in the odd numbered years shall be held not less than 7 days before said state convention. All such county conventions of any one political party shall be held on the same day throughout the state, which day shall be designated by the state central committee of such political party in its call for the state convention provided for in section 593 of this act. The place and hour of meeting of any such county convention shall be designated in the call issued therefor by the county committee of such political party in the county, which call shall be issued not less than 15 days before such county convention. The number of delegates to the state convention to which such political party in such county is entitled shall be chosen at such county convention. In all counties having or which may hereafter have 2 or more congressional districts or parts of congressional districts within the boundaries of the county, such congressional districts or a part of any congressional district within said counties shall each be considered a county within the provisions of this section for the holding of county conventions provided for in this section, and shall be in lieu of said county conventions. The nominee for congress of the congressional district in the preceding primary election, the county chairman and the county secretary of the several political parties shall constitute a committee in each congressional district to name the temporary chairman of the first district convention held under this act. Thereafter, the district chairman shall act as temporary chairman. The said convention shall then proceed to organize the same as county conventions and shall proceed to the election of delegates to the state convention. The chairman and secretary of any such convention shall certify to the state central committee the names and addresses of the delegates so elected, and when so certified they shall become the delegates from said district to the state convention.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 11, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.595 Delegates to state conventions; apportionment to wards, precincts, townships or districts; basis.

Sec. 595. At the time of issuing the call for the county convention of any political party for the election of delegates to a state convention, the county committee of each political party shall apportion to the various wards (or to the precincts, in case delegates to the county convention are elected by precincts) and townships of such county the delegates to the ensuing state convention to which such county is entitled upon the basis provided for in this act for the apportioning of such delegates to the several counties. Any township may be joined with 1 or more other contiguous townships or any ward of a city may be joined with 1 or more other wards of the same city (or, in case delegates to the county convention are elected by precincts, then any precinct may be joined with 1 or more precincts of the same city), in the formation of a district for the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

choosing of 1 delegate. The delegates to the county convention from each ward, precinct, township or district, as the case may be, shall choose the number of delegates to the state convention that have been apportioned to such ward, precinct, township or district. The number of delegates so apportioned to the several wards, precincts, townships and districts shall approximate, as nearly as may be, the number of delegates to which said county may be entitled. If any ward, precinct, township or district shall be without representation in the county convention, or if such ward, precinct, township or district shall not choose the delegate or delegates to which such ward, precinct, township or district is entitled, or if the apportionment has not been completed or followed in the selection of delegates, the convention shall choose the delegate or delegates to which such ward, precinct, township or district may be entitled.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.595a Delegates to state convention; legislators as delegates at large, alternates, vote.

Sec. 595a. In addition to the delegates to the state convention of any political party as provided by section 595, all incumbent members of the state legislature shall be entitled to attend the convention of their political party as delegates at large of the county in which they maintain their legal residence. Such delegates shall not have alternates. He may attend the convention of the county, counties, or portions of counties which he represents in the state legislature and may choose to vote in any or all said county or district caucuses, but having only 1 vote on the floor at the state convention.

**History:** Add. 1967, Act 209, Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.596 Fall conventions and spring conventions; definition.

Sec. 596. The state convention held for the purpose of nominating candidates for state offices to be voted for at the November election shall be known as the “fall” state convention and the county convention held for the purpose of electing delegates to the fall state convention shall be known as the “fall” county convention. The state convention held not less than 37 days before the first Monday of April in every odd numbered year shall be known as the “spring” state convention, and the county convention held for the purpose of electing delegates to the spring state convention shall be known as the “spring” county convention.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 11, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.597 State central committee; members, officers, term of service.

Sec. 597. At its spring state convention in each odd numbered year, each political party shall select a state central committee as herein provided, which committee shall consist of 2 men and 2 women from each congressional district. The state convention shall select a chairman and 2 vice chairmen of the state central committee and such chairman and vice chairmen shall have the right to vote on all questions arising in the committee. The state central committee so constituted shall appoint a secretary and a treasurer and such other officers as in its judgment may be proper and shall have the power to fill any vacancy that may occur in its membership or any of its offices. The term of service of a state central committee shall continue until the election of its successor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 369, Imd. Eff. July 23, 1965.

**Popular name:** Election Code

### 168.598 State central committee; forwarding copy of call for fall state convention; apportionment of delegates; allocation of additional delegates.

Sec. 598. (1) The state central committee of each political party shall, at least 60 days before the August primary, forward by mail to the chairperson of each county committee of the political party a copy of the call for the fall state convention of the political party, showing the number of delegates to which each county is entitled in the state convention of the political party. The state central committee shall apportion the delegates to the several counties in proportion to the number of votes cast for the candidate of the party for secretary of state in each county, respectively, at the last preceding November general election.

(2) In addition to the number of delegates allocated to each county under subsection (1), the state central committees shall allocate an additional number of delegates equal to the number of incumbent legislators nominated by their party and residing in the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 209, Eff. Nov. 2, 1967;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

“If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.599 Executive committee; selection by delegates to fall county convention in county with population of less than 1,500,000; replacement of former nominee; vacancy; appointment of officers; certification of names and addresses; temporary officers; proxy; county committee; delegates at large; vacancy in district delegation.

Sec. 599. (1) In the year 1966 and every second year thereafter, the delegates to the fall county convention of each political party in each county in this state having a population of less than 1,500,000, shall convene at the call of the county chairperson within 20 days following the November election to select a number of persons equal to the number of county offices and state legislative offices for which candidates were nominated at the last 2 preceding fall primary elections, who, together with the persons most recently nominated by the party for each of those offices shall constitute the executive committee of their party for that county. When a new nomination is made for an office, the nominee for which is entitled to serve as a member of the executive committee, the new nominee shall replace the former nominee as a member of the executive committee. If a vacancy occurs in the position of delegate-appointed member of the executive committee, the remaining delegate-appointed members shall fill the vacancy. Except as otherwise provided in this section, the executive committee may appoint the officers it considers proper to carry out the purposes of the committee, and may fill a vacancy in any of its offices.

(2) Immediately following the selection of members of the executive committee, including the filling of vacancies, the secretary of the county committee shall certify the names and addresses of the persons chosen to the county clerk who immediately shall notify each person chosen.

(3) Within 30 days following the convening of the fall county convention the executive committee, acting without the officers of the county committee who are not otherwise members of the executive committee, shall meet and select a temporary chairperson and temporary secretary. The temporary officers shall serve only during the selection of the officers of the executive committee who shall also serve as the officers of the county committee for the 2 years commencing on January 1 next. The officers shall be a chairperson, a vice-chairperson who shall be of the opposite sex of the chairperson, a secretary, and a treasurer. Candidates for legislative offices consisting of more than 1 county may give a written proxy to other members of the executive committee.

(4) After the officers of the county committee have taken office, and within 45 days after January 1 of each odd numbered year, the executive committee shall select a county committee for the party, which committee shall consist of not less than 2 members from each township and 2 members from each ward of each city in the county, or shall consist of at least 2 members from each election precinct in the county, as the executive committee may determine. The committee shall have the right to appoint officers which in its judgment are proper to carry out the purposes of the committee, and shall have power to fill a vacancy which may occur in the membership of the committee or in any of its offices. Between meetings of the county committee the executive committee shall have all of the powers and perform all of the duties of the county committee, including the filling of vacancies in nominations as prescribed by law. The term of service of a county committee shall continue for 2 years and until the selection of its successor.

(5) A person nominated as a candidate of a political party for county office shall be a delegate at large to the fall county convention held in the year of the candidate's nomination and to all county conventions held during the term of office for which the candidate was nominated. A person nominated as a candidate of a political party for state legislative office shall be a delegate at large to the fall county convention held in the year of the candidate's nomination in each county or part of a county contained in the legislative district and to all county conventions held during the term of office for which the candidate was nominated. The number of delegates at large shall be in addition to the number of delegates specified in the call for the fall county convention. If a person is elected both a delegate at large and a delegate of an election district, a vacancy shall exist in the district delegation and shall be filled as provided in section 609.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 186, Imd. Eff. Apr. 24, 1956;—Am. 1963, Act 245, Eff. Sept. 6, 1963;—Am. 1966, Act 233, Imd. Eff. July 11, 1966;—Am. 1967, Act 189, Eff. Nov. 2, 1967;—Am. 1969, Act 248, Imd. Eff. Aug. 11, 1969;—Am. 1977, Act 219, Imd. Eff. Nov. 17, 1977.

**Popular name:** Election Code

### 168.600 Congressional district conventions and caucuses; election and terms of officers and committee.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 600. At the 1964 fall congressional district convention provided for in this act for congressional districts, the majority of the electors of which, reside in a county having a population of over 1,500,000, and at a caucus of each other congressional district held at the time of the 1964 fall state convention, there shall also be elected for each political party a congressional district chairperson, a vice-chairperson of the opposite sex of the chairperson, a secretary, a treasurer, and a committee of 15 members to serve for 2-year terms or until their successors are duly elected and qualified. Thereafter, beginning in 1967, the elections shall be held at the spring congressional district conventions and the caucuses held at the time of the spring state convention in every odd numbered year.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1964, Act 279, Imd. Eff. June 11, 1964;—Am. 1977, Act 219, Imd. Eff. Nov. 17, 1977.

**Popular name:** Election Code

### 168.600a Congressional district officers; residence requirement, exception.

Sec. 600a. No person shall vote or hold any office or position in any congressional district committee or organization unless he is at that time a resident of that congressional district, except members of the state legislature whose districts are located in whole or in part in the congressional district.

**History:** Add. 1968, Act 35, Imd. Eff. May 21, 1968.

**Popular name:** Election Code

### 168.601 County comprising single congressional or judicial district; county committee.

Sec. 601. In a county comprising a single representative, senatorial or judicial district, the county committee of each political party of each such county shall constitute the representative, senatorial or judicial committee of said political party for such representative, senatorial or judicial district, as the case may be.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.602 County comprising more than one congressional district; county committee.

Sec. 602. In a county comprising more than 1 representative or senatorial district, the members of the county committee of each political party residing in each such representative or senatorial district of such county shall constitute a committee of said political party for such representative or senatorial district, as the case may be, and such committee shall elect its chairman and other officers. The chairman shall have the right to vote on all questions arising in said committee.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.603 Repealed. 1967, Act 189, Eff. Nov. 2, 1967.

**Compiler's note:** The repealed section provided for district committee membership at party convention.

**Popular name:** Election Code

### 168.603a Counties over 400,000; legislators as members of congressional district committee and delegates at large.

Sec. 603a. In counties having a population of more than 400,000 persons, all members of the state legislature shall be members of the congressional district committee of their party in each congressional district which encompasses their legislative district in whole or part, and shall serve in addition to the committee of 15 members prescribed in section 600 of this act. Such legislators shall also be seated as delegates-at-large to all congressional district conventions of their party held during their term of office in congressional districts which encompass their legislative district in whole or part. As congressional district committee members and as delegates-at-large, they shall have a voice and vote.

**History:** Add. 1966, Act 264, Imd. Eff. July 12, 1966.

**Popular name:** Election Code

### 168.604 Repealed. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Compiler's note:** The repealed section pertained to call for fall county convention.

**Popular name:** Election Code

### 168.605 Delegates to fall county convention; write-in candidates.

Sec. 605. The name of the candidate for delegate to the county convention shall not be printed upon the official primary election ballot, but 1 or more such names may be placed on such ballot by printed or written



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

slips pasted thereon by the elector, or the names may be written in by the elector.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.606 Delegates to fall county convention; election, notice.

Sec. 606. Delegates to the fall county convention shall be elected by townships and in cities by precincts and the county clerk shall notify by mail each person elected as such delegate.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.607 Delegates to fall county convention; election; votes required; tie vote; determination by lot.

Sec. 607. (1) The required number of electors who receive the highest number of votes for delegates to the fall county convention of a political party shall be declared by the board of primary election inspectors to be elected. If, on the canvass of the votes polled at a primary election for delegates to the fall county convention of a political party, 2 or more candidates for delegate receive an equal number of votes for the same office, and that causes a failure to elect a delegate, the election to the office shall be determined as provided in subsection (2).

(2) The board of canvassers for the county in which the election was held shall appoint a day for the appearance of all the candidates for delegate before the county clerk for the purpose of determining by lot among the candidates the right to the office of delegate. The board of county canvassers shall give notice of the drawing to all interested candidates. The officer before whom the drawing is to take place shall prepare as many slips of paper as there are candidates and write the word “elected” on as many slips of paper as there are offices to be filled, and the words “not elected” on the remaining slips. The officer shall fold the slips of paper so as to conceal the writing and so that they may appear as near alike as possible. The slips of paper shall be placed in a box, and, at the time and place appointed for the drawing of the lots, each candidate may draw 1 of the slips from the box. The candidate drawing a slip on which is written the word “elected” is considered legally elected to the office of delegate. The officer conducting the drawing shall immediately give the elected delegate a certificate of election. If an interested candidate fails to appear at the drawing, the officer conducting the drawing shall designate some person to draw for the absent candidate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 136, Imd. Eff. June 11, 1968;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.608 Certifying and recording names of delegates; filing; notification of delegates; certification of delegates to county conventions; definition.

Sec. 608. (1) The board of primary election inspectors shall certify to the county clerk the names of the electors elected as delegates, naming the political party upon whose ballot the delegates were elected.

(2) The county clerk shall record the names of the delegates elected in a book kept for that purpose and shall file the book among the records of the clerk's office.

(3) No later than 7 days following the primary election, the clerk shall notify each delegate elected of his or her election as delegate.

(4) The county clerk shall certify the following to the chairperson of the committee of each political party of the county:

(a) The delegates elected by the political party as delegates to the county conventions.

(b) The names of all persons nominated as candidates of a political party for county office and for state legislative office who are delegates at large under section 599(5), when those names become available to the county clerk.

(5) As used in this section, “persons nominated as candidates of a political party for county office and for state legislative office who are delegates at large under section 599(5)” means incumbent county officials, incumbent state legislators, and unsuccessful candidates for county offices and state legislative offices who were candidates at the last prior regular or special election held for the respective office.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1983, Act 181, Imd. Eff. Oct. 25, 1983;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

“If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable.”



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.609 Delegates to city or county convention; proxy prohibited; vacancies in delegation.

Sec. 609. No delegate elected to any city or county convention shall give a proxy to represent him at such convention. All vacancies occurring in any delegation to any convention shall be filled by a majority vote of such delegation: Provided, That such delegation shall not be permitted to fill any vacancy which may occur in its number by any person not a resident of the ward, district, township or precinct, as the case may be, from which such absent delegate was chosen.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.610 Repealed. 1975, Act 325, Imd. Eff. Jan. 9, 1976.

**Compiler's note:** The repealed section pertained to selection of national committeeman and national committeewoman.

**Popular name:** Election Code

### 168.611 Reconvening of delegates in county convention; election of delegates to state convention; day, time, and place of county convention; definitions.

Sec. 611. (1) In the year 1956, and each fourth year after 1956, delegates of each political party who were elected to the last prior fall county convention shall reconvene in a county convention. The county conventions, when so convened, shall elect delegates to a state convention. The number of delegates elected shall be the same as the number elected to the last prior spring state convention. The county conventions shall be held at least 90 days prior to the time set for the holding of the national convention of its political party. All county conventions shall be held on the same day and time. The time and place shall be fixed by the state central committee. A state convention composed of delegates elected by the respective county conventions shall be held in the year 1956, and each fourth year after 1956, at least 60 days before the holding of the national convention of its political party.

(2) As used in this section:

(a) "Delegates of each political party who were elected to the last prior fall county convention" means precinct delegates elected at the last prior August primary election, persons nominated as candidates for county offices and state legislative offices who are delegates at large to county conventions under section 599(5), and delegates elected under section 622 or 624d to fill a precinct delegate vacancy for the balance of an unexpired term.

(b) "Persons nominated as candidates for county offices and state legislative offices who are delegates at large to county conventions under section 599(5)" means incumbent county officials, incumbent state legislators, and unsuccessful candidates for county offices and state legislative offices who are candidates at the last prior regular or special election held for the respective office.

(3) Delegates to a state convention shall include only those delegates elected at a county convention.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.612 Precinct or convention delegate; age.

Sec. 612. Any person of the age of 18 years or older shall be eligible to be a candidate for election as a precinct delegate or be selected as a delegate to the state or national convention of any political party.

**History:** Add. 1970, Act 64, Eff. Apr. 1, 1971.

**Popular name:** Election Code

### 168.613 Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to the presidential primary.

**Popular name:** Election Code

### 168.613a Statewide presidential primary election; exception; time; limitation on participation; conduct.

Sec. 613a. (1) Except in 2004 when no statewide presidential primary shall be conducted, a statewide presidential primary election shall be conducted under this act on the fourth Tuesday in February in each presidential election year.

(2) A political party that received 5% or less of the total vote cast nationwide for the office of president in the last presidential election shall not participate in the presidential primary election.

(3) Except as otherwise provided in sections 614a, 615a, 616a, 624g, and 879a, the statewide presidential



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

primary election shall be conducted under the provisions of this act that govern the conduct of general primary elections.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 87, Imd. Eff. June 20, 1995;—Am. 1999, Act 71, Imd. Eff. June 28, 1999;—Am. 1999, Act 72, Imd. Eff. June 28, 1999;—Am. 2003, Act 13, Imd. Eff. May 29, 2003.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.613c Consolidation of local units as new city; election of officers on March 7, 2000.

Sec. 613c. Notwithstanding any law or charter provision to the contrary, if 2 cities and a village are to be consolidated as a new city in 2000 and the new city is scheduled to elect officers on March 7, 2000, the governing body of any of the local units that are to be consolidated may, by resolution adopted before January 14, 2000, cancel an election of officers of that local unit. If the election is canceled, terms of office that would have expired after that election are extended until the effective date of the consolidation.

**History:** Add. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.614 Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to the presidential primary.

**Popular name:** Election Code

### 168.614a List of potential presidential candidates; issuance; filing; notice.

Sec. 614a. (1) Not later than 4 p.m. of the second Friday in November of the year before the presidential election, the secretary of state shall issue a list of the individuals generally advocated by the national news media to be potential presidential candidates for each party's nomination by the political parties for which a presidential primary election will be held under section 613a.

(2) Not later than 4 p.m. of the Tuesday following the second Friday in November of the year before the presidential election, the state chairperson of each political party for which a presidential primary election will be held under section 613a shall file with the secretary of state a list of individuals whom they consider to be potential presidential candidates for that political party.

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

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1999, Act 72, Imd. Eff. June 28, 1999.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.615 Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to the presidential primary.

**Popular name:** Election Code

### 168.615a Printing name of presidential candidate on ballot; filing affidavit; filing nominating petition; signatures; conformity; rotation of names on ballot; space to vote uncommitted.

Sec. 615a. (1) 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 presidential primary ballot under the appropriate political party heading. 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 party preference if different than the party preference contained in the secretary of state notification and the secretary of state shall cause that presidential candidate's name to be printed under the appropriate party heading on the presidential primary ballot. 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 the presidential primary ballot and the secretary of state shall not have that presidential candidate's name printed on the presidential primary ballot. A presidential candidate shall file an affidavit described in this subsection with the secretary of state no later than 4 p.m. on the second Friday in December of the year before the presidential election year or the affidavit is considered void.

(2) The name of an individual who is not listed as a potential presidential candidate under section 614a shall be printed on the ballot for the presidential primary under the appropriate political party heading if he or she files a nominating petition with the secretary of state no later than 4 p.m. on the second Friday in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

December of the year before the presidential election year. 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 political party for which the individual is seeking this 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 October 1 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 under each political party heading shall be rotated on the ballot. The ballot shall contain a space for an elector to vote uncommitted.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 87, Imd. Eff. June 20, 1995;—Am. 1999, Act 72, Imd. Eff. June 28, 1999.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.616 Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to the presidential primary.

**Popular name:** Election Code

### 168.616a Canvass of returns; certification of results; release of ballots, ballot boxes, voting machines, and equipment.

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 election to the secretary of state.

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

(3) Notwithstanding sections 831 and 847 or an administrative rule promulgated pursuant to section 794c, after the canvass by the board of state canvassers under subsection (1), the secretary of state may authorize the immediate release of all ballots, ballot boxes, voting machines, and equipment used in each precinct of a city that conducts a city election in the first week of April if both of the following requirements are met:

(a) The county clerk certifies that no defect in or mechanical malfunction of a voting machine, voting device, ballot, or other election equipment or material was discovered or alleged before the date of the completion of the state canvass.

(b) The county clerk certifies that no other election for offices or questions appeared on the same election equipment used in the precinct for the presidential primary election.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.617 Repealed. 1975, Act 325, Imd. Eff. Jan. 9, 1976.

**Compiler's note:** The repealed section pertained to county conventions.

**Popular name:** Election Code

### 168.618 Allocation of delegates to national convention; qualifications of delegates; selection procedures.

Sec. 618. The allocation of all delegates and alternates to a national convention shall be made by the state central committee of each party. All delegates shall be registered electors of this state. Delegates elected from congressional districts shall be registered electors of those districts. All national convention delegates shall be chosen according to procedures and any other qualifications as may be established by the state central committee of that political party. The procedures and qualifications may include, but are not necessarily limited to guarantees that discrimination on the basis of race, creed, color, sex, age, national origin, or economic status does not occur.

**History:** Add. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.619 National convention delegates; basis of election; affidavit; certification; duration of commitment; vacancy; legislator prohibited from selecting delegates; participation of legislator in convention business; opportunity of registered elector or public official to be elected as delegate not restricted.

Sec. 619. (1) National convention delegates elected under this act shall be elected on a basis that insures that the proportion of the total national convention delegation that is uncommitted or is committed to each presidential candidate equals, as near as is practicable, the proportion of the popular vote that was cast as uncommitted or for each respective presidential candidate of the particular political party's total popular vote at the presidential primary election. The determination of these proportions shall only include the votes cast as uncommitted, or for a particular presidential candidate, if the total vote cast as uncommitted, or for that particular presidential candidate, equals at least the percentage determined by state political party rule of the total vote cast for all presidential candidates or as uncommitted for that political party at that presidential primary election.

(2) Before an individual may be elected as a delegate to the national convention of a political party, that individual shall file an affidavit as required under section 562b. If the individual names a presidential candidate in the affidavit under section 562b(1)(a), that individual shall also be certified by the presidential candidate or the presidential candidate's designee as a delegate committed to that presidential candidate. A national convention delegate shall be bound to vote for the presidential candidate for whom he or she designated commitment, if any, under section 562b and as certified by the presidential candidate or the presidential candidate's designee under this section before the delegate is elected as a national delegate until the end of the first ballot at the national convention. However, a national convention delegate is released from that commitment by the withdrawal of that presidential candidate from contention for that party's nomination or by written release of that presidential candidate to the chairperson of the national convention, whichever is earliest.

(3) If a vacancy occurs in the elected delegation, it shall be filled by an alternate selected by the caucus for the candidate to whom the original delegate was committed, and the alternate shall be required to meet the same qualifications of the delegate being replaced.

(4) A person who is a delegate at large to a state convention of his or her political party only by virtue of being a member of the state legislature as provided in section 595a shall not participate in the selecting of delegates to his or her political party's national convention. This subsection does not prohibit that person from participating in other convention business. Neither this provision nor any other provision of law shall be understood to restrict the opportunity of any registered elector in this state, including all public officials, to be elected as a delegate to any county, district, state, or national convention of the elector's political party.

**History:** Add. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1995, Act 87, Imd. Eff. June 20, 1995.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.620 Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to rules, procedures, allocation, and qualification of delegates.

**Popular name:** Election Code

### 168.620a Law applicable to selection of delegates; state or national political party rule.

Sec. 620a. For purposes of this act, a state political party shall follow state law pertaining to the selection of delegates if required to follow state law by a state or national political party rule. If there is no such state or national political party rule, a requirement of this act pertaining to the selection of delegates applicable after the election of delegates to the county convention shall not apply to a political party if that requirement conflicts with a rule of that political party.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

## CHAPTER XXVI
## DELEGATES—REFERENDUM

### 168.621 Party convention delegates; nomination.

Sec. 621. In all counties the provisions of this chapter shall be in force and effect and the nomination of all



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

candidates of all political parties for delegates to county conventions shall be conducted as herein provided.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 124, Imd. Eff. Apr. 13, 1956;—Am. 1964, Act 236, Imd. Eff. May 27, 1964.

**Popular name:** Election Code

### 168.622 County conventions; time and place; election and duties of chairperson; vacancies; rules and regulations.

Sec. 622. The county conventions of each political party shall be held at the time and place that the county committee of each political party, through its chairperson, designates. County conventions at which delegates to a state convention are to be selected shall be held only at the times designated by the state central committee of the political party. The convention shall be called to order by the chairperson of the county committee of each political party. The chairperson shall act as temporary chairperson until the delegates elect a permanent chairperson. A permanent chairperson shall be elected before any other business is transacted. The election of a permanent chairperson shall be conducted as provided in this section. The chairperson of the county committee shall cause to be read the list of elected delegates and delegates at large under section 599(5) for the convention furnished to the chairperson by the county clerk under section 608. However, before reading the list, the chairperson of the county committee shall delete from the list the names of delegates that have been certified by the county clerk as disqualified under section 624a and shall add to the list the names of delegates elected to fill a vacancy for the balance of an unexpired term under this section, if any. When the name of each delegate on the list is called, the delegate shall state his or her choice for permanent chairperson. The person receiving a majority of the votes of the delegates present shall become permanent chairperson. The convention may fill any vacancy occurring in any delegation to a county convention by a majority vote of the delegates present. However, a vacancy shall not be filled by any person not a qualified, registered elector residing in the precinct in which the vacancy occurs. The convention shall prescribe the rules and regulations for the conduct of its affairs.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.623 Repealed. 1972, Act 60, Imd. Eff. Feb. 22, 1972.

**Compiler's note:** The repealed section pertained to the election of delegates to fall county conventions.

**Popular name:** Election Code

### 168.623a Mailing or delivering certificate showing number of delegates to county convention; time; notice; failure to forward certificate; allotment and apportionment of delegates; election of delegates by direct vote.

Sec. 623a. (1) On or before April 1 in even numbered years, the chairperson of the county committee or district committee of a congressional district or a part of a congressional district considered a county under section 592 of each political party shall forward by mail or otherwise deliver to the board of election commissioners in that county a certificate showing the number of delegates to the county convention to which each precinct of the county is entitled. The chairperson of the state central committee of a political party shall notify the chairperson of the county committee or district committee of a congressional district or a part of a congressional district considered a county under section 592 of that political party no later than March 1 in even numbered years that the certificate required by this subsection is to be delivered to the board of election commissioners on or before April 1 of that year.

(2) If the chairperson fails to forward the certificate required by subsection (1) by the day specified, the board of election commissioners shall immediately determine the number of delegates to the county convention that each precinct should elect for the implementation of this act.

(3) The allotment of delegates to all precincts in the state shall be made to insure, as near as is practicable, equal apportionment based upon the total vote cast for the candidate of each political party for either president of the United States or secretary of state at the last general November election when elections for those offices were held, whichever is later. However, each precinct shall have at least 1 delegate.

(4) The apportionment shall be based on the precincts as they exist 180 days before the August primary election in even numbered years.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) As many delegates in each precinct as a political party is entitled to according to the certificate authorized by the chairperson of the county committee or the board of election commissioners shall be elected at the August primary in even numbered years by direct vote of the registered electors of each political party in the county.

**History:** Add. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1983, Act 181, Imd. Eff. Oct. 25, 1983;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## 168.624 Delegate to county or district conventions; qualifications; affidavits of identity; seating of delegates; violation as misdemeanor; complaints; procedure.

Sec. 624. (1) A person holding a public office in this state or a municipal subdivision of this state may become a candidate for delegate to the county or district conventions.

(2) A candidate for delegate to the county or district conventions of a political party shall be a qualified and registered elector residing within, as well as having his or her actual bona fide residence within, the election precinct for which he or she desires to become a candidate on the filing deadline. A candidate shall file an affidavit of identity as prescribed in section 558(1) with the county clerk of the county or the clerk of the city or township in which the candidate resides. A clerk shall receive affidavits of identity under this section up to 4 p.m. on the twelfth Tuesday preceding the time designated for holding a primary election in the county. Within 4 days after the last day for filing affidavits of identity under this section, the city or township clerk shall forward to the county clerk the affidavit of identity of each candidate who has qualified for a position on the primary ballot. All duly elected and certified delegates shall be seated at the county or district county conventions. A person violating this section is guilty of a misdemeanor.

(3) If a written complaint is made to the county clerk with respect to the registration or bona fide residence, or both, of a candidate, the county clerk shall check with the township or city clerk of the township or city in which the candidate is registered or residing, or both. The township or city clerk shall report back to the county clerk within 48 hours as to the registration or bona fide residence, or both, of the candidate. If the township or city clerk's report shows that the candidate is not a registered elector or a bona fide resident of the election precinct of the township or city for which the petition shows the candidate is a resident, the county clerk shall remove the name of the candidate from the ballot. A complaint received by the county clerk after the ballots have been released for printing and before the primary election shall not be acted upon.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Should this law be approved?
Yes _____
No _____"
Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.624a Precinct delegate; resignation; notice; withdrawal of name from ballot; qualification of delegate to participate in convention; complaint regarding qualification of delegate; report; certification that delegate not qualified to hold office.

Sec. 624a. (1) A precinct delegate may resign his or her office upon written notice to the chairperson of the county committee and the county clerk of the county or district in which the delegate resides.

(2) A person who has filed petitions for precinct delegate may withdraw his or her name from the ballot by filing a statement of withdrawal with the county clerk within 72 hours after 4 p.m. of the last day to file for the office of precinct delegate.

(3) A person elected to fill a delegate vacancy or elected as a precinct delegate is not qualified to participate in a convention if, at the time of the convention, that person does not reside in the precinct from which he or she was elected. A delegate is not disqualified if the delegate no longer resides in the precinct as a result of a division or rearrangement of the precinct under section 656, 660, or 661.

(4) If a written complaint is made to the county clerk regarding a delegate's qualification to hold the office, the county clerk shall check with the township or city clerk of the township or city in which the delegate indicated on the nominating petition as his or her place of residence. The township or city clerk shall report back to the county clerk within 48 hours as to the complaint made under this subsection. If the township or city clerk's report shows that the delegate is not qualified to hold the office, the county clerk shall certify to the chairperson of the county committee of the political party the name of the delegate of that political party who is no longer qualified to hold the office of delegate under this subsection.

**History:** Add. 1971, Act 66, Imd. Eff. July 28, 1971;—Am. 1978, Act 173, Imd. Eff. May 30, 1978;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?
Yes _____
No _____"
Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.624b, 168.624c Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed sections pertained to including name of presidential candidate in nominating petition and to filing or withdrawal of candidate for delegate.

**Popular name:** Election Code

## 168.624d Filling vacancies in precincts.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 624d. Vacancies in precincts resulting from the death of a delegate, the written resignation of a delegate to the chairperson of the county committee, the removal of a delegate's residence from the precinct, or any other reason may be filled for the balance of the unexpired term by a majority vote at the county convention of the delegates elected and serving. A delegate vacancy shall be filled by a registered elector of the precinct in which the vacancy occurs.

**History:** Add. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.624e Expired. 1972, Act 185, Eff. Jan. 1, 1973.

**Compiler's note:** The expired section pertained to reimbursement of costs of presidential primary election.

**Popular name:** Election Code

### 168.624f Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to reimbursement of costs of conducting presidential primary election.

**Popular name:** Election Code

### 168.624g Cost of conducting presidential primary election; reimbursement; payment upon presentation and approval of verified account; excluded costs; compensation for processing voter identification cards; implementation of subsection (3); appropriation; qualification for reimbursement; payment or disapproval of verified account.

Sec. 624g. (1) The state shall reimburse each county, city, and township for the cost of conducting a presidential primary election. 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 department of treasury and the secretary of state agree as to what constitutes valid costs of conducting an election. 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 state shall disapprove costs not in compliance with this section.

(3) The state shall also compensate each city and township for the processing of voter identification cards required for the sole purpose of changing or adding an elector's designation of a political party preference or no political party preference. Compensation shall not be paid to a city or township for the processing of voter identification cards required for original voter registration applications or voter registration applications changing an elector's address. The secretary of state shall equitably distribute funds appropriated to implement this subsection upon receipt of an annual verified account of actual costs from each city and township stating the number of voter identification cards processed as specified by this subsection.

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

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

(6) Not later than 90 days after the state receives a verified account of actual costs, the state shall pay or disapprove the verified account.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.625 Voting and canvassing delegate ballot; returns; notice; furnishing names and addresses of delegates to county convention; tie vote; determination of successful candidate; determining if candidate is registered elector; certification.

Sec. 625. A delegate ballot shall be voted and canvassed by the precinct inspectors in the same manner as ballots bearing the names of the candidates for other county offices. The returns shall be made direct to the county clerk, who shall immediately notify the successful candidates by registered, certified, or first class



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

mail at the address given in their nominating petitions. The county clerk shall, at the same time, furnish the chairperson of the county committee of each political party with the names and addresses of the delegates to the county convention of the chairperson's political party as required in section 608. However, in case of a tie vote between the candidates for delegate in any precinct, the county clerk shall notify the candidates to appear in his or her office at a specified time, and the successful candidate shall be determined by drawing in a manner similar to that provided in section 851. If a candidate is elected who has not filed a nominating petition and whose name is not printed on the ballots, the chairperson of the board of precinct election inspectors shall determine if the candidate is a registered elector in that precinct. If the candidate is a registered elector in that precinct, the candidate's name and address shall be certified to the county clerk on the return and if not registered, the candidate's name shall not be certified on the return.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.626 Ballots; preparation; consecutive numbering; contents; paper; printing; rotation of names prohibited; delivery; distribution; time; voting machines.

Sec. 626. The board of county election commissioners shall prepare separate ballots for each of the several political parties for each election precinct in the county. The ballots shall be numbered consecutively and shall set forth the names of the candidates for delegates who have filed affidavits of identity with the county, city, or township clerk under section 624. The ballot shall be prepared in such a manner that the electors of each political party may write, print, or paste the name of a candidate for delegate on the ballot. The delegate ballot at a partisan primary shall consist of 1 sheet of 70-pound white book paper, machine finished or equivalent, with 1 of the political party tickets printed on each side of the ballot. The names on the delegate ballot shall not be rotated. The ballots shall be delivered to the county clerk for distribution to the election precincts at least 10 days before the primary election. However, if there is located within a county, subject to the provisions of this chapter, 1 or more cities or townships, or parts of cities or townships, in which voting machines are used, the board of county election commissioners may, in its discretion, dispense with the preparation of ballots for the election of delegates to the county convention of the several political parties and provide for their election upon the voting machines.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1988, Act 116, Imd. Eff. May 2, 1988;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## CHAPTER XXVII
## SPECIAL PRIMARIES AND ELECTIONS

### 168.631 Special primary election; time.

Sec. 631. Whenever a special election shall be called to fill a vacancy in any office, the candidates for which are regularly nominated in accordance with the provisions of this act relating to primary nominations, a special primary for all political parties shall be held in the county, district or city in which the vacancy occurs on such day as may be fixed by the official or legislative body calling the special election, but not less than 20 days prior to the date of such special election, and the authorities calling any such special primary shall, in the call therefor, fix the time within which candidates may file nominating petitions.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.632 Special elections; in absence of choice for representative in congress.

Sec. 632. The governor shall call a special election in any congressional district of the state in which there has been no choice for a representative in congress at the general November election, or he shall direct that in such case the office shall be filled at the next general election.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.633 Special elections; vacancy in office of representative in congress.

Sec. 633. The governor shall call a special election in any congressional district of the state when the right of office of a person elected representative in congress shall cease before the commencement of the term of service for which he shall have been elected, or whenever a vacancy shall occur in the office of representative in congress after the term of service has begun for which such representative was elected; or the governor shall direct that such vacancy shall be filled at the next general election to be held at least 30 days after such vacancy shall occur.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.634 Vacancy in office of state senator or representative; special or general election; selection and certification of candidate; separate ballot; notice.

Sec. 634. (1) Except as otherwise provided in this section, when a vacancy occurs in the office of senator or representative in the state legislature, the governor may call a special election in that senatorial or representative district or direct that the vacancy be filled at the next general election.

(2) If the vacancy occurs after the primary election and before the following general election the governor may direct that the vacancy be filled at that election. If the governor directs that the vacancy be filled at the following general election, the executive committee of the county committee of each political party, if the county comprises 1 or more representative districts, or, if the district is comprised of more than 1 county, then the executive committee of the county committee of the respective political parties of each county in the district, may select, by a majority vote, a candidate for that office, and shall certify the name of the candidate to the county board of election commissioners of the county or counties comprising that representative district within 21 days after the vacancy occurs and at least 10 days before the general election. Upon certification, the candidate certified shall be the nominee of that party at that general election to fill the vacancy for the unexpired term with the same force and effect as if the person was nominated at a primary election as otherwise provided in this act. If the ballots for that election have already been printed before the certification, then the board of election commissioners shall cause the names of the candidates to be printed on a separate ballot, which ballot shall be counted, canvassed, and returned as other ballots cast at that election.

(3) If the governor directs that the vacancy be filled at the next general election, the secretary of state shall give notice of that decision similar to the notice provided for in section 651.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 464, Eff. Mar. 30, 1979;—Am. 1980, Act 261, Imd. Eff. July 30, 1980;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.634a Repealed. 1970, Act 10, Imd. Eff. Mar. 31, 1970.

**Compiler's note:** The repealed section provided for calling special election to fill vacancies in any court of record.

**Popular name:** Election Code

### 168.635 Special elections; referendum.

Sec. 635. A special election for the submission of a proposition may be held on a regular election date.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.636 Applicability of act to special primary elections.

Sec. 636. The provisions of this act relative to primary election ballots shall be applicable to the ballots prepared for use at a special primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.637 Primary elections; provisions governing.

Sec. 637. All primary elections held in this state shall be governed by and conducted in accordance with the provisions of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.638 Special elections; notice.

Sec. 638. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the county clerk of each of the counties embraced in the election district, or the county clerk of the county the whole or part of which constitutes the election district, of the time of holding such election, the cause of such vacancy, the name of the officer and the time when the term of office will expire.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.639, 168.640 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed sections pertained to county election scheduling committee and calling special election in city with population of 1,000,000 or more persons.

**Popular name:** Election Code

## CHAPTER XXVIII
## HOLDING OF ELECTIONS

### 168.641 Regular election date; special election; report; direction and supervision of election consolidation; short title of section.

Sec. 641. (1) Except as otherwise provided in this section and sections 642 and 642a, beginning January 1, 2005, 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 make a report to the house and senate committees that consider election issues by December 1, 2006. The secretary of state shall report about the special elections held under this subsection, including, but not limited to, all of the following:

(a) The number of times a special election has been held.

(b) Which school districts have held special elections.

(c) Information about the success rate of the ballot question submitted at the special elections.

(d) Information about voter turnout, including the percentage and number of registered voters who voted in each special election.

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

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



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 298, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.642 Regular election or regular primary election; effective date.

Sec. 642. (1) Except as otherwise provided in this section and section 642a, on the effective date of this act, a city shall hold its regular election or regular primary election as follows:

(a) A city shall hold its regular election for a city office at the odd year general election.

(b) A city shall hold its regular election primary at the odd year primary election.

(c) A city that holds its regular election for a city office annually or in the even year on the November regular election date shall continue holding elections on that schedule.

(d) A city that holds its regular election primary for a city office annually or in the even year on the August regular primary election date shall continue holding primary elections on that schedule.

(2) If, on September 1, 2004, a city holds its regular election at other than a regular November election date, the city council may choose to hold the regular election on the May regular election date by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election on the May regular election date, after December 31, 2004, the city's regular election is on the May regular election date. If a city's regular election is held on the May regular election date, the city's regular election primary shall be held on the February regular election date immediately before its regular election.

(3) If, on September 1, 2004, a city holds its regular election annually or in the even year on the November regular election date, the city council may choose to hold the regular election at the odd year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election at the odd year general election, after December 31, 2004, the city's regular election is at the odd year election. If a city's regular election is held at the odd year general election, the city's regular election primary shall be held at the odd year primary election.

(4) If, on September 1, 2004, a city holds its regular election annually on the November regular election date, the city council may choose to hold the regular election at the even year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election at the even year general election, after December 31, 2004, the city's regular election is at the even year election. If a city's regular election is held at the even year general election, the city's regular election primary shall be held at the even year primary election.

(5) If, on September 1, 2004, a city holds its regular election primary at the September primary election, the city council may choose to continue holding its regular election primary at the September primary election by adopting a resolution in compliance with this section. Except as provided in section 642a(2), if a city council adopts the resolution in compliance with this section to hold its regular election primary at the September primary election, after December 31, 2004, the city's regular election primary is at the September primary election.

(6) Except as otherwise provided in this section and section 642a, on September 1, 2004, a village shall hold its regular election as follows:

(a) A village shall hold its regular election for a village office at the general election and the appropriate township clerk shall conduct the election.

(b) A village shall not hold a regular primary election.

(7) A village council may make a 1-time choice to hold the regular election at the September primary election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a village council adopts the resolution in compliance with this section to hold its regular election at the September primary election, after December 31, 2004, the village's regular election is at the September primary election and the village clerk shall conduct the election. The resolution may provide for the terms of office and for staggered terms. If a village's regular or special election is held in conjunction with another election conducted by a township, the village shall pay the township a proportionate share of the election expenses. If a village's regular or special election is not held in conjunction with another election conducted by a township, the village shall pay the township 100% of the actual costs of conducting the village's regular



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

or special election. The township shall make voting equipment available to a village if the village conducts an election. If the village is located in more than 1 township, the township with the largest number of village electors shall furnish the voting equipment.

(8) Except as otherwise provided in this section and section 642a, on September 1, 2004, a school district shall hold its regular election for the office of school board member at the odd year general election.

(9) If, on September 1, 2004, a school district holds its regular election at other than the odd year general election, the school district's school board may choose to hold its regular election on 1 of the following by adopting a resolution in compliance with this section:

(a) The odd year May regular election date.

(b) The November regular election date in both even and odd years.

(c) The May regular election date in both even and odd years.

(10) A resolution permitted under this section or section 642a is valid only if a city council, village council, or school board adopts the resolution in compliance with all of the following:

(a) The resolution is adopted before 1 of the following:

(*i*) If the resolution is permitted under subsection (2), (3), (4), (5), (7), or (9) of this section, January 1, 2005.

(*ii*) If the resolution is permitted under section 642a(1), (2), or (3), January 1 of the year in which the change in the date of the election takes effect.

(b) Before adopting the resolution, the council or school board holds at least 1 public hearing on the resolution. The public hearing may be held on the same day and immediately before considering the adoption of the resolution.

(c) The council or school board gives notice of each public hearing on the resolution in a manner designed to reach the largest number of the jurisdiction's qualified electors in a timely fashion, and the notice states at least the following, as applicable:

(*i*) That the hearing is being held on the issue of whether to schedule the city's regular election on the May regular election date and that, if the resolution is not adopted, the city's regular election will be held at the odd year general election.

(*ii*) That the hearing is being held on the issue of whether to schedule the city's regular election primary at the September primary election and that, if the resolution is not adopted, the city's regular election primary will be held on the odd year primary election.

(*iii*) That the hearing is being held on the issue of whether to schedule the village's regular election at the September primary election and that, if the resolution is not adopted, the village's regular election will be held at the general election.

(*iv*) That the hearing is being held on the issue of whether to schedule the school district's regular election at other than the odd year general election and that, if the resolution is not adopted, the school district's regular election will be held at the odd year general election. The notice shall specifically state the regular election date permitted under subsection (8) on which the school board is proposing that the school district's regular election be held.

(*v*) That the hearing is being held on the issue of whether to schedule the school district's regular election at the odd year general election and that, if the resolution is not adopted, the school district's regular election will continue to be held on the date on which it is currently being held.

(d) The council or school board votes on the resolution and, on a record roll call vote, a majority of the council's or school board's members, elected or appointed, and serving, adopt the resolution.

(e) The council or school board files the resolution with the secretary of state.

(11) This section takes effect September 1, 2004.

**History:** Add. 2003, Act 302, Eff. Sept. 1, 2004;—Am. 2004, Act 292, Eff. Sept. 1, 2004.

**Compiler's note:** Former MCL 168.642, which pertained to biennial spring elections, was repealed by Act 56 of 1963, 2nd Ex. Sess., Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.642a Change of regular election to odd year general election.

Sec. 642a. (1) After December 31, 2004, a city council that adopted a resolution so that its regular election is held on the May regular election date may change its regular election to the odd year general election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642 to hold its regular election at the odd year general election, after December 31 of the year in which the resolution is adopted, the city's regular election is at the odd year general election.

(2) After December 31, 2004, a city council that holds its regular election for city offices annually or in the even year on the November regular election date may change its regular election schedule to the odd year



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

general election and the odd year primary election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642, the city's regular election is at the odd year general election and its primary is at the odd year primary election.

(3) After December 31, 2010, a city that adopted a resolution so that its regular election primary is held at the September election shall hold its regular election primary at the odd year primary election.

(4) After December 31, 2004, a school district's school board that adopted a resolution so that its regular election is held on a date other than at the odd year general election may change its regular election to the odd year general election, the general November election, the November regular election date in both even and odd years, or the odd year May regular election date by adopting a resolution in compliance with section 642. If a school board adopts the resolution in compliance with section 642 to hold its regular election at the odd year general election, the general November election, the November regular election date in both even and odd years, or the odd year May regular election date, after December 31 of the year in which the resolution is adopted, the school board's school district shall hold its regular election on the election date adopted in the resolution.

(5) After December 31, 2009, a school district's school board that holds its regular election for the office of school board member at the odd year general election may change its regular election to the general November election by adopting a resolution in compliance with section 642. If a school board adopts the resolution in compliance with section 642 to hold its regular election at the general November election, after December 31 of the year in which the resolution is adopted, the school board's school district shall hold its regular election at the general November election.

(6) After December 31, 2004, a village council that adopted a resolution so that its regular election is held on the September election date may change its regular election to the November regular election date by adopting a resolution in compliance with section 642. If a village council adopts the resolution in compliance with section 642 to hold its regular election at the November regular election date, after December 31 of the year in which the resolution is adopted, the village's regular election is at the November regular election date.

**History:** Add. 2003, Act 302, Eff. Sept. 1, 2004;—Am. 2004, Act 294, Eff. Sept. 1, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2010, Act 182, Imd. Eff. Sept. 30, 2010;—Am. 2010, Act 222, Imd. Eff. Dec. 10, 2010.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.643 General election; officers to be elected.

Sec. 643. At the general election, the following officers shall be elected when required by law:

(a) Presidential electors.

(b) In the state at large, a governor and a lieutenant governor, a secretary of state, and an attorney general.

(c) A United States senator.

(d) In each congressional district, a representative in congress.

(e) In each state senatorial district, a state senator.

(f) In each state representative district, a representative in the state legislature.

(g) Justices of the supreme court.

(h) Two members of the state board of education.

(i) Two regents of the University of Michigan.

(j) Two trustees of Michigan State University.

(k) Two governors of Wayne State University.

(*l*) In each county or district, judges of the court of appeals, a judge or judges of the circuit court, a judge or judges of probate, a judge or judges of the district court, a prosecuting attorney, a sheriff, a treasurer, an auditor, a mine inspector, a county road commissioner, a drain commissioner, a surveyor, and, subject to section 200, a clerk and a register of deeds or a clerk register.

(m) Township officers.

(n) Any other officers required by law to be elected at that election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1998, Act 364, Imd. Eff. Oct. 20, 1998;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.643a Referendums; questions submitted to electors; form.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 643a. A question submitted to the electors of this state or the electors of a subdivision of this state shall, to the extent that it will not confuse the electorate, be worded so that a “yes” vote will be a vote in favor of the subject matter of the proposal or issue and a “no” vote will be a vote against the subject matter of the proposal or issue. The question shall be worded so as to apprise the voters of the subject matter of the proposal or issue, but need not be legally precise. The question shall be clearly written using words that have a common everyday meaning to the general public. The language used shall not create prejudice for or against the issue or proposal.

**History:** Add. 1969, Act 152, Eff. Mar. 20, 1970;—Am. 1994, Act 152, Eff. Jan. 1, 1995.

**Popular name:** Election Code

### 168.644 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Compiler's note:** The repealed section specified officers to be elected at biennial spring elections.

**Popular name:** Election Code

### 168.644a-168.644c Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed sections pertained to odd year general and primary elections and officers to be elected.

**Popular name:** Election Code

### 168.644e Nomination by primary; candidate filing deadline or certification deadline.

Sec. 644e. Except as provided in section 642, an officer required to be elected at the odd year general election shall be nominated at the odd year primary election. If a charter provides for nomination by caucus or by filing a petition or affidavit directly for the general election, the candidate filing deadline or certification deadline shall be 4 p.m. on the twelfth Tuesday before the odd year general election. If a charter provides for the election at the primary of a candidate who receives more than 50% of the votes cast for that office, the candidate filing deadline or certification deadline shall be 4 p.m. on the twelfth Tuesday before the primary.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2010, Act 44, Imd. Eff. Mar. 31, 2010.

**Popular name:** Election Code

### 168.644f Nominating petitions; filing; signatures; omission of primary.

Sec. 644f. (1) Except as provided in section 644e, nominating petitions for offices to be filled at the odd year general election shall be filed by 4 p.m. on the twelfth Tuesday prior to the odd year primary election. The place of filing and the number of signatures shall be the same as is now required by law for such offices.

(2) If a nonpartisan petition requirement is not contained in law or charter, the minimum number of signatures shall be the amount as provided for in section 544f.

(3) If, upon the expiration of the time for filing nonpartisan petitions, not more than twice the number of candidates as there are persons to be elected to that office have filed, the primary for that office shall not be held and those persons filing valid petitions shall be declared the nominees for the offices, unless a city charter provides otherwise for city offices.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000.

**Popular name:** Election Code

### 168.644g Terms of office; extension.

Sec. 644g. (1) A term of office shall not be shortened by the provisions of sections 641 to 644i. An officer scheduled by prior law to be elected at a time other than the odd year general election shall not be elected on the date scheduled but shall continue in office until a successor takes office after being elected in the first odd year general election following that date. If the regular election date for holding a jurisdiction's regular election is changed under section 642 or 642a, the term of an official who was elected before the effective date of the change continues until a successor is elected and qualified at the next regular election.

(2) Notwithstanding a law or charter provision to the contrary, an officer required to be elected at the odd year general election, who by law or charter is elected for a term of an odd number of years shall, after September 1, 2004, be elected for a term of 1 year longer than provided by law or charter.

(3) In home rule cities where the charter provides for the election of city officers at a time other than at the odd year general election and provides that members of the governing body are not all to be elected in the same year, the governing body by ordinance adopted prior to April 1, 1971 may alter the length of terms now provided by charter to provide that the city may continue to elect part of the governing body at each election. A term shall not be extended beyond January 1 following the first odd year general election at which the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

officer would be elected as provided by charter. A term shall not be for more than 4 years.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 293, Imd. Eff. July 23, 2004.

**Popular name:** Election Code

### 168.644h Time of taking office.

Sec. 644h. All persons elected at the odd year general election shall take office at 12 noon on January 1 following the election. In home rule cities, if the charter provides for an earlier date for taking office or if prior to April 1, 1971, the council provides by ordinance for an earlier date for taking office, the earlier date shall prevail.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970.

**Popular name:** Election Code

### 168.644i Manner of conducting elections.

Sec. 644i. All odd year primary and general elections shall be conducted in the manner elections for state and county offices are conducted.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970.

**Popular name:** Election Code

### 168.644j-168.644/ Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed sections pertained to election in home rule city, regular city elections, and school district and community college district elections.

**Popular name:** Election Code

### 168.645 Repealed. 1958, Act 192, Eff. Sept. 13, 1958.

**Compiler's note:** The repealed section provided for biennial township elections.

**Popular name:** Election Code

### 168.646 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to provisions governing city and village regular elections.

### 168.646a Election of local officers; nomination; certification; applicability of section.

Sec. 646a. (1) If a local officer is to be elected at a general November election, candidates for the local office shall be nominated in the manner provided by law or charter, subject to sections 641 and 642. If candidates for the local office are to be nominated at caucuses, the caucuses shall be held on a date before the date set for the primary election or on the Saturday before the day of the primary election as determined by the local legislative body at least 20 days before the date of the caucus. If candidates are nominated by filing petitions or affidavits, they shall be filed at a time provided by charter, but not later than the date of the primary. Except as provided in section 642, the local primary election shall be held on the same day as a state or county primary election. If a state or county primary is being held on the same day, the last day for local candidates to file nominating petitions is the same as the last date to file petitions for state and county offices. The names of all local candidates and titles of office shall be certified to the county clerk by the local clerk within 5 days after the last day for filing petitions, and certification of nominees shall be made to that clerk within 5 days after the date on which the primary or caucus was held.

(2) If a local, school district, or county ballot question is to be voted on at a regular election date or special election, the ballot wording of the ballot question shall be certified to the local or county clerk at least 70 days before the election. If the wording is certified to a clerk other than the county clerk, the clerk shall certify the ballot wording to the county clerk at least 68 days before the election. Petitions to place a county or local ballot question on the ballot at the election shall be filed with the clerk at least 14 days before the date the ballot wording must be certified to the local clerk.

(3) The provisions of this section apply notwithstanding any provisions of law or charter to the contrary, unless an earlier date for the filing of affidavits or petitions, including nominating petitions, is provided in a law or charter, in which case the earlier filing date is controlling.

**History:** Add. 1958, Act 86, Eff. Sept. 13, 1958;—Am. 1961, Act 178, Eff. Sept. 8, 1961;—Am. 1962, Act 109, Eff. Mar. 28, 1963;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1964, Act 252, Imd. Eff. May 28, 1964;—Am. 1970, Act 23, Imd. Eff. May 27, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 2002, Act 431, Imd. Eff. June 6, 2002;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 295, Imd. Eff. July 23, 2004;—Am. 2006, Act 647, Eff. May 14, 2007.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.646b Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to nomination and election of city or village officers.

**Popular name:** Election Code

### 168.646c Repealed. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

**Compiler's note:** The repealed section pertained to election of judges of common pleas court.

**Popular name:** Election Code

### 168.646d Repealed. 1980, Act 188, Imd. Eff. July 3, 1980.

**Compiler's note:** The repealed section pertained to effective dates of precinct divisions.

**Popular name:** Election Code

NOTICES OF ELECTION

### 168.647 Notice of elections; registered or certified mail.

Sec. 647. Notices of election required by this act to be given by the secretary of state to county clerks, and by county clerks to city and township clerks, shall be sent by registered or certified mail with return receipt demanded.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.648 Notice of elections to county clerk; time, contents.

Sec. 648. The secretary of state, at least 60 days and not more than 90 days preceding any regular state or district primary or election, shall send to the county clerk of each county a notice in writing of such primary or election, specifying in such notice the federal, state and district offices for which candidates are to be nominated or elected, as well as any constitutional amendments and questions to be submitted thereat.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.649 Referendum; certification of proposed constitutional amendment or special question.

Sec. 649. Whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the state for popular vote, the secretary of state shall, not less than 49 days before election, certify the same to the clerk of each county in the state and shall at the same time prescribe the form in which such amendment or other special question shall be submitted. Any city ordinance which has been or is hereafter adopted by the common council in a city of over 500,000 and which is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the common council.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 46, Imd. Eff. May 24, 1968.

**Popular name:** Election Code

### 168.649a Airport authority referendum; petitions, filing; submission.

Sec. 649a. Regardless of any other provisions of this act, referendum petitions filed pursuant to the provisions of and within the time limit provided by section 23 of Act No. 73 of the Public Acts of 1970, being section 259.823 of the Compiled Laws of 1948, shall be placed on the ballot at the next general election if the referendum petitions are determined by the secretary of state to be sufficient and valid as required by this act the same as other referendum petitions filed under the provisions of this act. Referendum petitions filed under the provisions of section 23 of Act No. 73 of the Public Acts of 1970 with the secretary of state shall be canvassed by him and if found to be sufficient shall be certified to the county clerks within the authority from which the petitions were filed and he shall at the same time prescribe the form in which the special question shall be submitted. The returns shall be canvassed by the board of county canvassers and the results certified to the secretary of state.

**History:** Add. 1970, Act 211, Imd. Eff. Sept. 18, 1970.

**Popular name:** Election Code

### 168.650 Subsequent vacancy; additional notice to county clerks.

Sec. 650. If, after such notices have been sent, a vacancy shall occur in any office which by law is required to be filled at such election, the secretary of state shall send to each county clerk an additional notice



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

specifying the office in which such vacancy exists and that such vacancy will be filled at the next general election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.651 Special election; notice to county clerks, contents.

Sec. 651. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the county clerk of each of the counties embraced in the election district, or the county clerk of the county, the whole or part of which constitutes the election district, of the time of holding such election, the cause of such vacancy, the name of the officer and the time when the term of office will expire.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.652 Special elections; notice to city and township clerks, contents.

Sec. 652. On receipt of any such notice from the secretary of state, the county clerk shall forthwith send a copy of the notice in writing to the clerk of each city and township in his county, which notice shall contain in substance the notice so received from the secretary of state, and he shall at the same time in such notice designate all county offices to be filled and any questions to be submitted at such election. If such county shall be divided into 2 or more senatorial or representative districts, such notice, so far as it relates to the election of senators and representatives, shall be sent by the county clerk to the clerk of each city and township in each respective district.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.653 Repealed. 1982, Act 2, Imd. Eff. Jan. 27, 1982.

**Compiler's note:** The repealed section pertained to public notice of election and offices to be filled.

**Popular name:** Election Code

### 168.653a Election notice; publication; form; agreement to jointly publish notice.

Sec. 653a. (1) On receipt of the notice from the county clerk pursuant to section 652, the clerk of each city and township shall give notice of the time and place at which the election is to be held, the offices to be filled, and the proposals to be submitted to the voters. The notice shall be published in a newspaper published, or of general circulation, in the city or township. A caption or brief description of the proposal or proposals along with the location where an elector can obtain the full text of the proposal or proposals shall be included in the notice. The publication shall be made not less than 7 days before the election. The notice shall be in substantially the following form:

```
                        ELECTION NOTICE
To the qualified electors of the city or township
_______________________________ notice is hereby given that a
_____________________________________________________________
       (indicate whether regular, special, or primary)
election will be held in ___________________________________
on __________ from 7 a.m. to 8 p.m. for the purpose of
     (date)
nominating or electing candidates for the following offices:
_____________________________________________________________
                        (list of offices)
and to vote on the following proposals:
_____________________________________________________________
       (list all proposals to be submitted to voters)
List of polling place locations: ___________________________.
                                   ________________________
                                              (clerk)
```

(2) A county clerk may enter into an agreement with the clerk of 1 or more townships or cities in the county or the clerks of 1 or more cities or townships in a county may enter into an agreement to jointly publish the notice in subsection (1). The notice shall be published in a newspaper of general circulation in the cities and townships listed in the notice. If certain offices or proposals are to be voted on in less than all of the precincts, the notice shall specify the townships or cities that shall vote on only those offices or proposals.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1982, Act 2, Imd. Eff. Jan. 27, 1982;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

ELECTION PRECINCTS

### 168.654 Election precincts; definition.

Sec. 654. The words "election precinct" as used in this act shall mean a political subdivision, the area of which is embraced in its entirety within the confines of a city, ward, township or village, and for which not more than 1 polling place is provided for all qualified and registered electors residing therein. When not divided according to law into 2 or more election precincts, each organized city, ward, township and village shall be an election precinct.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.654a Election precinct; composition; "clearly observable boundaries" defined.

Sec. 654a. (1) Except as otherwise provided in this section, an election precinct under this act shall be composed as nearly as practicable of compact and contiguous territory and shall have clearly defined and clearly observable boundaries. An election precinct in existence on the effective date of the amendatory act that added this section that does not comply with this section shall be divided, consolidated, or reestablished to comply with this section not later than 210 days before the primary next preceding the 1996 general November election.

(2) As used in this section, "clearly observable boundaries" includes 1 or more of the following:

(a) A named road or street.

(b) A road or highway that is part of the federal, state primary, or state secondary road system.

(c) A river, stream, or drainage feature that is 40 feet or more in width.

(d) A natural or constructed permanent physical feature that is shown on an official county, city, or township map issued by the department of transportation or a United States geological survey topographical map.

(e) An apartment building, a dormitory, or other permanent multiple-unit housing structure.

(f) Any line or demarcation that meets the requirements of and is recognized by the United States bureau of the census.

**History:** Add. 1994, Act 401, Imd. Eff. Dec. 29, 1994.

**Popular name:** Election Code

### 168.655 Election precincts; time periods; outer boundaries; division or consolidation.

Sec. 655. (1) Notwithstanding any other provision of this act, the outer boundaries of election precincts as established pursuant to this act for the 1988 general November election and the primary election next preceding the 1988 general November election shall remain as established at that time through the 1992 general November election, except as permitted in subsections (2) and (3).

(2) An election precinct may be divided or 2 or more contiguous election precincts may be consolidated as long as the outer boundaries are not altered during the time period mentioned above.

(3) Election precincts shall be divided, consolidated, or established within 30 days after the effective date of congressional, legislative, or county commissioner reapportionment plans.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1987, Act 226, Imd. Eff. Dec. 28, 1987.

**Popular name:** Election Code

### 168.656 Division of precincts.

Sec. 656. (1) A city, ward, township, or village using paper ballots, having less than 400 registered voters, which constitutes a single election precinct, in the discretion of the election commission, or other officials charged with the performance of the duty by the charter of the city or village, may be divided into 2 or more election precincts. In a township, upon a petition signed by not less than 25 qualified electors of the township showing the boundaries of the proposed election precincts, the township board shall submit to the electors of the township, at the next election held in the township, the question of the division of the township into election precincts, as set forth in the petition. If, at the referendum, the electors of the township decide in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

favor of the division of the township into such election precincts, the township board shall thereupon make the division and enter the same of record in the proceedings of the township board. When in a township, city, ward, or village, or in an election precinct therein, using paper ballots, there is 400 or more registered electors, the election commission of the township or city, or other officials charged with the performance of the duty by the charter of the city or village, shall by resolution divide the precincts into 2 or more precincts, or shall again divide the township, city, ward, or village into election precincts, so that there shall not be more than 400 registered electors in any 1 precinct.

(2) Except as provided in subsection (3), city and township election commissions shall divide precincts according to law, not later than 210 days before the primary next preceding the general November election, and shall immediately notify the county clerk of the number of registered voters in each precinct in such city or township. The county clerk shall notify the secretary of state not later than 200 days before the primary of any precincts in his or her county which have not been divided according to law, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 180 days before the primary next preceding the general November election. The division of precincts shall be made effective not later than 180 days before the primary election next preceding the general November election.

(3) In the second year following each federal census, precincts shall be divided pursuant to this subsection. City and township election commissions shall divide precincts, not later than 120 days before the primary election next preceding the general November election in order that a precinct, as far as is practical, is not split between districts and does not exceed 400 registered voters, and the commissions shall immediately notify the county clerk of the number of registered voters in each precinct in each city or township. The county clerk shall notify the secretary of state not later than 110 days before the primary of any precincts in the county which have not been divided, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 90 days before the primary election. The division of precincts shall be made effective not later than 90 days before the primary election next preceding the general November election. The secretary of state may authorize, upon written request by a city or township election commission, a later division of a precinct which contains portions of more than 1 elective district. All precinct divisions under this subsection shall be completed not later than 90 days before the primary election next preceding the general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 290, Imd. Eff. Aug. 11, 1969;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982.

**Popular name:** Election Code

### 168.657 Election precincts; division, rearrangement.

Sec. 657. When any city, ward, township or village has been divided into 2 or more election precincts, the election commission, or other officials charged with the performance of such duty by the charter of any city or village, as the case may be, may by resolution divide any precinct thereof into 2 or more precincts, attach a portion of any precinct to an adjoining precinct, or may again rearrange the city, ward, township or village into election precincts as said election commission or other officials charged with the performance of such duty by the charter of any city or village, may deem necessary and convenient for conducting primaries or elections in said city, ward, township or village, in the same manner and under the same restrictions as provided in sections 656 and 661 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.658 Election precincts; consolidation.

Sec. 658. When a city, ward, township, or village is divided into 2 or more election precincts, pursuant to law, and it appears from an examination of the precinct registration records, that there are not more than 400 registered electors in the city, ward, township, or village using paper ballots, or not more than 2,999 registered electors in the city, ward, township, or village using voting machines, the election commission, or other officials charged with the performance of the duty by the charter of a city or village, by resolution, may abolish the division or divisions and after that time the city, ward, township, or village shall constitute a single election precinct as if a division had not been made. A consolidation shall not be made later than the 120 days before a primary or election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 290, Imd. Eff. Aug. 11, 1969;—Am. 1977, Act 236, Imd. Eff. Nov. 30, 1977.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.659 Consolidation of election precincts.

Sec. 659. (1) If a county, city, ward, township, village, or school district is divided into 2 or more election precincts, the county, city, ward, township, or village election commissioners may, by resolution, consolidate the election precincts for a particular election that is not a general November election, primary election immediately before a general November election, or other statewide or federal election. In making the determination to consolidate election precincts for a particular election, the election commission shall take into consideration the number of choices the voter must make, the percentage of registered voters who voted at the last similar election in the jurisdiction, and the intensity of the interest of the electors in the jurisdiction concerning the candidates and proposals to be voted upon. Consolidated precincts shall not exceed 5,000 registered electors.

(2) A consolidation under this section shall be made not less than 60 days before a primary, general, or special election.

(3) Unless the polling places for the election precincts to be consolidated are located in the same building, when a county, city, ward, township, or village consolidates election precincts for a particular election under subsection (1), the election commissioners or other designated election officials shall do both of the following:

(a) Provide notice to the registered electors of the affected election precincts of the consolidation of election precincts for the particular election and the location of the polling place for the election precinct or precincts for that election. Notice may be provided by mail or other method designed to provide actual notice to the registered electors.

(b) Post a written notice at each election precinct polling place stating the location of the consolidated election precinct polling place.

(4) If a county, city, ward, township, or village consolidates election precincts under this section, each affected election precinct shall be treated as a whole unit and shall not be divided during the consolidation.

**History:** Add. 2003, Act 302, Eff. Mar. 30, 2004;—Am. 2004, Act 296, Imd. Eff. July 23, 2004.

**Compiler's note:** Former MCL 168.659, which pertained to prohibition of change in election precincts within 60 days of primary or election, was repealed by Act 271 of 1955, Imd. Eff. June 30, 1955, and by Act 283 of 1955, Imd. Eff. July 19, 1955.

**Popular name:** Election Code

### 168.660 Subdivision, alteration, or rearrangement of precincts; record; numbers of precincts; description of boundaries; notice; abolition of division into precincts.

Sec. 660. When a city, ward, township, or village is subdivided into election precincts, or the election precincts are altered or rearranged, the city, township, or village election commission, or other officials charged with the performance of the duty by the charter of the city or village, shall enter that action of record in its proceedings, specify the numbers of the precincts altered or rearranged in numerical order, and describe the boundaries of each precinct. Notice of the subdivision, alteration, or rearrangement shall be given immediately by the city, township, or village clerk. The notification shall be effected by mailing to each qualified and registered elector affected by the subdivision, alteration, or rearrangement a notice by first class letter postage advising the location of his new polling place and, if deemed advisable by the city, township, or village election commission, by posting a public notice of the change in 2 places in each precinct affected thereby, advising the boundaries of each of the precincts. A notice shall also be immediately transmitted to the county clerk, and the county clerk shall transmit to the secretary of state, not later than 200 days prior to the primary next preceding the general November election, the number of election precincts in his county. The city, township, or village clerk shall give like notice of the abolition of the division of a city, ward, township, or village into election precincts, and shall, in the notice of abolition, state that the city, ward, township, or village is restored as a single election precinct and indicate the location of the polling place therein. Notice of the abolition shall be immediately transmitted to the county clerk, and by him to the secretary of state, as in the case of the subdivision or alteration of boundaries as herein provided.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976.

**Popular name:** Election Code

### 168.661 Precincts using voting machines; number of machines; division or rearrangement of precincts; notices; expenses; use of paper ballots; time limitations on division of precincts; division of precincts following federal census.

Sec. 661. (1) When the voter registration in a precinct using voting machines is 1,000 or less, there shall be not less than 1 voting machine for each 500 active registered electors at the general November election and at



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the primary immediately preceding that election. When the registration in a precinct using voting machines is more than 1,000 and less than 3,000, there shall be at least 1 voting machine for each 600 active registered electors at the general November election and at the primary immediately preceding that election. At other primaries and elections, the number of voting machines shall be at the discretion of the local election commission. In making this determination, the local election commission shall take into consideration the number of choices the voter must make, the percentage of registered voters who voted at the last similar election in the jurisdiction, and the intensity of the interest of the electors in the jurisdiction concerning the candidates and proposals to be voted upon. When the registration in a precinct using voting machines exceeds 2,999, the precinct shall be divided or rearranged.

(2) Except as provided in subsection (3), city and township election commissions shall divide precincts according to law, not later than 210 days before the primary next preceding the general November election, and shall immediately notify the county clerk of the number of registered voters in each precinct in the city or township. The county clerk shall notify the secretary of state not later than 200 days before the primary of a precinct in the clerk's county which has not been divided according to law, and the secretary of state shall proceed to make divisions as are necessary at the expense of the city or township involved, not later than 180 days before the primary next preceding the general November election. If the election commission of a city, village, or township using voting machines decides to use paper ballots for a primary or election, the preceding limitations shall continue for that election. A division of precincts shall be made effective not later than 180 days before the primary election next preceding the general November election.

(3) In the second year following each federal census, precincts shall be divided pursuant to this subsection. City and township election commissions shall divide precincts, not later than 120 days before the primary election next preceding the general November election in order that a precinct, as far as is practical, is not split between districts and does not exceed 2,999 registered voters, and shall immediately notify the county clerk of the number of registered voters in each precinct in each city or township. The county clerk shall notify the secretary of state not later than 110 days before the primary of any precincts in the county which have not been divided, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 90 days before the primary election next preceding the general November election. The division of precincts shall be made effective not later than 90 days before the primary election. The secretary of state may authorize, upon written request by a city or township election commission, a later division of a precinct which contains portions of more than 1 elective district. All precinct divisions shall be completed not later than 90 days before the primary election next preceding the general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1964, Act 212, Imd. Eff. May 22, 1964;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1977, Act 236, Imd. Eff. Nov. 30, 1977;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982.

**Popular name:** Election Code

POLLING PLACES, EQUIPMENT, SUPPLIES

### 168.662 Designating place of holding election in city, village, or township; polling places; use of publicly owned or controlled buildings; rental or erection of buildings; facilities; central polling places; abolishment; compliance with voting accessibility.

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election for a city, village, or township election, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax as provided by section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, “sponsor of a political committee or independent committee” means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, if the corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall have the polling places equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places. If 2 contiguous townships utilize a combined township hall or other publicly owned or controlled building within 1 of the township's boundaries and outside of the other township's boundaries, and there is not another publicly owned or controlled building or a building owned or controlled by an organization that is exempt from federal income tax, as provided by section 501(c), other than 501(c)(4), (5), or (6), of the internal revenue code of 1986, available or suitable for a polling place within the other township, then each township board may provide a polling place in that publicly owned building for 1 or more election precinct.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section is accessible and complies with the voting accessibility for the elderly and handicapped act and the help America vote act of 2002.

(6) As used in this section, “accessible” means the removal or modification of policies, practices, and procedures that deny an individual with a disability the opportunity to vote, including the removal of physical barriers as identified in section 261(b) of the help America vote act of 2002, 42 USC 15421, so as to ensure individuals with disabilities the opportunity to participate in elections in this state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1974, Act 165, Imd. Eff. June 23, 1974;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 13, Imd. Eff. Feb. 26, 2004;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### 168.663 Polling places; erection of barriers.

Sec. 663. The legislative body of each city, village and township shall provide for and cause to be erected in the room where any election is to be held in each election precinct of such city, village or township, a suitable barrier which shall be so placed as to separate from the rest of the room the area in which the election officials, challengers, voting machines or ballot boxes and voting booths, and persons in the actual process of voting, are located. The barrier shall be of a type approved by the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 74, Eff. Mar. 28, 1963.

**Popular name:** Election Code

### 168.664 Polling places; booths or temporary rooms, specifications.

Sec. 664. On the inside of said railing, the said officers shall cause 1 or more booths or temporary rooms to be erected. At least 1 such booth shall be provided at each polling place and not less than 1 for each 100 persons entitled to vote thereat, as shown by the registration book of the precinct. Each such booth shall be built with walls not less than 6 feet high and in such manner that the person preparing his ballot shall be concealed from all other persons. In each booth there shall be provided a shelf of sufficient size with smooth surface on which ballots may be placed to be marked.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.665 Polling places; forms, stationery and supplies; provision, delivery, approval by state bureau of elections.

Sec. 665. All forms, stationery and supplies required by the several boards of precinct election inspectors for all federal, state, district and county primaries and elections shall be furnished in accordance with sections 666, 667, 668, 669 and 670 of this act. All forms, stationery and supplies to be provided by the secretary of state and the boards of county election commissioners shall be delivered to the county clerks who shall, in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

turn, deliver them to the several city and township clerks at the time official ballots are delivered, and said ballots, as well as all forms, stationery and supplies referred to in sections 666, 667, 668, 669 and 670 of this act, shall be delivered by said city and township clerks to the several boards of precinct election inspectors in sufficient time for use at any such primary or election. Notwithstanding any provision of law to the contrary, it shall be unlawful for any publisher, printer or supplier to offer for sale to any county, city, village or township clerk or election commission any of the following until such shall have been approved by the state bureau of elections:

1. Statements of returns
2. Tally books and poll books
3. Combined tally and statement books
4. Certificates of electors sworn to disability
5. Envelopes for transmitting tally books, statement books, poll books and election certificates
6. Wrappers for securing voted ballots
7. Applications for ballots
8. Anything which is required by the election law to be approved, prescribed or recommended by the secretary of state or state director of elections.

The provisions of this section shall not apply to forms printed on the direct order of any county, city, village or township clerk or election commission.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 198, Eff. Sept. 27, 1957.

**Popular name:** Election Code

### 168.666 Metal seals; paper seals; blank forms for returns.

Sec. 666. At each federal, state, district, or county primary or election, the secretary of state shall furnish to each county clerk at state expense the following items:

(a) Before each primary, general, or special election at which state, district, or county officers are to be nominated or elected, a supply of self-sealing metal seals adapted and suitable for sealing the ballot boxes used at the election. The metal seals shall have the words “State of Michigan” and serial numbers stamped on them. The secretary of state shall provide a sufficient number of metal seals for each voting precinct within the county at least 30 days before an election.

(b) A substantial supply of red gummed paper seals for use of the precinct boards of election inspectors in sealing the package of ballots and the envelopes containing the tally sheets or poll books and the statement of returns. Each seal shall have inscribed on it the words “Election Seal--State of Michigan” and the date of the primary or election at which it is to be used. A space shall also be provided on the seal in which 2 members of the board of election inspectors shall write their initials after the seal has been applied.

(c) Suitable blank forms for use by the county boards of canvassers in making returns of the canvass required by this act. Each county board of canvassers shall use the forms furnished by the secretary of state in making returns of the canvass.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2004, Act 96, Imd. Eff. May 7, 2004.

**Popular name:** Election Code

### 168.666a Sealing devices for ballot boxes or containers.

Sec. 666a. In addition to the supplies furnished under section 666, the secretary of state shall furnish to each county clerk devices to enable ballot boxes or other ballot containers to be sealed easily and securely with self-sealing metal seals.

**History:** Add. 1969, Act 127, Eff. Mar. 20, 1970;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.667 Election supplies to be furnished at county expense.

Sec. 667. At any federal, state, district or county primary or election, the various boards of county election commissioners shall furnish, at the expense of their respective counties, the following:

(a) The several boards of election commissioners shall furnish suitable forms for use by the precinct inspectors of election in making returns of any such primary or election to the boards of county canvassers. The names of all qualified candidates shall be printed thereon in their proper office divisions and after each name there shall be provided spaces in which to write the number of votes received by that particular candidate in any given precinct in words and figures. Said prescribed forms shall also have printed thereon the title or caption or other designation identifying any amendment or question to be voted on, together with spaces similar to those provided after the names of candidates for recording the affirmative and negative votes cast for each such amendment or question. Said statement of returns form shall also contain a certificate to be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

subscribed by each member of the precinct election board in the following form:

```
STATE OF MICHIGAN      )
                       )ss
County of .............)
     Ward (or township)...............   Precinct.............
 CERTIFICATE OF BOARD OF PRECINCT ELECTION INSPECTORS  FOR
         RETURNS AND FOR SEALING BALLOTS AND BOXES
```

WE DO HEREBY CERTIFY That the foregoing is a correct statement of returns of the votes cast in the precinct indicated above, at the (primary or election) held on ....., the ..... day of ....., 19...., for the several candidates and for the (amendments or propositions) herein shown.

WE DO HEREBY FURTHER CERTIFY That all ballots cast at the (primary or election) held in the above designated precinct of the (city, ward, township or village) of ....., State of Michigan, on the ..... day of ....., in the year 19...., have been securely tied in packages or rolls and sealed in such manner as to render it impossible to open such packages or rolls or remove any of the contents thereof without breaking the said seals; that there was endorsed on each of said packages or rolls a statement showing the number and kind of ballots included in each such package or roll; that all of said packages or rolls, so endorsed, together with one tally sheet, were placed in the proper ballot box or boxes; that the slots in the ballot boxes were closed, that the ballot boxes were securely sealed with the official metal seals furnished for that purpose; that such seals were affixed in such manner as to render it impossible to open such ballot boxes without breaking such seals.

```
  IN WITNESS WHEREOF, We have hereunto set our hands this  ....
day of ....................., A.D., 19.... .
                                        .......................
                                        .......................
                                        .......................
                     Members of the Board of Election Inspectors
```

(b) The several county boards of election commissioners shall, at the expense of their respective counties, furnish suitable tally sheets or combined tally and return sheets to be used by the inspectors of election in counting the votes for all candidates and for amendments or propositions submitted on ballots prepared by said commissioners and shall deliver the same to the inspectors of election, as provided in this act in the case of ballots;

(c) The various boards of county election commissioners shall furnish self-addressed substantial paper envelopes with gummed flaps to be used by the various boards of precinct election inspectors for sealing the statements of returns, the tally books or combined tally and return sheets, poll lists and a certificate of election inspectors;

(d) The several boards of county election commissioners shall furnish a sufficient number of substantial paper wrappers for use in wrapping the packages or rolls of each kind of ballots cast at any state or county primary or election. Such wrappers shall have printed thereon a form for recording the date of the election, the city, ward or township and precinct, the number and kind of ballots contained in such package or roll and a statement to be signed by the chairman certifying that such ballots have been wrapped, tied and sealed in the required manner. The board of election commissioners of any city or township may supply a bag type container to be used in lieu of the paper wrappers. The minimum specifications of such bag type containers shall be established by the secretary of state. If such bag type containers are to be used in any city or township, the clerk thereof shall notify the county clerk and thereafter paper wrappers shall not be furnished to such city or township. Each specific type of bag type container shall be approved by the secretary of state before being used. Such bag shall have securely attached thereto a tag on which can be written the same information as is required to be placed on the paper wrappers and such bag shall contain a device whereby it can be sealed with a metal seal. Hereafter any references in law to the wrapping and sealing of paper ballots by precinct inspectors shall be deemed to include placing of ballots in bag type containers and sealing of such bags in precincts using bag type containers in lieu of paper wrappers; and

(e) The board of election commissioners of each county shall provide, at the expense of the county, for each state, district or county election in said county, as many black or blue lead pencils as may be necessary to supply each election precinct with at least 3 of such pencils for each booth erected in such precinct. The pencils provided for each precinct shall be enclosed with the official ballots when delivered to the city or township clerk as by law provided. The inspectors of election shall attach such pencils with strings, or in other suitable manner, to the shelf of the booth. The board of election commissioners of each county shall issue a warrant in payment for said pencils, and said warrant shall be paid by the county treasurer out of the general fund of the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 222, Eff. Sept. 27, 1957.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.668 Delivery of voter registration list, forms, and other supplies.

Sec. 668. Before the polls open, the city, township, or village clerk shall deliver to the board of election inspectors of each precinct the voter registration list, the forms for poll lists and returns, and any other supplies necessary to conduct the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2004, Act 96, Imd. Eff. May 7, 2004
.

**Popular name:** Election Code

### 168.668a Voter information displays.

Sec. 668a. (1) The secretary of state shall furnish to each county clerk at state expense for each precinct 2 voter information displays that contain in not less than 18-point type the following information:

(a) The hours that the polls will be open.

(b) Voting instructions.

(c) Information on an individual's right to obtain a provisional ballot and instructions on how to vote a provisional ballot.

(d) Information on the identification requirements that apply to voters who register by mail.

(e) Instructions on how to contact the appropriate election official about alleged voting rights violations.

(f) Information on the federal and state laws that prohibit fraud and misrepresentation.

(g) Information on how to challenge another voter as unqualified to vote.

(h) Other information that the secretary of state considers necessary.

(2) Upon receipt of the voter information displays under subsection (1), each county clerk shall provide to each city, township, or village clerk, as designated by the secretary of state, 2 voter information displays for each precinct in the county.

(3) The city, township, or village clerk shall provide to each precinct 2 voter information displays and an instruction ballot for display at each precinct.

(4) Before the polls open on election day, the board of election inspectors in each precinct shall post in conspicuous places in the polling place the voter information displays and instruction ballot required under this section.

(5) If requested by an elector, the city, township, or village clerk shall have available a means to provide the information contained in the voter information displays in an alternative format, as prescribed by the secretary of state.

**History:** Add. 2004, Act 96, Imd. Eff. May 7, 2004.

**Popular name:** Election Code

### 168.669 Ballot boxes to be provided by city, township, or village.

Sec. 669. For a federal, state, district, or county primary or election, a city, township, or village board of election commissioners shall provide, at the expense of the respective city, township, or village, each of the following:

(a) For each election precinct, a ballot box with lock and key approved under section 24j. Each ballot box shall have an opening through the inside lid of the proper size to admit a single ballot into the box. Each ballot box shall be provided with a second cover or a metal or wooden device for closing the opening to prevent access without unlocking the ballot box and breaking the seal. The city, township, or village clerk shall provide and keep adequate ballot boxes for each precinct.

(b) For each election precinct, if another ballot container in addition to a ballot box is utilized in the precinct, a ballot container approved under section 24j.

(c) For each polling place, a United States flag and any additional items needed to display the flag. The flag shall measure not less than 3 feet wide and 5 feet long. The election inspectors shall ensure that the flag is displayed at or in each polling place during an election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.669a Polling places; ballot containers.

Sec. 669a. In addition to ballot containers which comply with the requirements of this act, ballot containers for use at the general November election held in the year 1964 and at the primary immediately preceding, may be used if they comply with specifications approved by the secretary of state and shall be secured by sealing as directed by him.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1964, Act 251, Eff. Aug. 28, 1964.

**Popular name:** Election Code

### 168.670 Local primaries and elections; ballots, forms, stationery and supplies.

Sec. 670. For all local primaries and elections, the election commissioners of the various cities, townships and villages shall furnish, at the expense of their respective cities, villages and townships all ballots, forms, stationery and supplies required for the proper conduct of such primaries and elections. These supplies shall conform generally with the supplies furnished for general primaries and elections.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.671 Blank forms for returns; seals.

Sec. 671. At the time of delivering the official ballots and other election supplies to the township and city clerks or, for city, village, or township elections, to the wards or precincts, a sufficient number of blank forms for use by the election inspectors in making the statement of returns of the election as required by law shall be delivered. At the same time, a sufficient number of seals for the use of the election inspectors in sealing the ballot boxes after the close of the election shall be delivered. A record of the number of seals delivered to each voting precinct and absent voter counting board precinct shall be recorded and preserved.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.672 Board of inspectors of elections; presence in precinct polling places.

Sec. 672. At every election, there shall be a board of at least 3 inspectors of election, constituted as in this chapter provided, in and for each election precinct. Not less than a majority of the inspectors shall be present in the precinct polling place during the time the polls are open.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.673 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section provided for chairman of board of inspectors of elections.

**Popular name:** Election Code

### 168.673a Election inspector; submission of list of interested individuals.

Sec. 673a. Not later than May 15 of each year, the county chair of a major political party may submit to the city, township, or village clerks in that county a list of individuals who are interested in serving as an election inspector in that county. The county chair may designate in the list the city, township, or village in which each individual on the list wishes to serve.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.674 Precinct election inspectors; appointment; chairperson; political party membership; challenge; vacancies.

Sec. 674. (1) Notwithstanding any other provision of law to the contrary and subject to this section, the city and township board of election commissioners and the village board of election commissioners for village elections only, at least 21 days but not more than 40 days before each election, but in no case less than 5 days before the date set for holding schools of instruction, shall appoint for each election precinct at least 3 election inspectors and as many more as in its opinion is required for the efficient, speedy, and proper conduct of the election. The board of election commissioners may appoint as election inspector an individual on the list submitted by a major political party under section 673a who is qualified to serve under section 677. An appointment of an election inspector under this section is void if a properly completed application for that election inspector is not on file in the clerk's office as prescribed in section 677.

(2) The board of election commissioners shall designate 1 appointed election inspector as chairperson. The board of election commissioners shall appoint at least 1 election inspector from each major political party and shall appoint an equal number, as nearly as possible, of election inspectors in each election precinct from each major political party. The board of election commissioners may appoint election inspectors in an election precinct from minor political parties. Not later than 2 business days following the appointment of election inspectors under subsection (1) for elections in which a federal or state office appears, the board of election



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

commissioners shall notify by certified mail, personal service, or electronic transmission capable of determining date of receipt the county chair of each major political party of the names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed. A board of election commissioners shall not appoint a person as an election inspector if that person declares a political party preference for 1 political party but is a known active advocate of another political party. As used in this section, “a known active advocate” means a person who meets 1 or more of the following:

(a) Is a delegate to the convention or an officer of that other party.

(b) Is affiliated with that party through an elected or appointed government position.

(c) Has made documented public statements specifically supporting by name the other political party or its candidates in the same calendar year as the election for which the appointment is being made. As used in this subdivision, “documented public statements” means statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant.

(3) The county chair of a major political party may challenge the appointment of an election inspector based upon the qualifications of the election inspector, the legitimacy of the election inspector's political party affiliation, or whether there is a properly completed declaration of political party affiliation in the application for that election inspector on file in the clerk's office. The challenge shall be in writing, specifically identify the reason for the challenge, and include any available documentation supporting the challenge. The county chair of the political party shall file a challenge under this subsection with the board of election commissioners not later than 4 business days following receipt of the board of election commissioners' notice of appointed election inspectors under subsection (2).

(4) Upon receipt of a challenge under subsection (3), the board of election commissioners shall determine whether the appointee has the necessary qualifications by reviewing the application or any other official records, such as voter registration records, or whether the applicant has a properly completed certification of political party affiliation in the application. If the challenge alleges that the appointee is a known active advocate of a political party other than the one on the appointee's application, the board of election commissioners immediately shall provide the appointee with a copy of the challenge by certified mail, personal service, or electronic transmission capable of determining date of receipt. The appointee may respond to the challenge within 2 business days after receiving a copy of the challenge. A response shall be by affidavit addressing the specific reasons for the challenge. Failure to respond shall result in revocation of the appointment. Within 2 business days after receiving the challenge or a response from the appointee, whichever is later, the board of election commissioners shall make a final determination and notify the appointee and the county chair of the political party of the determination.

(5) If a vacancy occurs in the office of chairperson or in the office of election inspector before election day, the chairperson of the board of election commissioners shall designate some other properly qualified applicant or election inspector as chairperson or some other qualified applicant as election inspector, as applicable, subject to this section. If a vacancy occurs in the office of chairperson on election day, the remaining election inspectors shall designate 1 of the inspectors as chairperson.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.675 Precinct election inspectors; vacancies during election.

Sec. 675. In case 3 inspectors shall not attend at the opening of the polls or shall not remain in attendance during the election, the electors present may choose, viva voce, such number of said electors as, with the inspector or inspectors present, shall constitute a board of 3 in number; and such electors so chosen shall be inspectors of that election during the continuance thereof: Provided, however, That not more than 2 of the members of the board of inspectors of election when constituted shall be of the same political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.676 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section provided for city or village board of election inspectors.

**Popular name:** Election Code

### 168.677 Precinct election inspector; qualifications; application; contents; candidates ineligible; appointment.

Sec. 677. (1) Except as otherwise provided in subsection (4), a precinct election inspector shall be a



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

qualified and registered elector of the county in which he or she serves or, in the case of a local unit of government that lies in more than 1 county, is a qualified and registered elector of the local unit of government in which the election is being held, shall have a good reputation, and shall have sufficient education and clerical ability to perform the duties of the office. A person shall not be appointed to a board of election inspectors unless the person has filed an application with a city, township, or village clerk in that county where the individual wishes to serve as election inspector.

(2) The application shall be in his or her own handwriting and shall contain the applicant's name, home address, ward and precinct registration if any, date of birth, length of residence in the county, political party affiliation, education, employment, and other experience qualifications. The application shall provide a certification that the applicant is not a member or a known active advocate, as defined in section 674, of a political party other than the one entered on the application. The form of the application under this section shall be approved by the state director of elections. The clerk shall maintain a file of applications filed under this section and make the applications available for public inspection at the clerk's office during normal business hours.

(3) A person shall not be knowingly appointed or permitted to act as a precinct election inspector if the person or any member of his or her immediate family is a candidate for nomination or election to any office at the election or who has been convicted of a felony or election crime. A person shall not be permitted to act as an election inspector if he or she has failed to attend a school of instruction or failed to take an examination as provided in section 683. This section does not prohibit the candidate for or delegate to a political party convention from acting as an election inspector in a precinct other than the precinct in which he or she resides. An election shall not be invalidated merely because of the violation of the provisions of this section.

(4) Except as otherwise provided in this subsection and subject to subsection (5), a person who is 16 or 17 years of age and who is a resident of the county in which he or she serves or, in the case of a local unit of government that lies in more than 1 county, is a resident of the local unit of government in which the election is being held may be appointed to a board of election inspectors. Before a person may be appointed under this subsection, the first 3 members of the board required to be appointed under section 672 must meet the requirements of subsections (1) to (3). A person who is appointed under this subsection must meet the requirements of subsections (1) to (3) other than being a qualified and registered elector of the county in which he or she serves. A person who is appointed under this subsection is not eligible to be designated as chairperson of the board under section 674.

(5) If a person seeking appointment to a board of election inspectors under subsection (4) is attending a K-12 school and if an election falls on a school day, the person shall provide to the clerk, along with the application filed under subsections (1) and (2), a written document from his or her school specifically acknowledging that person's application for appointment to the board of election inspectors and specifically excusing that person from school on the date of service, if such appointment is made.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1962, Act 67, Eff. Mar. 28, 1963;—Am. 1967, Act 35, Eff. Nov. 2, 1967;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1997, Act 158, Imd. Eff. Dec. 22, 1997.

**Popular name:** Election Code

### 168.678 Board of election inspectors; authority.

Sec. 678. Each board of election inspectors shall possess full authority to maintain peace, regularity and order at its polling place, and to enforce obedience to their lawful commands during any primary or election and during the canvass of the votes after the poll is closed.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.679 Counting board; membership; appointment; duties; applicability of MCL 168.662 to place of performance.

Sec. 679. (1) The legislative body of a city, township, or village, by resolution, may provide that for an election in a precinct of the city, township, or village, there shall be an additional board of election inspectors, known as the counting board. The counting board shall consist of 3 or more election inspectors. Sections 673a and 674 apply to the appointment of election inspectors to counting boards under this section. The counting board shall count the ballots cast in the precinct at an election and make a statement of returns of that count. The provisions of this chapter relative to the appointment, qualifications, privileges, powers, duties, and oaths of office of election inspectors shall apply to the members of a counting board, to the extent that they apply to the counting of the votes cast at and the making of the statement of returns of an election.

(2) In a precinct for which a counting board has been provided, the duties of the election inspectors who



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

have conducted the election during the day shall cease on the closing of the polls and, upon the closing of the polls, the counting board shall assume charge and control of the place of voting, the ballot boxes, the ballots, and all other equipment of the polling place and shall proceed with the counting of votes. The counting board shall perform all duties required by this act to be performed after the closing of the polls at an election by the board of election inspectors in a precinct that does not have a counting board, as provided in this section.

(3) Section 662 applies to the designation and prescribing of the place or places in which the counting board performs its duties under this section.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.679a Receiving board; appointment and duties of inspectors; review of poll book and statement of returns; corrective action; delivery.

Sec. 679a. (1) The legislative body of a city, township, or village may, by resolution, provide that at an election at which the ballots are counted and certified at the precinct, 1 or more additional boards of election inspectors be appointed to serve as receiving boards. For a precinct having receiving boards, the board of election commissioners shall appoint a receiving board consisting of 2 or more election inspectors, with an equal number from each major political party, and shall appoint an equal number of election inspectors from each major political party.

(2) Not less than 2 election inspectors in a precinct, representing each of the major political parties, shall deliver to the receiving board for that precinct a sealed ballot container containing the voted ballots, and, in a separate sealed envelope, the poll book and statement of returns. The poll book and statement of returns may be enclosed in a single sealed envelope.

(3) The receiving board shall open the sealed envelope and review the poll book and statement of returns to determine both of the following:

(a) That the ballot container is properly sealed and the seal number is properly recorded in the poll book and the statement of returns. If the ballot container is not properly sealed or there is a discrepancy with the seal number recorded in the poll book or the statement of returns, the election inspectors who delivered the ballot container and the receiving board shall together take the necessary steps to correct the discrepancy. The election inspectors and the receiving board shall note the discrepancy and the corrective action in the remarks section of the poll book and all shall sign the notation.

(b) That the number of individuals voting recorded in the poll book equals the number of ballots issued to electors, as shown by the statement of returns. If the number of individuals voting as shown by the poll book does not equal the number of ballots counted as shown by the statement of returns, and if an explanation of the discrepancy has not been noted in the poll book, the receiving board shall ask the election inspectors about the discrepancy, note the explanation in the poll book, and all shall sign the notation.

(4) If the poll book or statement of returns has been erroneously sealed in the ballot container, the election inspectors may open the ballot container and remove the poll book or statement of returns. The elections inspectors and receiving board shall note the corrective action in the remarks section of the poll book and all shall sign the notation before placing the poll book or statement of returns in a separate sealed envelope. If the statement of returns was sealed in the ballot container and the poll book was sealed in an envelope, the poll book shall be removed from the sealed envelope for the notation of corrective action to be recorded before placing the poll book and statement of returns in a sealed envelope. The receiving board shall notify the clerk of the board of canvassers responsible for canvassing all or a portion of the election of the corrective action taken.

(5) When the receiving board has completed the review under subsection (3), the receiving board shall place the poll book and statement of returns in the appropriate envelope, sealed with a red paper seal and initialed by the receiving board. If permitted by the clerk of the board of canvassers, the poll books and statement of returns from more than 1 precinct may be included and delivered in a single envelope.

**History:** Add. 2004, Act 256, Imd. Eff. July 23, 2004.

**Popular name:** Election Code

### 168.680 Precinct election inspectors; oath of office.

Sec. 680. Each precinct election inspector shall, before entering upon the discharge of his duties, take and subscribe the following constitutional oath of office, which oath any of the inspectors may administer: “I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of inspector of elections according to the best of my ability.”

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.681 Repealed. 1980, Act 188, Imd. Eff. July 3, 1980.

**Compiler's note:** The repealed section pertained to right of precinct election inspectors to vote.

**Popular name:** Election Code

### 168.682 Election officials; compensation.

Sec. 682. Any person employed as an inspector of election, or in any other official capacity at any election, primary election, or on any board of canvassers or board of registration, shall, except as herein otherwise specifically provided, receive such reasonable compensation as may be allowed by the township board of any township, board of supervisors of any county or the legislative body of any city or village, as the case may be.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.683 Election inspectors; instruction, compensation, vacancies.

Sec. 683. Each county clerk prior to each primary and election shall, by some reliable means, notify the clerk of each township and city in the county of a training school for election inspectors to be held at a place designated by the county clerk within 20 days prior to each primary, general and special election. The township and city clerks shall notify each election inspector appointed to serve at that election of the time and place of such training school. At such meeting, the county clerk shall instruct and demonstrate the manner in which the duties of election inspectors are required by law to be performed. It shall be the duty of the inspectors, so notified, to attend such meeting unless excused by the county clerk for good cause. Compensation may be paid them therefor by their respective municipalities at such rate as may be determined by the governing bodies. No inspector of election shall serve in any election unless he shall have within the last preceding 2 years either attended an election school or shall have passed satisfactorily an examination given by the election commission of the city, township or village in which appointed. The examination shall be subject to the approval of the secretary of state. This section shall not prevent the appointment of an inspector of election to fill a vacancy. This section shall not prohibit any city or any township having a population of 10,000 or more from conducting its own training school for election inspectors of that city or township in which case election inspectors who have attended such school shall not be required to attend the county training school.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 67, Eff. Mar. 28, 1963;—Am. 1963, Act 159, Eff. Sept. 6, 1963.

**Popular name:** Election Code

PREPARATION, PRINTING AND DELIVERY OF OFFICIAL BALLOTS

### 168.684 Vignette; preparation, adoption, size; notice of change; provision of cuts.

Sec. 684. The state central committee of each political party in this state shall prepare and adopt a vignette, to be printed at the top of the column of the official ballot assigned to such party, as a distinctive and characteristic heading thereto. Such vignette shall not be more than 1 1/2 inches square, and in addition to the device adopted shall set forth legibly the name of such party. The vignette shall remain as the heading for the column of such party on the ballots at all elections until changed by the state central committee of the party. Notice of any change of vignette shall be certified by the secretary of the state central committee to the secretary of state at least 4 months prior to the date of the primary or election at which the change shall be effective.

At least 3 months prior to any general election the secretary of state shall furnish each board of county election commissioners, in care of the county clerk, a true copy of the vignette filed by each political party entitled to a place on the ballots and the order in which the party columns shall appear thereon. The board of election commissioners of each county shall provide, at the expense of the county, a sufficient number of cuts of the several vignettes for use in printing the official ballots for any state, district or county election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961.

**Popular name:** Election Code

### 168.685 Printing name of candidate of new political party on ballot; certificate; petition to form new political party; disqualification and requalification of party; party subject to MCL 168.686a; prohibited conduct.

Sec. 685. (1) The name of a candidate of a new political party shall not be printed upon the official ballots of an election unless the chairperson and secretary of the state central committee of the party files with the secretary of state, not later than 4 p.m. of the one hundred-tenth day before the general November election, a



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

certificate signed by the chairperson and secretary of the state central committee bearing the name of the party, together with petitions bearing the signatures of registered and qualified electors equal to not less than 1% of the total number of votes cast for all candidates for governor at the last election in which a governor was elected. The petitions shall be signed by at least 100 registered electors in each of at least 1/2 of the congressional districts of the state. All signatures on the petitions shall be obtained not more than 180 days immediately before the date of filing.

(2) After the date on which a petition is filed, the secretary of state shall not accept additional petition sheets for that petition. The validity and authenticity of the signatures may be determined in the same manner as provided for initiatory and referendary petitions in section 9 of article II of the state constitution of 1963. An official declaration of the sufficiency or insufficiency of a petition filed under this section shall be made by the board of state canvassers not later than 60 days before the general November election.

(3) The petitions shall be in substantially the following form:

```
            PETITION TO FORM NEW POLITICAL PARTY
     We, the undersigned, duly registered electors of the
city, township of ................. county of  .................
 (strike one)
state of Michigan, residing at the places set opposite our
names, respectfully request the secretary of state, in
accordance with section 685 of the Michigan election law,
1954 PA 116, MCL 168.685, to receive the certificate and
vignette accompanying this petition, and place the names of
the candidates of the ........................ party on the
ballot at the ..................... election.
```

Warning: A person who knowingly signs petitions to organize more than 1 new state political party, signs a petition to organize a new state political party more than once, or signs a name other than his or her own is violating the provisions of the Michigan election law.

```
                                  ................................
                                  ................................
                                  ................................
```

(4) The balance of the petition form shall be substantially as set forth in section 544c. The size of all organizing petitions shall be 8-1/2 inches by 13 inches and shall be printed in the following type sizes: The words "petition to form new political party" and the name of the proposed political party shall be in 24-point boldface type; the word "warning" and the language contained in the warning shall be in 12-point boldface type.

(5) Petitions circulated under this section may be circulated on a countywide basis. A petition that is circulated countywide shall be on a form prescribed by the secretary of state.

(6) If the principal candidate of a political party receives a vote equal to less than 1% of the total number of votes cast for the successful candidate for the office of secretary of state at the last preceding general November election in which a secretary of state was elected, that political party shall not have the name of any candidate printed on the ballots at the next ensuing general November election, and a column shall not be provided on the ballots for that party. A disqualified party may again qualify and have the names of its candidates printed in a separate party column on each election ballot in the manner set forth in subsection (1) for the qualification of new parties. The term "principal candidate" of a political party means the candidate who receives the greatest number of votes of all candidates of that political party for that election.

(7) A political party that complied with this section is subject to section 686a in order to have the name of that party, its vignette, and its candidates appear on the general election ballot.

(8) A person shall not knowingly sign a petition to organize more than 1 new state political party, sign a petition to organize a new state political party more than once, or sign a name other than his or her own on the petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 312, Eff. Jan. 1, 1966;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1976, Act 94, Imd. Eff. Apr. 22, 1976;—Am. 1988, Act 116, Eff. Nov. 9, 1988;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990;—Am. 2002, Act 399, Imd. Eff. May 30, 2002.

**Constitutionality:** The Michigan supreme court, in Socialist Workers Party v. Secretary of State, 412 Mich. 571, 317 N.W.2d 1 (1982), held that Act No. 94 of the Public Acts of 1976, which amended this section, violates the first and fourteenth amendments and Const. 1963, Art. 1, § 2 and Art. 2, § 4.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.686 State convention; canvass of returns; certification of nominees; presidential and vice-presidential candidates.

Sec. 686. Within 24 hours after the conclusion of the state convention before a general election, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention. Not more than 1 business day after the state convention, the chairperson and secretary of the state central committee shall forward to the secretary of state, a typewritten or printed list of the names and residence, including the street address if known, of all candidates nominated at the state convention. In each presidential election year, the state central committee of each political party shall, not more than 1 business day after the state convention or the national convention of that party, whichever is later, forward to the secretary of state the typewritten or printed names of the candidates of that party for the offices of president of the United States and vice-president of the United States certified to by the chairperson and secretary of the committees. A party is not required to certify nominations made at an official primary election. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2003, Act 284, Imd. Eff. Jan. 8, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.686a Nomination by caucus or convention where no candidate polls 5% of vote cast for candidates for secretary of state.

Sec. 686a. (1) If a political party entitled to a position on the ballot failed to have at least 1 candidate who polled at least 5% of the total vote cast for all candidates for secretary of state at the last preceding election at which a secretary of state was elected, candidates for that political party shall be nominated as provided in section 532. County caucuses and state conventions for such political parties shall be held not later than the August primary.

(2) County caucuses may nominate candidates for the office of representative in congress, state senator, and state representative if the offices represent districts contained wholly within the county, and for all county and township offices. Not more than 1 business day after the conclusion of the caucus, the names and mailing addresses of all candidates so nominated and the offices for which they were nominated shall be certified by the chairperson and secretary of the caucus to the county clerk. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. If a candidate is so certified with the accompanying affidavit of identity and certificate of acceptance, the name of the candidate shall be printed on the ballot for that election. Candidates nominated and certified shall not be permitted to withdraw.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) The county caucus may also select the number of delegates to the state convention to which the county is entitled and shall select its own officers and name its own county committee.

(4) The state convention shall be held at the time and place indicated in the call. The convention shall consist of delegates selected by the county caucuses. The convention may fill vacancies in a delegation from qualified electors of that county present at the convention. The convention may nominate candidates for all state offices. District candidates may be nominated at district caucuses held in conjunction with the state convention attended by qualified delegates of the district. If delegates of a district are not present, a district caucus shall not be held for that district and candidates shall not be nominated for that district. Not more than 1 business day after the conclusion of the convention, the names and mailing addresses of the candidates nominated for state or district offices shall be certified by the chairperson and secretary of the state convention to the secretary of state. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. The names of candidates so certified with accompanying affidavit of identity and certificate of acceptance shall be printed on the ballot for the forthcoming election. Candidates so nominated and certified shall not be permitted to withdraw.

**History:** Add. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1988, Act 116, Eff. Nov. 9, 1988;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.687 Certification of nominations by board of canvassers.

Sec. 687. The board of canvassers, whose duty it is to determine who are nominated for public office at any official primary election, shall forthwith, upon such determination, certify the nomination as follows:

For an office to be filled by the electors of the state at large, to the board of election commissioners of each county and to the secretary of state;

For a district office, to the board of election commissioners of each county, the whole or part of which county forms a part of the district, or to the board of election commissioners of the county, a part of which forms the district and to the secretary of state;

For a county office, to the board of election commissioners of the county; and

For a city or ward office, to the board of election commissioners of the city.

Each certificate shall set forth the name of the candidate, the office for which and the party on whose ticket he was nominated and, if for a district office, shall designate the district.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961.

**Popular name:** Election Code

### 168.688 Certificates of nomination; delivery.

Sec. 688. All certificates of nomination required to be made to the board of election commissioners of any county shall be delivered to the county clerk, or forwarded to him by registered or certified mail with return receipt demanded, and such county clerk shall deliver such certificate to the county board of election commissioners at its first meeting thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.689 Official ballots; preparation, printing.

Sec. 689. The board of election commissioners of each county shall prepare the official ballots for use at any state, district or county election held therein, and shall have printed a sufficient number of ballots containing the names of all candidates properly certified to said board of election commissioners, and ballots for all proposed constitutional amendments or other questions to be submitted at such election to supply each election precinct in such county with a sufficient number for such precinct, and not less than 25% more than the total number of votes cast therein at the corresponding election held 4 years previous for the office which received the greatest number of votes.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.690 Official ballots; delivery to township, village and city clerks; duties of township and municipal election boards.

Sec. 690. The township, city, or village board of election commissioners for each jurisdiction conducting the election shall have the ballots required for a regular or special township, village, city, school, or community college election, or official primary election for the nomination of candidates for township, city, ward, or community college offices, to be printed and delivered to the election commission's township, village, or city clerk at least 10 days before the election. The duties imposed upon county boards of election commissioners and upon county, township, and city clerks relative to the printing, counting, packaging, sealing, and delivery of official ballots are imposed upon the township and municipal boards of election commissioners and the township, village, or city clerks relative to the printing, counting, packaging, sealing, and delivery of official ballots for use in each precinct of the township, village, or city at a municipal, township, village, school, or community college election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.691 Official ballots; names of candidates; identification numeral; compliance.

Sec. 691. (1) Each board of election commissioners shall have printed on the ballot, or on ballot labels or slips to be placed on a voting machine, when used, the names of the candidates certified to that board under this act. A candidate's name shall not be placed or printed in more than 1 column on the ballot for the same office. A board of election commissioners for a county or city may arrange the ballots with an identification numeral placed in the same space with the name of each of the candidates. That identification numeral shall be rotated with the name of the candidate, and when rotated, shall appear in the same space with the same candidate regardless of where the candidate's name appears on the ballot.

(2) The name of a candidate appearing on a ballot shall comply with sections 560b and 561.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.692 Nomination by more than 1 party; choice; nomination for more than 1 office.

Sec. 692. Any person nominated at a primary election by more than 1 political party, or certified as a nominee by more than 1 political party, or nominated by 1 political party and thereafter certified as a nominee by another political party, shall be notified of such dual nominations by registered or certified mail with a return receipt demanded, by the county clerk, or clerks of the several counties affected if for a state or district office, immediately upon certification to him of such nominations by the board of canvassers or by the party committees, as the case may be. Such person shall, within 3 days after the receipt of said notification, advise the county clerk or clerks in writing in which political party column it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election. Any person who has been certified for more than 1 office, except where 2 or more offices may be legally combined, shall be notified in a like manner and shall, within 3 days of receipt thereof, advise the county clerk or clerks of the particular office for which he desires to be a candidate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

### 168.692a Qualifying petition not to be filed by certain persons.

Sec. 692a. A person who files a partisan nominating petition or filing fee as a candidate of a political party, or who is nominated by a political party convention, committee, or caucus and accepts the nomination, shall not file a qualifying petition under chapter XXIVA for an office to be elected at that election or at an election held during the same calendar year.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.693 Nomination by more than 1 party or for more than 1 office; failure to make choice; procedure.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 693. Any person nominated at a primary or certified as a candidate by more than 1 political party for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, who fails to designate the particular office sought and the party column in which it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election, as herein provided, shall have his or her name printed or placed on said ballots or voting machines by the proper board of election commissioners in the following manner:

(1) Should such candidate's name have been certified by more than 1 political party, it shall be printed or placed in the column of that party first making certification;

(2) Should such candidate be nominated at a primary by 1 political party pursuant to the filing of petitions and be certified as a candidate by another party for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, such candidate's name shall be printed or placed on the ballots or voting machines in the party column and for that office for which petitions were filed; or

(3) Should the name of such candidate be written or placed on the primary election ballots or voting machines for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, by the electors of more than 1 political party without petitions having been filed or certification made, then the name of such candidate shall be printed or placed on the ballots or voting machines for the office and in the column of that party casting the greatest number of votes for such candidate at the preceding primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.694 Applicability of certain sections.

Sec. 694. All the provisions of sections 691, 692, 693 and 695 of this act shall also apply to all city, village and township elections held in this state under the provisions of this act, except that the notice herein required to be given by a candidate shall, in case of a city, village or township office be given by him to the proper city, village or township board of election commissioners within 2 days after his name has been so certified as nominated by 2 or more political parties for the same office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.695 Ineligibility of candidate at subsequent election.

Sec. 695. No person whose name was printed or placed on the primary ballots or voting machines as a candidate for nomination on the primary ballots of 1 political party shall be eligible as a candidate of any other political party at the election following that primary.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.696 Printing name of candidate for federal, state, district, county, and township offices on 1 ballot; separate column; filing request for clarifying designation of same or similar surnames; notice of determination; appeal; printing occupation, date of birth, or residence of candidate; incumbency designation; guidelines.

Sec. 696. (1) The board of election commissioners in each county shall have the name of each candidate for federal, state, district, county, and township offices at an election printed on 1 ballot, separate from any other ballot. The name of each candidate of each political party shall be placed in a separate column on the ballot under the name and vignette of the party with the name of each candidate opposite the name of the office for which the candidate was certified to have been nominated.

(2) If, in a district that is a county or entirely within 1 county, 2 or more candidates nominated by the same political party or by different political parties for the same office, or nonpartisan candidates for the same office, have the same or similar surnames, a candidate may file a written request with the board of county election commissioners for a clarifying designation. The request shall be filed not later than 3 days after the certification of the relevant candidates. Not later than 3 days after the filing of the request, the board of county election commissioners shall determine whether a similarity exists and whether a clarifying designation should be granted. In a district located in more than 1 county, the board of state canvassers shall make a determination whether to grant a clarifying designation upon the written request of a candidate who is certified by the secretary of state. The request shall be filed with the state board of canvassers not later than 3 days after the state board of canvassers completes the canvass of the primary election in compliance with section 581 and the certification of nominees in compliance with section 687. The board of state canvassers shall make its determination not later than 3 days after the request is filed.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) In each instance, the determining board shall immediately notify each candidate for the same office as the requester that a request for a clarifying designation has been made and of the date, time, and place of the hearing. The requester and each candidate for the same office shall be notified of the board's determination by first-class mail sent within 24 hours after the final date for the determination. A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of the county where the board is located. A candidate who is dissatisfied with the determination of the board of state canvassers may file an appeal in the Ingham county circuit court. The appeal shall be filed within 14 days after the final date for determination by the board. The court shall hear the matter de novo. Except as provided in subsection (4), in the case of the same surname or of a final determination by the board or by the court before the latest date that the board can arrange for the ballot printing of the existence of similarity, the board shall print the occupation, date of birth, or residence of each of the candidates having the same or similar surnames on the ballot or ballot labels or slips to be placed on the voting machine, when used, under their respective names. The request may not be made by a candidate of a political party whose candidate for secretary of state received less than 10% of the total vote cast in the state for all candidates for secretary of state in the most recent November election in which a secretary of state was elected. The term “occupation” includes a currently held political office, even though it is not the candidate's principal occupation, but does not include reference to a previous position or occupation.

(4) If there are 2 candidates with the same or similar surnames and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, no other designation shall be provided for the other candidate with the same or similar surname. If there are more than 2 candidates with the same or similar surname and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, a clarifying designation may be given to the other candidates with the same or similar surname. Except for an incumbency designation under section 24 of article VI of the state constitution of 1963, if 2 or more candidates with the same or similar surnames are related, the board shall only print the residence or date of birth of each of the candidates as a clarifying designation. As used in this subsection, “related” means that the candidates with the same or similar surnames are related within the third degree of consanguinity.

(5) The board of state canvassers shall issue guidelines to ensure fairness and uniformity in the granting of designations and may issue guidelines relating to what constitutes the same or similar surnames. The board of state canvassers and the boards of county election commissioners shall follow the guidelines.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 328, Imd. Eff. July 19, 1966;—Am. 1967, Act 36, Eff. Nov. 2, 1967;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Compiler's note:** This section was also amended by Act 240 of 1964, but that act was disapproved by the voters at the November election in 1964.

**Popular name:** Election Code

### 168.697 General November election; order of placing offices on ballot.

Sec. 697. At the general November election, the names of the several offices to be voted for shall be placed on the ballot substantially in the following order in the years in which elections for such offices are held: Electors of president and vice-president of the United States; governor and lieutenant governor; secretary of state; attorney general; United States senator; representative in congress; senator and representative in the state legislature; members of the state board of education; regents of the university of Michigan; trustees of Michigan state university; governors of Wayne state university; county executive; prosecuting attorney; sheriff; clerk; treasurer; register of deeds; auditor in counties electing an auditor; mine inspector in counties electing a mine inspector; county road commissioners; drain commissioners; coroners; and surveyor. The following township officers shall be placed on the same ballot as above described in substantially the following order in the year in which elections for such offices are held: supervisor, clerk, treasurer, trustees, and constables.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1956, Act 88, Imd. Eff. Apr. 5, 1956;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 131, Imd. Eff. July 8, 1965;—Am. 1966, Act 58, Imd. Eff. June 7, 1966;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976.

**Popular name:** Election Code

### 168.698 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section provided for a separate presidential ballot.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.699 Nonpartisan offices; placement on separate portion of ballot; order of listing offices.

Sec. 699. At any regular election, the names of the several nonpartisan offices to be voted for shall be placed on a separate portion of the ballot containing no party designation in the following order: justices of the supreme court, judges of the court of appeals, judges of the circuit court, judges of the probate court, judges of the district court, city officers, the following village officers in substantially the following order in the year in which elections for the offices are held: president, clerk, treasurer, and trustees, and in a year in which an election for the office is held, local school district board member, community college board of trustees member, intermediate school district board member, and district library board member.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 2004, Act 297, Imd. Eff. July 23, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.700 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Compiler's note:** The repealed section pertained to placement of names on ballot at biennial spring election.

**Popular name:** Election Code

### 168.701 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Compiler's note:** The repealed section pertained to placement of names on ballot at biennial spring election.

**Popular name:** Election Code

### 168.702 Official ballots; placing of name to fill vacancy.

Sec. 702. The name of a candidate to fill a vacancy in any office shall be placed in the appropriate place on the ballot, regard being had to its being a state, congressional, legislative or county office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.703 Official ballots; position of parties.

Sec. 703. The ticket of the party having the greatest number of votes in the state at the last election in which a secretary of state was elected, as shown by the votes cast thereat for secretary of state, shall be placed first on the ballot, the position of other party tickets to be governed relatively by the same rule.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.703a Repealed. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** The repealed section pertained to listing of candidates and incumbents on official ballots.

**Popular name:** Election Code

### 168.704 Official ballots; size of voting squares or circles.

Sec. 704. Every square which is printed on any ballot and which is intended as a place for an elector to mark his choice shall be not less than 3/8 of an inch square. Every circle which is printed on a ballot and which is intended as a place for an elector to mark his choice shall be not less than 1/2 of an inch in diameter.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.705 Official ballots; paper, printing, numbering, color of paper.

Sec. 705. The ballots of each kind shall be of uniform size and printed in black ink on white paper of a grade equal to 50-pound book, machine finished, and sufficiently thick so that the printing cannot be distinguished from the back. The ballots of each kind shall be perforated diagonally across the upper right-hand corner of the face thereof, so that the corner can be readily torn off. Printed on the detachable corner shall be the name or kind of ballot, and a bold-face letter corresponding to a similar letter on the ballot box. The ballots shall be numbered consecutively on such corner, such number to be printed thereon. This section shall not prohibit the printing of unnumbered ballots for emergency purposes. Such ballots shall, prior to being delivered to the polls, have the numbers printed or stamped on the detachable corners. No 2 ballots of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the same kind in the same election precinct shall bear the same number. The election commission may provide for the printing of the ballots on colored paper as follows: State and county ballots, white paper; non-partisan ballots, blue tinted paper; constitutional amendments and state propositions, red tinted paper; county propositions, green tinted paper; local propositions, buff paper; local candidates, white paper. If the election commission prints ballots on colored paper, all instruction ballots shall be printed on any color paper not used for official ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958.

**Popular name:** Election Code

### 168.706 Official ballot; plan; instructions.

Sec. 706. The arrangement of the ballot containing the names of candidates for office shall conform as nearly as possible to the following plan, and shall contain the specific instructions there set forth and no others:

OFFICIAL BALLOT

County of ..... Date .....

INSTRUCTIONS - To vote a straight party ticket make a cross (X) or check mark (**v**) in the circle under the name of your party. Nothing further need be done. To vote for a candidate not on your party ticket, make a cross (X) or a check mark (**v**) in the square [ ] before the candidate's name. Candidates for president and vice-president must be voted for as a unit, and the vote cannot be split. Candidates for governor and lieutenant governor must be voted for as a unit, and the vote cannot be split.

If 2 or more candidates are to be elected to the same office and you desire to vote for candidates not on your party ticket, make a cross (X) or a check mark (**v**) in the square [ ] before the names of the candidates for whom you desire to vote on the other ticket, and strike out an equal number of names on your party ticket, for that office.

If you do not desire to vote any party ticket, do not make a cross (X) or check mark (**v**) in the circle at the head of any ticket, but make a cross (X) or a check mark (**v**) in the square [ ] before the name of each candidate for whom you desire to vote.

If you wish to vote for a candidate not on any ticket, write or place the name of that candidate on your ballot opposite the name of the office.

Before leaving the booth, fold the ballot so that the face of the ballot is not exposed and so that the numbered corner is visible.

| Name of Offices Voted For: | Vignette with Name of Party [ ] | Vignette with Name of Party [ ] | Vignette with Name of Party [ ] |
|---|---|---|---|
| PRESIDENTIAL Electors of President and Vice-President of the United States | Name of Candidate for President.<br>[ ]Name of Candidate for Vice-President. | Name of Candidate for President.<br>[ ]Name of Candidate for Vice-President. | Name of Candidate for President.<br>[ ]Name of Candidate for Vice-President. |
| STATE Governor and Lieutenant Governor | Governor Name of Candidate<br>[ ]Lieut.Governor Name of Candidate | Governor Name of Candidate<br>[ ]Lieut.Governor Name of Candidate | Governor Name of Candidate<br>[ ]Lieut.Governor Name of Candidate |
| Secretary of State | Secretary of State<br>[ ]Name of Candidate | Secretary of State<br>[ ]Name of Candidate | Secretary of State<br>[ ]Name of Candidate |
| CONGRESSIONAL | U.S. Senator | U.S. Senator | U.S. Senator |



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

| | | | |
|---|---|---|---|
| United States Senator | [ ]Name of Candidate | [ ]Name of Candidate | [ ]Name of Candidate |
| Represent-ative in Congress ...District | U.S. Repre-sentative [ ]Name of Candidate | U.S. Repre-sentative [ ]Name of Candidate | U.S. Repre-sentative [ ]Name of Candidate |
| LEGISLATIVE Senator ...District | State Senator [ ]Name of Candidate | State Senator [ ]Name of Candidate | State Senator [ ]Name of Candidate |
| Represent-ative ...District | State Repre-sentative [ ]Name of Candidate | State Repre-sentative [ ]Name of Candidate | State Repre-sentative [ ]Name of Candidate |
| COUNTY Prosecuting Attorney | Pros. Attorney [ ]Name of Candidate | Pros. Attorney [ ]Name of Candidate | Pros. Attorney [ ]Name of Candidate |
| Sheriff | Sheriff [ ]Name of Candidate | Sheriff [ ]Name of Candidate | Sheriff [ ]Name of Candidate |

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.707 Referendum on proposed constitutional amendment or question; form of ballot; certification; city ordinance submitted to electors.

Sec. 707. (1) If a proposed constitutional amendment or other proposition is to be submitted to the electors of this state for popular vote, the secretary of state, not less than 49 days before the date of the election at which the proposed constitutional amendment or other proposition is to be submitted, shall certify to the various county clerks the form of ballots to be prepared in connection with the proposal. The ballot shall contain a statement of the proposed constitutional amendment or other proposition in 100 words or less, exclusive of caption, as provided in section 2 of article XII of the state constitution of 1963. The ballot shall be a single ballot separate and distinct from the ballots containing the names of candidates or nominees for



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

public office. The ballot shall contain a suitable caption, under which shall be printed the words “yes ( )” and “no ( )” in separate lines. Each board of county election commissioners shall print the ballots for use in their respective counties.

(2) A city ordinance that has been or is hereafter adopted by the legislative body of a city with a population of more than 500,000 and that is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the legislative body.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1968, Act 46, Imd. Eff. May 24, 1968;—Am. 1994, Act 152, Eff. Jan. 1, 1995.

**Popular name:** Election Code

### 168.708 Proposed constitutional amendment or question; statement of purpose, publication.

Sec. 708. The secretary of state shall duly prepare a concise statement setting forth the nature of any such proposed amendment or other proposition and shall send copies of said statement to the several daily and weekly newspapers published in the state, prior to the election, with a request that said papers give as wide publicity as possible to said proposed amendment or other proposition. Publication of any matter by any paper under the provisions of this section shall be without expense or cost to the state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.709 Proposed constitutional amendment or question; statement of purpose, copies to voting precincts, posting.

Sec. 709. The secretary of state shall also furnish the several county clerks in the state at least 2 copies of each such statement on paper suitable for posting for each voting precinct in their respective counties. The county clerk shall furnish the said copies of such statement to the several city and township clerks in his county at the time other supplies for the election are furnished, and said city and township clerks shall, before the opening of the polls on election day, deliver 2 copies of such statement to each voting precinct in his city or township, to the board of election inspectors of said precinct, who shall post the same in conspicuous places in the room where such election is held.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.710 Proposed constitutional amendment or question; proof copies of ballots, filing, public inspection.

Sec. 710. The county board of election commissioners shall place on file at the office of the county clerk, at least 15 days prior to any election, proof copy of the official ballot containing the names of candidates for public office to be voted for at such election, and such proof copies shall be open for public inspection.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.711 Filing and mailing proof copies of ballots; affidavit; certification; correction and printing of ballots; forwarding copy to secretary of state.

Sec. 711. At the time of filing the proof copy of the ballot at the office of the county clerk, the county board of election commissioners shall send in counties with a population of 1,500,000 or more by registered or certified mail, with a return receipt demanded, and in counties with less than 1,500,000 by first class mail a proof copy of the official ballot to each candidate whose name appears on the ballot at the candidate's last known address. The county clerk shall prepare and sign an affidavit when sending proof ballots which: attests that proof ballots were mailed as required; lists the candidates who were mailed ballots; the address to which the ballots were mailed; and lists the date or dates proof ballots were mailed. The board of election commissioners shall also send 2 copies of proof ballots to the secretary of state who shall immediately approve and certify the ballot or notify the board of election commissioners of any correction. If a candidate desires to correct the ballot, the candidate shall forward the ballot to the county clerk within 2 business days of the receipt of the ballot with the corrections noted on the ballot. The board of election commissioners shall correct errors found in the ballot by the inspection provided for in this section and at the expiration of the 2-day correction period shall proceed with the printing of the ballots. The county clerk shall forward a copy of the corrected ballot to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1984, Act 113, Imd. Eff. May 29, 1984.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.712 Official ballots; omissions or errors; correction by pasters.

Sec. 712. In case the name of any candidate regularly certified to said board of election commissioners shall have been omitted from such ballots, or in case it is found that a mistake has been made in the printing of the name of any candidate on said ballot, said board of election commissioners shall furnish pasters containing the name of such candidate and the same shall be placed upon the ballots in the same manner as provided in the case of a candidate selected to fill a vacancy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.713 Delivery of ballots and supplies to county clerk.

Sec. 713. The county board of election commissioners shall cause the ballots required for any regular or special election or official primary election in the county, wrapped and tied as required by this act, to be delivered to the county clerk at the earliest possible time after the approval of the proof of the ballots, and absent voter ballots shall be delivered to the county clerk at least 47 days before any election or primary election. All other ballots and election supplies shall be delivered to the county clerk at least 12 days before any election or primary election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 171, Imd. Eff. Apr. 16, 1956;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990 ;—Am. 2010, Act 51, Imd. Eff. Apr. 22, 2010.

**Popular name:** Election Code

### 168.714 Delivery of ballots and supplies to township and city clerks; receipt of delivery; deadlines.

Sec. 714. (1) The county clerk of each county, at the earliest possible time and at least 45 days before a regular election or special election in the county, shall cause to be delivered to the clerk of each township and city in the county the absent voter ballots for each precinct.

(2) The county clerk of each county shall cause to be delivered ballots, other than absent voter ballots, and election supplies to the clerk of each township and city in the county at least 10 days before any election or primary election.

(3) The county clerk shall take receipt from each township and city clerk for all ballots and supplies delivered to that clerk.

(4) Each city, township, and village clerk shall adhere to the deadlines provided in this section for elections in which the county does not print the ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 171, Imd. Eff. Apr. 16, 1956;—Am. 1981, Act 61, Imd. Eff. June 5, 1981 ;—Am. 1981, Act 127, Imd. Eff. Sept. 29, 1981;—Am. 1981, Act 140, Imd. Eff. Oct. 30, 1981;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 2010, Act 43, Imd. Eff. Mar. 31, 2010.

**Popular name:** Election Code

### 168.715 Absent voters' and other ballots; duties of township and city clerks, delivery to voting precinct boards of election inspectors.

Sec. 715. It shall be the duty of county, city and township clerks to keep safeguarded all official ballots for absent voters' use. The said township or city clerk shall have the right to open the package or packages of absent voter ballots received by him for any precinct in his township or city, provided he shall receive application for absent voter ballots from any qualified elector of such precinct, but not otherwise. He shall in no case open any of the other packages of official ballots but shall keep them intact in some safe and secure place, and shall deliver them and other election supplies, together with the absent voter ballots remaining in his possession, to the chairman or some member of the board of inspectors of election of the proper precinct or precincts of his township or city, as the case may be, before 7 o'clock in the forenoon of the day of election. On delivery of said ballots to the chairman or some other member of the board of election, said clerk shall take a receipt therefor, which receipt he shall file in his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.716 Absent voters' and other ballots; wrapping, sealing.

Sec. 716. The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or some member of the board of county election commissioners or his or its duly authorized agent, setting forth



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.717 Absent voters' ballots; numbering, packaging, marking.

Sec. 717. At least 3% of the total number of ballots of each kind to which each precinct is entitled, together with such additional number as the county clerk, upon a proper showing by the respective township or city clerks, may deem to be necessary, beginning with ballot No. 1 and including the consecutive numbers thereafter, shall be enclosed in 1 package, as many as are necessary thereof to be used for absent voters as provided by law: Provided, however, That such county clerk may deliver to each township or city clerk a sufficient number of each kind of such absent voters' ballots for each township and city in the county with numbers higher than those on any other ballots delivered to such township or city clerk, in which case the unused absent voters' ballots of such higher numbers shall remain in the possession of the clerk for contingencies, and further reference had in this act to the disposition of absent voters' ballots bearing the regular precinct numbers shall not apply to such ballots. Each package of absent voters' ballots shall be plainly marked on the outside, “Absent voters' ballots”. The remainder of the ballots of each kind for such precinct shall be enclosed in a second package, sealed as above provided.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.717a Absent voters' ballots where voting machines used exclusively; form, contents, discontinuance.

Sec. 717a. (1) Notwithstanding any provision of law to the contrary, in cities, villages or townships where voting machines are used exclusively, the absent voter ballots for all elections, if ordered by resolution of the election commission thereof, and approved by the election commission of the county, may be a consolidated ballot and be a replica of the face of the voting machine, both as to arrangement and coloring, with the following exceptions:

(a) The absent voter ballot need not be of the same size as the face of the voting machine, but may be reduced by not more than 1/3. The instructions to the absent voter shall be printed thereon. In place of the party lever, a circle shall be shown; and in place of the individual candidate levers, squares shall be shown. The circle shall be not less than 1/4 inch in diameter and the squares shall be not less than 3/16 inch square.

(b) The names of candidates for each office or proposal shall be arranged on the absent voter ballot by precinct in the same manner as on the voting machines used in that precinct. The ballots shall be numbered consecutively from 1 upwards in the upper right hand corner, on the front side thereof. The ballot shall be perforated diagonally across the upper right hand corner so that the number can be readily torn off.

(c) The instructions to the absent voter printed on the absent voter ballot shall be prepared by the clerk of the city, village or township and shall follow as nearly as possible the instructions for voting of regular paper ballots.

(2) In counties where voting machines are used exclusively throughout said county the absent voter ballots for all county-wide and state-wide elections, if ordered by resolution of the election commission of the county, may be a consolidated ballot and a replica of the face of the voting machine, both as to arrangement and coloring with the exceptions herein before noted.

(3) The clerk of any city, village or township, the election commission of which has ordered the absent voter ballot for all elections held therein to be in the form described in this section, shall certify to the county clerk of the county in which the unit of government is located, a copy of the resolution so adopted. The county clerk shall furnish the city, village or township absent voter ballots in the form established for all elections held thereafter in the city, village or township in which he is required to furnish ballots.

(4) If the election commission of any city, village or township after the adoption of such a resolution desires to discontinue the use of an absent voter ballot of the form established in this act, it may discontinue its use upon the adoption of a resolution. The clerk of the city, village or township shall thereupon certify to the county clerk of the county in which the unit of government is located a copy of the resolution so adopted.

**History:** Add. 1960, Act 29, Eff. Aug. 17, 1960;—Am. 1961, Act 119, Eff. Sept. 8, 1961.

**Popular name:** Election Code

### 168.718 Official ballots; printer, acts prohibited; instruction ballots, printing.

Sec. 718. It shall not be lawful for the printer of official ballots for use at any election, or any other person, to give or deliver any of said ballots to, or knowingly permit any of said ballots to be taken by, any person



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

other than the board of election commissioners for which such ballots are being printed; or to print, or cause or permit to be printed, any ballots in any other form than the one prescribed by this act, or with any other name thereon, or with the names misspelled, or the names, devices or designs therein arranged in any other way than that authorized and directed by the said board of election commissioners; but it shall be lawful for said board of election commissioners and upon its authorization for the chairman and candidates named on the official ballots to procure any number of facsimiles thereof to be printed on red, yellow or blue paper and to circulate the same for the purpose of the instruction of voters. Said colored facsimiles shall have printed at the head the words “Instruction Ballot”.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.719 City, township and village election commissions; duties; party committees, duties; proof copy of ballot, public inspection.

Sec. 719. The election commission of each city, township and village shall perform such duties relative to the preparation, printing and delivery of ballots as are required by law of the boards of election commissioners of counties. Like duties and privileges as are enjoined and granted by this act upon and to the various committees of the different political organizations are hereby prescribed for city, village or township committees in matters pertaining to any city, village or township election, except that it shall not be necessary for a city, township or village committee of a political party or organization to furnish a vignette or heading for the ballots other than to designate the name of the party or political organization which they represent. In cities, villages and townships the names of candidates for city, township or village offices, as the case may be, shall be given by the committees of the various political organizations to the board of election commissioners of such city, village or township not less than 18 days before each election, but it shall not be necessary for any party committee to give to the board of election commissioners the name of any candidate nominated at an official primary election. The proof of the ballot shall be open to public inspection at the office of the township, city or village clerk, not less than 15 days before such election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

CONDUCT OF ELECTIONS AND MANNER OF VOTING

### 168.720 Polls; times of opening and closing.

Sec. 720. On the day of any election, the polls shall be opened at 7 o'clock in the forenoon, and shall be continuously open until 8 o'clock in the afternoon and no longer. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.721 Polls; opening and closing governed by central standard time.

Sec. 721. Unless otherwise specified, the hours for the opening and closing of polls and for the conducting of elections shall be governed by eastern standard time: Provided, however, That in the counties where central standard time is the observed time of any such county, the opening and closing of the polls and the conducting of elections may be governed by central standard time, upon resolution to such effect adopted by the county board of supervisors.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.722 Polls; announcement of opening and closing.

Sec. 722. The chairman or an inspector designated by him shall announce to those present at the polling places, the opening of the polls and the closing of the polls.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 224, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### 168.723 Ballot boxes; examination, locking.

Sec. 723. Before opening the polls, each ballot box to be used at the election shall be examined by the board of inspectors of election and the contents, if any, removed therefrom; it shall then be locked, and the key thereof delivered to 1 of the inspectors, to be designated by the board. The said box shall not be opened during the election.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.724 Ballots; opening packages; distribution of pencils; unused absent voters' ballots.

Sec. 724. At the opening of the polls, after the organization of and in the presence of the board of inspectors, 1 of the inspectors shall open the packages of ballots in such a manner as to preserve the seal intact. He shall then place in the booths the pencils to be used for marking ballots. The unused absent voters' ballots shall be the first used by the board of inspectors of election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.725 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section provided for manner of initialing ballots.

**Popular name:** Election Code

### 168.726 Ballots; delivery to elector.

Sec. 726. No ballots shall be delivered to an elector by any person other than 1 of the inspectors of election and only within the polling place, except as provided in this act for absent voters' ballots.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.727 Challenge; duty of election inspector; indiscriminate challenge; penalty.

Sec. 727. (1) An election inspector shall challenge an applicant applying for a ballot if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that individual is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of an individual attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

(a) Identify as provided in sections 745 and 746 a ballot voted by the challenged individual, if any.

(b) Make a written report including all of the following information:

(*i*) All election disparities or infractions complained of or believed to have occurred.

(*ii*) The name of the individual making the challenge.

(*iii*) The time of the challenge.

(*iv*) The name, telephone number, and address of the challenged individual.

(*v*) Other information considered appropriate by the election inspector.

(c) Retain the written report created under subdivision (b) and make it a part of the election record.

(d) Inform a challenged elector of his or her rights under section 729.

(3) A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. An individual who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.728 Challenges; disposition.

Sec. 728. If at the time a person proposing to vote is challenged, there are several persons awaiting their turn to vote, said challenged person shall stand to one side until after unchallenged voters have had an opportunity to vote, when his case shall be taken up and disposed of.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.729 Challenges; oath, questions as to qualifications; false statements, penalty.

Sec. 729. If any person attempting to vote shall be challenged as unqualified, he shall be sworn by 1 of the inspectors of election to truthfully answer all questions asked him concerning his qualifications as an elector and any inspector or qualified elector at the poll may question said personas to such qualifications. If the answer to such questions show that said person is a qualified elector in that precinct, he shall be entitled to receive a ballot and vote. Should the answers show that said person is not a qualified elector at that poll, he shall not be entitled to receive a ballot and vote. If any one of his answers concerning a material matter shall not be true, he shall, upon conviction, be deemed guilty of perjury.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.730 Designation, qualifications, and number of challengers.

Sec. 730. (1) At an election, a political party or an incorporated organization or organized committee of citizens interested in the adoption or defeat of a ballot question being voted for or upon at the election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in this act. Except as otherwise provided in this act, a political party, incorporated organization, or organized committee of interested citizens may designate not more than 2 challengers to serve in a precinct at any 1 time. A political party, incorporated organization, or organized committee of interested citizens may designate not more than 1 challenger to serve at each counting board.

(2) A challenger shall be a registered elector of this state. Except as otherwise provided in this section, a candidate for nomination or election to an office shall not serve as a challenger at the election in which he or she is a candidate. A candidate for the office of delegate to a county convention may serve as a challenger in a precinct other than the 1 in which he or she is a candidate. A person who is appointed as an election inspector at an election shall not act as a challenger at any time during the election day.

(3) A challenger may be designated to serve in more than 1 precinct. The political party, incorporated organization, or organized committee of interested citizens shall indicate which precincts the challenger will serve when designating challengers under subsection (1). If more than 1 challenger of a political party, incorporated organization, or organized committee of interested citizens is serving in a precinct at any 1 time, only 1 of the challengers has the authority to initiate a challenge at any given time. The challengers shall indicate to the board of election inspectors which of the 2 will have this authority. The challengers may change this authority and shall indicate the change to the board of election inspectors.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 248, Eff. Sept. 27, 1957;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.731 Challengers; statement of appointment by organization; contents; authorization; appointment without authorization; penalty.

Sec. 731. (1) Not less than 20 and not more than 30 days before an election, an incorporated organization or organized committee of interested citizens other than political party committees authorized by this act



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intending to appoint challengers at the election shall file with the clerk of the county, city, village or township in which the election is to be held, a statement setting forth the intention of the organization or committee to appoint challengers. The statement shall set forth the reason why the organization or committee claims the right to appoint challengers, with a facsimile of the card to be used, and shall be signed and sworn to by the chief presiding officer, the secretary, or some other officer of the organization or committee. The clerk or secretary of state, as applicable under subsection (2), may deny an organization or committee the authorization to appoint challengers if that organization or committee fails to furnish evidence satisfactory to the clerk or secretary of state that the organization or committee is devoted to the purposes enumerated in section 730.

(2) Not later than 2 business days after receipt of a statement of intent to appoint challengers under subsection (1), a clerk shall approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee of that approval or denial. If authorization is denied under this subsection, an organization or committee may appeal the denial with the secretary of state not later than 2 business days after receipt of the denial. Not later than 2 business days after receipt of an appeal of a denial under this subsection, the secretary of state shall review the clerk's denial and approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee and the clerk of that decision.

(3) Before the opening of the polls, the clerk shall certify in writing to the board of election inspectors in a county, city, village, or township in which the election will be conducted the names of organizations and committees that are authorized under this section to appoint and keep challengers at the polling places in the county, city, village, or township.

(4) A person who files a statement under this section on behalf of an organization or committee that is not authorized by this act to appoint challengers or a clerk who knowingly fails to perform the duties required by this section is guilty of a felony, punishable by a fine of not more than $1,000.00, or by imprisonment for not more than 2 years, or both.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.732 Presence of challenger in room containing ballot box; evidence of right to be present.

Sec. 732. Authority signed by the recognized chairman or presiding officer of the chief managing committee of any organization or committee of citizens interested in the adoption or defeat of any measure to be voted for or upon at any election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, or of any political party in such county, township, city, ward or village, shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is kept, provided the provisions of the preceding sections have been complied with. The authority shall have written or printed thereon the name of the challenger to whom it is issued and the number of the precinct to which the challenger has been assigned.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972 .

**Popular name:** Election Code

### 168.733 Challengers; space in polling place; rights; space at counting board; expulsion for cause; protection; threat or intimidation.

Sec. 733. (1) The board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote. A challenger may do 1 or more of the following:

(a) Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.

(b) Observe the manner in which the duties of the election inspectors are being performed.

(c) Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.

(d) Challenge an election procedure that is not being properly performed.

(e) Bring to an election inspector's attention any of the following:

(*i*) Improper handling of a ballot by an elector or election inspector.

(*ii*) A violation of a regulation made by the board of election inspectors pursuant to section 742.

(*iii*) Campaigning being performed by an election inspector or other person in violation of section 744.

(*iv*) A violation of election law or other prescribed election procedure.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(f) Remain during the canvass of votes and until the statement of returns is duly signed and made.

(g) Examine without handling each ballot as it is being counted.

(h) Keep records of votes cast and other election procedures as the challenger desires.

(i) Observe the recording of absent voter ballots on voting machines.

(2) The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots. A challenger at the counting board may do 1 or more of the activities allowed in subsection (1), as applicable.

(3) Any evidence of drinking of alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger from the polling place or the counting board. The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.

(4) A person shall not threaten or intimidate a challenger while performing an activity allowed under subsection (1). A challenger shall not threaten or intimidate an elector while the elector is entering the polling place, applying to vote, entering the voting compartment, voting, or leaving the polling place.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.734 Challengers; preventing presence, penalty.

Sec. 734. Any officer or election board who shall prevent the presence of any such challenger as above provided, or shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him, shall, upon conviction, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.735 Poll book and poll list; contents.

Sec. 735. (1) At each primary and election, election inspectors shall keep 1 poll book and 1 poll list. An election inspector shall enter in the poll book, in the order in which electors are given ballots, the name of each elector who is given a ballot and immediately after the name, on the same line, shall enter the number of the ballot given to the elector. For an absent voter ballot, when an election inspector removes the ballot from the sealed absent voter envelope, the election inspector shall enter in the poll book the name of the absent voter and the number of the ballot.

(2) If an elector is issued a provisional ballot, an election inspector shall enter a proper designation in the poll book, including whether the provisional ballot was tabulated in the precinct or was secured for verification after the election.

(3) At the completion of the precinct canvass, an election inspector shall record on the certificate provided in the poll book the number of each metal seal used to seal voting equipment and ballot containers. Each member of the board of election inspectors shall sign the certificate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 35, Imd. Eff. May 19, 1965;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### 168.736 Voting; ballots, delivery to electors by numbers; assistance by election inspectors.

Sec. 736. When an elector applying to vote shall not be challenged, or, having been challenged, if the answers to questions asked him while under oath as to his qualifications shall show that he is a qualified elector at that poll, he shall be permitted to vote. The inspector having charge of the ballots shall deliver to said elector 1 of each kind of said ballots to be voted at the election. All the ballots so given to an elector applying to vote shall bear the same number, beginning, for the first elector to whom ballots are given, with the lowest numbered ballots, the next higher number for the second such elector, and so on. On request of the elector, an inspector may give explanation of the manner of voting, and if by the board deemed necessary, an interpreter may be called, but the elector shall not be otherwise assisted in the marking of his ballot, except as provided in this act for assisted electors.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### 168.736a Minor child in booth or compartment.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 736a. Notwithstanding any other provision of this act to the contrary, a minor child may accompany an elector in the booth or voting compartment at an election under this act.

**History:** Add. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### 168.737 Manner of marking ballot.

Sec. 737. The elector shall then go directly into a booth which is unoccupied and indicate in the following manner, with pencil or pen on the proper ballot, the candidate or candidates for whom the elector desires to vote:

(a) If the elector desires to vote a straight ticket, the elector may make a cross (X) or a check mark ( ) in the circle under the name of that party at the head of the ballot. Nothing further need be done.

(b) If only 1 candidate is to be elected to an office and the elector desires to vote for a candidate not on the elector's party ticket, the elector should make a cross (X) or a check mark ( ) in the circle under the name of the elector's party, and also make a cross (X) or a check mark ( ) in the square before the name of the candidate for whom the elector desires to vote on the other ticket. In such case, it shall not be necessary to cross off the name of the candidate on the elector's party ticket. If the elector votes for more than 1 candidate for the same office where only 1 candidate is to be elected to the office, the ballot shall not be counted for either of the candidates and shall be as to those candidates considered null and void.

(c) If 2 or more candidates are to be elected to the same or like office, such as coroners, and the elector desires to vote for a candidate or candidates not on the elector's party ticket for the office, the elector should mark a cross (X) or a check mark ( ) in the circle under the elector's party name, and mark a cross (X) or a check mark ( ) in the square before the name or names of the candidate or candidates for whom the elector desires to vote on the other ticket or tickets, and also cross off an equal number of names of the candidates for the office on the elector's party ticket; but if the elector fails to cross off the names of an equal number of candidates for the office on the elector's party ticket, the elector shall be considered to have crossed off the name of each candidate for the office which is printed on the elector's party ticket opposite the name of the candidate on some other party ticket in front of which name the elector has made a cross (X) or a check mark ( ).

(d) If the elector wishes to vote for a candidate not on any ticket, the elector may write or place the name of that candidate on the elector's ballot opposite the name of the office and make a cross (X) or a check mark ( ) in the circle under the party name.

(e) A ballot marked with a cross (X) or a check mark ( ) in a circle under a party name shall be considered a vote for each of the candidates named in the party column whose name is not crossed off, except those candidates where a cross (X) or a check mark ( ) is placed in the square before the name of some opposing candidate on another ticket, or where there is written or pasted on the party ticket a name which is not printed on any party ticket.

(f) If the name of any person who is not a candidate on any ticket is written or placed on the party ticket opposite the name of the office and there is a cross (X) or a check mark ( ) in the circle under the party name, the name so written or placed shall be counted 1 vote for the person, whether the original name on the party ticket is erased or not, excepting cases where there is a cross (X) or a check mark ( ) in the square before the name of some opposite candidate on some other party ticket.

(g) If a cross (X) or a check mark ( ) is not placed in the circle under the party name, a cross (X) or a check mark ( ) in the square before the name of any candidate shall be considered a vote for that candidate except in cases where the elector votes for more candidates for the same office than are to be elected.

(h) An elector shall indicate the elector's preference on any constitutional amendment or other submitted question by making a cross (X) or a check mark ( ) in the square in front of the word “Yes” or in the square in front of the word “No” opposite or below the question on the proper ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.737a Write-in vote; declaration of intent to be write-in candidate; filing; death or disqualification of candidate; write-in candidate for precinct delegate; forms; information.

Sec. 737a. (1) Except as otherwise provided in this section, the board of election inspectors shall not count a write-in vote for a person unless that person has filed a declaration of intent to be a write-in candidate as provided in this section. The write-in candidate shall file the declaration of intent to be a write-in candidate with the filing official for that elective office on or before 4 p.m. on the second Friday immediately before the election. The secretary of state, immediately after the 4 p.m. filing deadline under this subsection, shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate under this subsection, if any, to the appropriate county clerks. A filing official other than the secretary of state who receives a declaration of intent to be a write-in candidate or list of persons who filed a declaration of intent from another filing official under this subsection shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate to the board of election inspectors in the appropriate precincts before the close of the polls on election day.

(2) If a candidate whose name is printed on the official ballot for the election dies or is otherwise disqualified on or after the Wednesday immediately before the election, the requirement of filing a declaration of intent to be a write-in candidate under subsection (1) does not apply to a write-in candidate. If a death or disqualification has occurred as described in this subsection, the board of election inspectors shall count all write-in votes for write-in candidates for the office sought by the deceased or disqualified candidate.

(3) Subsections (1) and (2) do not apply to a write-in candidate for precinct delegate. The board of election inspectors shall not count a write-in vote for a write-in candidate for precinct delegate unless that candidate has filed a declaration of intent to be a write-in candidate as provided in this subsection. A write-in candidate for precinct delegate shall file a declaration of intent to be a write-in candidate with the appropriate city or township clerk for that precinct on or before 4 p.m. on the Friday immediately before the election or with the board of election inspectors in the appropriate precinct before the close of the polls on election day. A city or township clerk who receives a declaration of intent to be a write-in candidate from a write-in candidate for precinct delegate under this subsection shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate to the board of election inspectors in the appropriate precincts before the close of the polls on election day.

(4) The secretary of state shall prescribe forms for the declaration of intent to be a write-in candidate. Clerks shall maintain a supply of declaration of intent to be a write-in candidate forms in the clerk's office and make the forms available in the polling places during the August primary for this purpose. The declaration of intent to be a write-in candidate form shall include all of the following information:

(a) The name of the person intending to be a write-in candidate.

(b) The elective office that the person seeks as a write-in candidate.

(c) The residence address of the person seeking elective office as a write-in candidate.

(d) Other information the secretary of state considers appropriate.

**History:** Add. 1996, Act 461, Eff. Mar. 31, 1997;—Am. 2006, Act 87, Eff. Mar. 30, 2007.

**Popular name:** Election Code

## 168.738 Voting; ballots; folding; deposit in ballot box; rejection for exposure.

Sec. 738. (1) Before leaving the booth or voting compartment, the elector shall fold his or her ballot or each of the ballots so that no part of the face shall be exposed, and with the detachable corner on the outside. Upon leaving the booth, the elector shall at once deliver in public view the ballot or ballots to the inspector designated to receive the ballot or ballots. Except as provided in subsection (2), the inspector shall tear off the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

corner of the ballot, where perforated, containing the number and shall then in the presence of the elector and the board of inspectors deposit each ballot in the proper ballot box without opening the ballot.

(2) If an elector shows his or her ballot or any part of the ballot to any person other than a person lawfully assisting him or her in the preparation of the ballot or a minor child accompanying that elector in the booth or voting compartment under section 736a, after the ballot has been marked, to disclose any part of the face of the ballot, the ballot shall not be deposited in the ballot box, but shall be marked "rejected for exposure", and shall be disposed of as are other rejected ballots. If an elector exposes his or her ballot, a note of the occurrence shall be entered on the poll list opposite his or her name and the elector shall not be allowed to vote at the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### 168.739 Voting; ballots, deposit in separate boxes; label on box.

Sec. 739. The ballots containing the names of candidates for federal, state, district and county offices shall be deposited in 1 box, the ballots containing the names of candidates for local offices in another box, and the ballots prepared for the submission of proposed constitutional amendments or other propositions shall be deposited in a separate box or boxes. Each box shall be plainly labeled, so that the label may be readily seen by each elector, to indicate the kind of ballots to be deposited therein.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.740 Voting; ballots, spoiling.

Sec. 740. If any elector inadvertently spoils a ballot, he shall return all of the ballots given him to the board, and said board shall deliver to him another ballot or set of ballots, all bearing the same number. One of the inspectors of election shall, upon the poll book and list, note the change in the number on the ballot or ballots given such elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.741 Voting; unused and spoiled ballots, preservation.

Sec. 741. The board of inspectors of election shall preserve the unused ballots, together with the ballots which have been spoiled by the electors and in place of which other ballots have been issued, and return them to the city, township or village clerk, or other officer provided by a city or village charter, with a statement of the number of ballots voted, and the said clerk shall give to the inspectors of election a receipt therefor, which receipt shall be filed with the chairman of the board.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.742 Voting; time for voting ballot.

Sec. 742. The board of inspectors of election may make such regulations as they deem proper, reasonably limiting the time in which an elector may remain in the room or booth while preparing and voting his ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.743 Voting; ballots, return by elector; failure, penalty.

Sec. 743. No elector to whom an official ballot has been delivered shall be permitted to pass without the polling place without either voting such ballot or returning it to the inspector from whom he received it; and any elector who shall attempt to pass without the polling place with a ballot or election pencil in his possession, and shall refuse to deliver the same upon request, shall be at once arrested on demand of any member of the board of inspectors.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.744 Prohibited acts; violation as misdemeanor.

Sec. 744. (1) An election inspector or any other person in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located shall not persuade or endeavor to persuade a person to vote for or against any particular candidate or party ticket, or for or against any ballot question that is being voted on at the election. A person shall not place or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

distribute stickers, other than stickers provided by the election officials pursuant to law, in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located.

(2) A person shall not solicit donations, gifts, contributions, purchase of tickets, or similar demands, or request or obtain signatures on petitions in the polling room or in a compartment connected to the polling room or within 100 feet from any entrance to the building in which the polling place is located.

(3) On election day, a person shall not post, display, or distribute in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of an entrance to a building in which a polling place is located any material that directly or indirectly makes reference to an election, a candidate, or a ballot question. This subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a polling place on election day.

(4) A person who violates this section is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.745 Ballot of challenged voter; endorsement, rejection.

Sec. 745. Whenever at any election the ballot of any person who has been challenged as an unqualified voter and who has taken the oath provided by law in such case to be taken shall be received by the inspectors of election, said inspectors shall cause to be plainly endorsed on said ballot, with pencil, before depositing the same in the ballot box, the number corresponding to the number placed after such voter's name on the poll lists without opening the same: Provided, That in case a ballot shall be so folded, defaced, printed or prepared that such number cannot be legibly and permanently written on the back thereof, said inspectors shall refuse to accept such ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.746 Ballot of challenged voter; endorsement concealed, identification prohibited.

Sec. 746. To prevent the identification of said ballot, except as hereinafter provided for in case of a contested election, the inspectors of election shall cause to be securely attached to said ballot, with mucilage or other adhesive substance, a slip or piece of blank paper of the same color and appearance, as nearly as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said endorsement but not to injure or deface the same; and if any inspector or other officer of an election shall afterward expose said endorsement or remove the said slip of paper covering the same, or attempt to identify the ballot of any voter, or suffer the same to be done by any other person, he shall, on conviction thereof, be deemed guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.747 Contested election; challenged voters' ballots, identification in court.

Sec. 747. In case of a contested election, on the trial thereof before any court of competent jurisdiction, it shall be competent for either party to the cause to have produced in court the ballot boxes, ballots and poll books used at the election out of which the cause has arisen, and to introduce evidence proving or tending to prove that any person named on such poll lists was an unqualified voter at the election aforesaid, and that the ballot of such person was received. On such trial, the correspondence of the number endorsed on a ballot as herein provided with the number of the ballot placed opposite the name of any person on the poll lists shall be received as prima facie proof that such ballot was cast by such person: Provided, That the ballot of no person shall be inspected or identified under the provisions of this chapter unless such person shall consent thereto in writing, or unless such person has been convicted of falsely swearing in such ballot, or unless the fact that such person was an unqualified elector at the time of casting such ballot has been determined.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.748 Contested election; petition to determine qualifications of electors.

Sec. 748. After issue joined in any case of contested election, either party to the cause may present a petition to the court before which the said cause is to be tried, setting forth among other things that the petitioner has good reason to believe and does believe that 1 or more voters at the election out of which the cause has arisen, naming him or them, and stating his or their place of residence, were unqualified to vote at such election; that he believes the same can be established by competent testimony; that the ballot or ballots of such voter or voters were received after being challenged, as provided by law; and praying that the court may try and determine the question of the qualification of such voter or voters at said election, which petition shall be verified by the oath of the petitioner or some other person acquainted with the facts, and thereupon the court shall direct an issue to be framed, within a time to be fixed therefor, for the purpose of determining the question of the qualifications of the voter or voters named in said petition to vote at said election; and such issue shall stand for trial as in other cases, and the verdict of the jury or judgment of the court upon such issue so made shall be received, upon the trial of the principal issue in said cause, as conclusive evidence to establish or to disprove the said qualifications of said voter or voters.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.749 Contested elections; challenged voters' ballots, removal of slips concealing endorsements, replacement.

Sec. 749. On said trial, the judge presiding thereat and no other person shall remove from all challenged voters' ballots the slips of paper concealing the said endorsements until all ballots bearing numbers agreeing with the numbers against the names of such persons on the poll list as have been proved unqualified voters as aforesaid, have been found, and immediately thereafter said judge shall replace slips of paper upon all ballots from which he has taken the same in the same manner as is provided in this chapter for the inspectors of election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.750 Electors; exemption from civil process.

Sec. 750. During the day on which any election or primary election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such election or primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

ASSISTED VOTERS

### 168.751 Assisting elector in marking ballot.

Sec. 751. When at an election an elector shall state that the elector cannot mark his or her ballot, the elector shall be assisted in the marking of his or her ballot by 2 inspectors of election. If an elector is so disabled on account of blindness, the elector may be assisted in the marking of his or her ballot by a member of his or her immediate family or by a person over 18 years of age designated by the blind person.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.752, 168.753 Repealed. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Compiler's note:** The repealed sections pertained to oath of election and to marking ballots for identification.

**Popular name:** Election Code

### 168.754 Assistance of electors; duties and restrictions.

Sec. 754. The inspectors upon whom shall fall the duty of assisting a voter shall render such assistance inside the voting booth by showing him how to mark his ballot in order to vote as he desires, or the inspector shall himself mark the ballot as directed by the voter, but no ballot shall be marked by the inspector from any written or printed list or slip furnished him by the voter or any other person. The inspector shall not suggest to the voter how he should vote, or in any manner attempt to influence him as to the marking of his ballot, nor allow any other person so to do: Provided, That the duties and restrictions with respect to inspectors as provided for in this section shall apply to and govern any person assisting the voter in the marking of his ballot, in accordance with the authorization in section 751 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.755 Repealed. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Compiler's note:** The repealed section pertained to entering on list the name, address, and disability of elector.

**Popular name:** Election Code

### 168.756 False statement as perjury.

Sec. 756. An elector who shall falsely state that he or she is incapable of marking his or her ballot shall, on conviction, be considered guilty of perjury.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Popular name:** Election Code

### 168.757 Unlawful conduct; felony.

Sec. 757. Any inspector who shall wilfully assist any elector in any manner contrary to the provisions contained in this section, shall, upon conviction, be guilty of a felony.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Popular name:** Election Code

## ABSENT VOTERS

### 168.758 “Absent voter” defined; provisions inapplicable to persons residing outside of state; exceptions.

Sec. 758. (1) For the purposes of this act, “absent voter” means a qualified and registered elector who meets 1 or more of the following requirements:

(a) On account of physical disability, cannot without another's assistance attend the polls on the day of an election.

(b) On account of the tenets of his or her religion, cannot attend the polls on the day of election.

(c) Cannot attend the polls on the day of an election in the precinct in which he or she resides because of being an election precinct inspector in another precinct.

(d) Is 60 years of age or older.

(e) Is absent or expects to be absent from the township or city in which he or she resides during the entire period the polls are open for voting on the day of an election.

(f) Cannot attend the polls on election day because of being confined in jail awaiting arraignment or trial.

(2) Subsection (1) does not apply to a person who has moved outside of this state, regardless of length of his or her residence outside of this state, and who no longer maintains an actual residence in this state. The storage of personal effects or household goods, the ownership of property that is rented or leased to others, or occasional brief visits to a former domicile in this state while residing outside of this state for most of the year does not constitute a residence for voting purposes in this state, except for each of the following:

(a) A person described in section 1 of article II of the state constitution of 1963 and statutes enacted under that section.

(b) A person described in section 759a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 171, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 354, Eff. Mar. 31, 1966;—Am. 1971, Act 201, Imd. Eff. Dec. 27, 1971;—Am. 1974, Act 189, Imd. Eff. July



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

2, 1974;—Am. 1975, Act 178, Imd. Eff. July 25, 1975;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.758a Absent voter ballot for president and vice-president; qualifications.

Sec. 758a. (1) A citizen of the United States above the age of 18 years may vote by absent voter ballot for president and vice-president of the United States if he has either of the following qualifications:

(a) He has removed from a place within the United States or its possessions to this state, was qualified to vote for president and vice-president at the time of removal in the place from which he removed but is no longer qualified to vote in that place, produces evidence of these facts, and will have resided in this state for less than 6 months and in a city or township of this state for not less than 30 days next preceding an election at which candidates for president and vice-president are voted for.

(b) If he has removed from this state to another place within the United States or its possessions, was a duly qualified and registered elector in a city or township of this state at the time of removal, and produces evidence that he cannot yet qualify to so vote in his present place of residence.

(2) A citizen qualified to vote for president and vice-president under this act, upon making proper application shall be furnished with an absent voter ballot for president and vice-president only as provided in this act. The ballot shall be a regular paper ballot for the election but shall be plainly designated, in the manner prescribed by the secretary of state, “president and vice-president only”. A vote shall not be counted on such a ballot other than the vote for president and vice-president of the United States.

(3) A person who qualifies to vote for president and vice-president under paragraph (1a) of this section may make application for a presidential ballot by delivering an application in person to the clerk of the city or township of present residence not later than 2 p.m. on the Saturday immediately prior to the election. The application shall contain a certificate of the voting officer of the place of previous residence which shall be completed at the time of filing and shall also contain a statement that the applicant possesses all the qualifications of an elector in Michigan except those relating to residence and that as to residence he will have resided in the state of Michigan for a period of less than 6 months and in the city or township of present residence at least 30 days immediately prior to the election. The application shall be sworn to before the clerk and upon acceptance by the clerk shall serve as a temporary registration which shall be valid for that election only. A temporary registration as herein set forth shall be delivered to the precinct inspectors with the absent voter ballots and shall be returned to the clerk following the election. The form of the combined application-temporary registration shall be prescribed by the secretary of state.

A voter who qualifies to vote for president and vice-president under paragraph (1b) of this section may make application to the city or township clerk of his last place of residence in Michigan not later than 2 p.m. on the Saturday immediately prior to the election, on a form prescribed by the secretary of state, which form shall include a certificate from the voting officer of the place of present residence stating that the applicant cannot qualify to vote because of failure to meet residence requirements. Any such application shall be deemed to be an authorization to, immediately following the election, cancel the registration of the applicant if it is still on the registration records.

**History:** Add. 1965, Act 75, Eff. Mar. 31, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972.

**Popular name:** Election Code

### 168.758b Voting by persons confined in jail or prison prohibited.

Sec. 758b. A person who, in a court of this or another state or in a federal court, has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election while confined.

**History:** Add. 1975, Act 178, Imd. Eff. July 25, 1975.

**Popular name:** Election Code

### 168.758c Repealed. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to certain electors considered absent voters for purposes of community college district special elections.

**Popular name:** Election Code

### 168.759 Application to vote absentee; time; manner; form; signature of applicant; false statement as misdemeanor.

Sec. 759. (1) At any time during the 75 days before a primary or special primary, but not later than 2 p.m. of the Saturday immediately before the primary or special primary, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

or by mail with the clerk of the township, city, or village in which the elector is registered. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows.

(2) Except as otherwise provided in subsection (1), at anytime during the 75 days before an election, but not later than 2 p.m. of the Saturday before the election, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the voter stating the statutory grounds for making the application.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city, township, or village.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person other than the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant; or a clerk, assistant of the clerk, or other authorized election official shall not be in possession of a signed absent voter ballot application. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of the city, township, or village shall have absent voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application shall be in substantially the following form:

"Application for absent voter ballot for:

[ ] The primary or special primary election to be held on ..... , 19... .

[ ] The election to be held on ..... , 19... .

(Check applicable election or elections)

I, ..... , a qualified and registered elector of the ..... precinct of the township of ..... or village of ..... or of the ..... ward of the city of ..... , in the county of ..... and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

The statutory grounds on which I base my request are:

[ ] I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.

[ ] I am physically unable to attend the polls without the assistance of another.

[ ] I cannot attend the polls because of the tenets of my religion.

[ ] I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.

[ ] I am 60 years of age or older.

[ ] I cannot attend the polls because I am confined to jail awaiting arraignment or trial.

(Check applicable reason)

```
Send absent voter ballot to me at:
.........................................
          (Street No. or R.R.)
.........................................
    (Post Office)              (State)
My registered address ....................................
                             (Street No. or R.R.)
                        ....................................
                           (Post Office)            (State)
Date.........................................................
I declare that the statements in this absent voter ballot
application are true.
                        ....................................
                                      (Signature)
```

WARNING

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

authorized by the clerk who receives absent voter ballot applications at a location other than the office of the clerk must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

Certificate of Authorized Registered
Elector Returning Absent Voter
Ballot Application

I certify that my name is ..... , my address is ..... , and my date of birth is ..... ; that I am delivering the absent voter ballot application of ..... at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

_____ _____
(Date) (Signature)"

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.

(d) In the event an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1959, Act 171, Eff. Mar. 19, 1960;—Am. 1962, Act 90, Imd. Eff. Apr. 30, 1962;—Am. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 1965, Act 354, Eff. Mar. 31, 1966;—Am. 1974, Act 189, Imd. Eff. July 2, 1974;—Am. 1975, Act 178, Imd. Eff. July 25, 1975;—Am. 1980, Act 344, Imd. Eff. Dec. 23, 1980;—Am. 1982, Act 201, Eff. Jan. 1, 1983;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.759a Absent uniformed services voter or overseas voter; electronic transmission of voter registration or ballot application; requirements; spouse or dependent; electronic transmission of ballot to voter; establishment and implementation of procedures by secretary of state; approval of ballot form and registration procedures by state director of elections; definitions.

Sec. 759a. (1) An absent uniformed services voter 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 an absent uniformed services voter and an overseas voter.

(2) Upon the request of an absent uniformed services voter or an overseas voter, the clerk of a county, city, township, or village shall electronically transmit a blank voter registration application or blank absent voter ballot application to the voter. The clerk of a county, city, township, or village shall accept a completed voter registration application or completed absent voter ballot application electronically transmitted by an absent uniformed services voter or overseas voter. A voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter shall contain the signature of the voter.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) A spouse or dependent of an overseas voter who is a citizen of the United States, is accompanying that overseas voter, and is not a qualified and registered elector anywhere else in the United States, may apply for an absent voter ballot even though the spouse or dependent is not a qualified elector of a city or township of this state.

(4) An absent uniformed services voter or an overseas voter, whether or not registered to vote, may apply for an absent voter ballot. Upon receipt of an application for an absent voter ballot under this section that complies with this act, a county, 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 a federal postcard application is filed, the clerk shall accept the federal postcard application as the registration application and shall not send any additional registration forms to the applicant. 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 tabulated. 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.

(5) Not later than 45 days before an election, a county, city, township, or village clerk shall electronically transmit or mail as appropriate an absent voter ballot to each absent uniformed services voter or overseas voter who applied for an absent voter ballot 45 days or more before the election.

(6) Upon the request of an absent uniformed services voter or overseas voter, the clerk of a county, city, township, or village shall electronically transmit an absent voter ballot to the voter. The voter shall print the absent voter ballot and return the voted ballot by mail to the appropriate clerk.

(7) The secretary of state shall prescribe electronic absent voter ballot formats and electronic absent voter ballot transmission methods. Each county, city, township, or village clerk shall employ the prescribed electronic ballot formats to fulfill an absent voter ballot request received from an absent uniformed services voter or overseas voter who wishes to receive his or her absent voter ballot through an electronic transmission. The secretary of state shall establish procedures to implement the requirements in this section and for the processing of a marked absent voter ballot returned by an absent uniformed services voter or overseas voter who obtained his or her absent voter ballot through an electronic transmission.

(8) The secretary of state shall modify the printed statement provided under section 761(4) and the absent voter ballot instructions provided under section 764a as appropriate to accommodate the procedures developed for electronically transmitting an absent voter ballot to an absent uniformed services voter or overseas voter. A statement shall be included in the certificate signed by the absent voter who obtained his or her absent voter ballot through an electronic transmission that the secrecy of the absent voter ballot may be compromised during the duplication process. The absent voter ballot instructions provided to an absent uniformed services voter or overseas voter shall include the proper procedures for returning the absent voter ballot to the appropriate clerk.

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

(10) An absent uniformed services voter or an overseas voter who submits an absent voter ballot application is eligible to vote as an absent voter in any local or state election occurring in the calendar year in which the absent voter ballot application is received by the county, 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 county, city, or township clerk receiving an absent voter ballot application from an absent uniformed services voter or overseas voter shall transmit to a village clerk and the school district election coordinators, where applicable, the necessary information to enable the village clerk and school district election coordinators to forward an absent voter ballot for each applicable election in that calendar year to the absent voter. A village clerk receiving an absent voter ballot application from an absent uniformed services voter or overseas voter shall transmit to the township clerk and the school district election coordinators, where applicable, the necessary information to enable the city or township clerk and school district election coordinators to forward an absent voter ballot for each applicable election in that calendar year to the absent voter. If the local elections official rejects a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter, the election official shall notify the voter of the rejection.

(11) An electronic mail address provided by an absent uniformed services voter or overseas voter for the purposes of this section is confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(12) 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 absent uniformed services voters and overseas voters.

(13) As used in this section:

(a) "Absent uniformed services voter" means any of the following:

(*i*) A member of a uniformed service on active duty who, by reason of being on active duty, is absent from the place of residence where the member is otherwise qualified to vote.

(*ii*) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote.

(*iii*) A spouse or dependent of a member referred to in subparagraph (*i*) or (*ii*) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(b) "Member of the merchant marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways, who is either of the following:

(*i*) Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

(*ii*) Enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

(c) "Overseas voter" means any of the following:

(*i*) An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of an election.

(*ii*) A person who resides outside of the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States.

(*iii*) A person who resides outside of the United States and who, but for such residence outside of the United States, would be qualified to vote in the last place in which he or she was domiciled before leaving the United States.

(d) "Uniformed services" means the army, navy, air force, marine corps, coast guard, the commissioned corps of the public health service, the commissioned corps of the national oceanic and atmospheric administration, a reserve component of a uniformed service, or the Michigan national guard as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(14) This section applies to the August 3, 2010 election and to each succeeding election conducted in this state.

**History:** Add. 1956, Act 21, Imd. Eff. Mar. 22, 1956;—Am. 1971, Act 68, Eff. Oct. 1, 1971;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 605, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 50, Eff. June 1, 2010.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### 168.759b Emergency absent voters' ballot; application.

Sec. 759b. Any registered elector may apply for absent voter ballots at any time prior to 4 p.m. on election day if he shall have become physically disabled or shall be absent from the city or township because of sickness or death in the family which has occurred at a time which has made it impossible to apply for absent voter ballots by the statutory deadline. The application shall be called an emergency absent voter application.

Emergency absent voter applications may be made by letter or on a form provided by the clerk. The application shall set forth that the voter is qualified to vote in the election, stating the statutory reason for applying for an emergency absent voter ballot and that the reason for applying after the statutory deadline occurred at such a time to make it impossible to file an application for absent voter ballots by the statutory deadline.

Any person intentionally making a false statement in such application is guilty of a felony. Any person aiding or abetting any person to make a false statement on such application is guilty of a felony.

Upon receipt by the clerk of a valid application for an emergency absent voter ballot, the clerk may deliver the ballots to the applicant in person, through a deputy or an election assistant, or he may deliver them at his office to a person named by the applicant in the application. The voter may return the ballots to the clerk in the sealed envelope provided therefor in any manner he sees fit. To be valid, ballots must be returned to the clerk in time to be delivered to the polls prior to 8 p.m. on election day.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1965, Act 205, Imd. Eff. July 16, 1965.

**Popular name:** Election Code

### 168.760 Absent voters; records, public inspection.

Sec. 760. Upon receipt of such properly executed application, as above provided, the city, township or village clerk shall file the same in his office and shall enter the name of the applicant and the address to which the ballot or ballots are to be sent upon a list or record to be kept for such purpose, together with the date of receiving the application, the date of mailing or delivering the ballot or ballots to such voter, the date of receiving the ballot from such voter, and such other information as may seem necessary or advisable. Applications and lists shall be open to public inspection at all reasonable hours.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.761 Absent voter ballots; mailing or delivering to applicant; order of issuance; numbering; return envelope; form; statement; false statement as misdemeanor or felony.

Sec. 761. (1) If the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that city, township, or village and if the signature on the application agrees with the signature for the person contained in the qualified voter file or on the registration card as required in subsection (2), the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot to be voted to the applicant. Absent voter ballots may be delivered to an applicant in person at the office of the clerk.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card.

(3) Notwithstanding section 759, providing that no absent voter applications shall be received by the clerk after 2 p.m. on the Saturday before the election, a person qualified to vote as an absent voter may apply in person at the clerk's office before 4 p.m. on a day preceding the election except Sunday or a legal holiday to vote as an absent voter. The applicant shall receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city, village, or township or to a hospital or similar institution, in which case the absent voter ballots shall be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

(4) Absent voter ballots shall be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued shall bear the lowest number of each kind available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk's office for absent voter ballots. The clerk shall enclose with the ballot or ballots a return envelope properly addressed to the clerk and bearing upon the back of the envelope a printed statement in substantially the following form:

```
                    TO BE COMPLETED
                      BY THE CLERK
_____________________________      _____________________________
     Name of Voter                   Street Address or R.R.
_____________________________      _____________________________
  City, Township or Village                   County
Ward ________  Precinct _______  Date of Election  _____________
================================================================
              TO BE COMPLETED BY THE ABSENT VOTER
```

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person.

I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

DATE: _____ SIGN HERE: X_____
Signature of Absent Voter

The above form must be signed or your vote will not be counted.
AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A MISDEMEANOR.

==========

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking his or her absent voter ballot pursuant to his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

| _____ | _____ | _____ |
|---|---|---|
| Signature of Person Assisting Voter | Street Address or R.R. | City, Twp., or Village |

_____
Printed Name of Person Assisting Voter

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.

==========

WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

(5) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. A person who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1965, Act 152, Imd. Eff. July 12, 1965;—Am. 1966, Act 264, Imd. Eff. July 12, 1966;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.761a Absent voters' ballots; precinct delegate ballots.

Sec. 761a. In cities or townships which have established absent voter ballot counting boards, when precinct delegates are to be elected, the clerk, when forwarding absent voter ballots to voters may in addition to the regular return envelope, forward to the absent voter a separate envelope for the return of the delegate ballot. Delegate ballots shall be returned to the clerk by the voter in the special envelope in such case and the clerk shall forward the delegate ballots so returned to the proper precinct on election day. The precinct inspectors shall tally such ballots separately and add such totals to the precinct totals as shown by the voting machines in completing their statements. The secretary of state shall issue rules to implement this section.

**History:** Add. 1965, Act 331, Imd. Eff. July 23, 1965.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### 168.762 Absent voters' ballots; procedure when no application.

Sec. 762. If from any precinct the said township, village or city clerk shall not receive any application for



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

absent voter ballots, he shall deliver the packages of absent voter ballots intact to the chairman or some member of the board of inspectors of election of said precinct before the opening of the polls on election day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956.

**Popular name:** Election Code

### 168.763 Repealed. 1956, Act 37, Imd. Eff. Mar. 28, 1956.

**Compiler's note:** The repealed section imposed duty upon clerk to initial 3 additional absentee ballots before delivery to board of inspectors.

**Popular name:** Election Code

### 168.764 Repealed. 1995, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** The repealed section pertained to instructions for absent voter ballots.

**Popular name:** Election Code

### 168.764a Instructions for absent voters.

Sec. 764a. The following instructions for an absent voter shall be included with each ballot or set of ballots furnished an absent voter:

INSTRUCTIONS FOR ABSENT VOTERS

Step 1. On the absent voter ballot enclosed you will find voting instructions. Read these carefully and then vote the ballot.

Step 2. After voting a ballot, place the ballot in the secrecy sleeve, if any. If a secrecy sleeve is not provided, refold the ballot to conceal your votes.

Step 3. Place the ballot or ballots in the return envelope and securely seal the envelope.

Step 4. Sign and date the return envelope in the place designated. Your signature must appear on the return envelope or the ballot will not be counted. If you are disabled or otherwise unable to mark the ballot and required assistance in voting your absent voter ballot, have the person who assisted you complete the section on the return envelope entitled “TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON”.

Step 5. Deliver the return envelope by 1 of the following methods:

(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) You may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. The clerk is required to provide assistance if you are unable to return your absent voter ballot as specified in (a), (b), or (c) above, if it is before 5 p.m. on the Friday immediately preceding the election, and if you are asking the clerk to pickup the absent voter ballot within the jurisdictional limits of the city, township, or village in which you are registered. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All persons authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials.

Step 6. The ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

(1) To vote an absent voter ballot at a meeting or gathering at which other people are voting absent voter ballots.

(2) For a person who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(3) For a person who is present and knows that a person is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(4) For a person other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.

(5) For a person other than the absent voter; a person listed in these instructions; or a person whose job it is



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment to be in possession of a voted or unvoted absent voter ballot.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.764b Delivery and acceptance of absent voter ballots; appointment, oath, credentials, and duties of assistants; collection of absent voter ballots; prohibition; noncompliance.

Sec. 764b. (1) An absent voter ballot shall be delivered to the clerk only as authorized in the instructions for an absent voter provided in section 764a.

(2) The clerk of a city, township, or village may accept delivery of absent voter ballots at any location in the city, township, or village.

(3) The clerk of a city, township, or village may appoint the number of assistants necessary to accept delivery of absent voter ballots at any location in the city, township, or village. An appointment as assistant to accept delivery of absent voter ballots shall be for 1 election only. An assistant appointed to receive ballots at a location other than the office of the clerk shall be furnished credentials of authority by the clerk. If an absent voter's ballot is received by an assistant at any location other than the clerk's office the assistant, upon request, shall exhibit the credentials to the absent voter before the assistant accepts an absent voter ballot. An assistant, before entering upon the discharge of duties, shall take and subscribe to the oath of office as provided in section 1 of article XI of the state constitution of 1963. An assistant shall perform only the duties assigned by the clerk. A person shall not be appointed as an assistant to accept delivery of absent voter ballots who is a candidate or a member of the immediate family of a candidate whose name appears on the ballot at that election.

(4) A clerk who receives a request from an absent voter under section 764a for assistance in returning his or her absent voter ballot shall make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that he or she is unable to return the absent voter ballot by the other means specified in instructions (a), (b), or (c) of Step 5 under section 764a.

(c) The absent voter telephones the appropriate clerk for assistance on or before 5 p.m. on the Friday immediately preceding the election.

(d) The absent voter is requesting the clerk to pick up the absent voter ballot within the jurisdictional limits of the city, township, or village in which the absent voter is registered.

(5) Notwithstanding subsection (4), a clerk who receives a request from an absent voter under section 764a for assistance in returning his or her absent voter ballot may make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that he or she is unable to return the absent voter ballot by the other means specified in instructions (a), (b), or (c) of Step 5 under section 764a.

(6) The clerk shall maintain a list open to the public that contains the names and addresses of all authorized assistants appointed under this section who are available to collect absent voter ballots on or before election day in that city or township.

(7) An absent voter ballot received by the clerk before the close of the polls on election day shall not be invalidated solely because the delivery to the clerk was not in compliance with section 764a or this section, however the ballot shall be considered challenged and shall be marked and processed as provided in section 745.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.765 Absent voter ballots; safekeeping by clerk; public inspection of applications and lists; delivery to board of election inspectors; voter ballot received after polls closed; information to be posted by clerk.

Sec. 765. (1) A clerk who receives an absent voter ballot return envelope containing the marked ballots of an absent voter shall not open that envelope before delivering the envelope to the board of election inspectors as provided in this section. The city, village, or township clerk shall safely keep in his or her office until election day any absent voter ballot return envelopes received by the clerk before election day containing the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

marked ballots of an absent voter.

(2) Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk shall deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter's precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk's list or record kept relative to those absent voters. However, if higher numbered ballots are used pursuant to section 717, the clerk shall retain the applications and lists in his or her office and shall keep the applications and lists open to public inspection at all reasonable hours.

(3) The city, village, or township clerk, or authorized designee of the clerk shall call for and receive absent voter ballots from the post office at which the city, village, or township clerk regularly receives mail addressed to the city, village, or township clerk on election day in sufficient time to deliver any envelopes containing absent voter ballots to the board of election inspectors before the close of the polls.

(4) If a marked absent voter ballot is received by the clerk after the close of the polls, the clerk shall plainly mark the envelope with the time and date of receipt and shall file the envelope in his or her office. Except as otherwise provided in section 759b, the clerk shall not deliver an absent voter ballot to a voter after the opening of the polls on election day.

(5) On or before 8 a.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk before election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. On or before 9 p.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk on election day and delivered to the board of election inspectors pursuant to subsection (3), along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk both before and on election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. As soon as possible after all precincts in the city, township, or village are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the election inspectors at the precincts on election day, along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received in the city, township, or village for that election. This subsection applies only to elections in which a federal or state office appears on the ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.766 Absent voters' ballots; verification by election inspectors.

Sec. 766. (1) Upon receipt from the city, township or village clerk of any envelope containing the marked ballot or ballots of an absent voter, the board of inspectors of election shall verify the legality of such vote by an examination of a digitized signature for the absent voter included in the qualified voter file under section 509q or the registration record as provided in subsection (2) to see that the person has not voted in person, that he is a registered voter, and that the signature on the statement agrees with the signature on the registration record; and by an examination of the statement of such voter to see that it is properly executed.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an envelope containing an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on an envelope containing an absent voter ballot to the signature contained on the master card.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.767 Absent voters' ballots; illegal vote; rejection of ballot; marking; preservation.

Sec. 767. If upon an examination of the envelope containing an absent voter's ballot or ballots, it is determined that the signature on the envelope does not agree sufficiently with the signature on the registration card or the digitized signature contained in the qualified voter file as provided under section 766 so as to



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

identify the voter or if the board shall have knowledge that the person voting the ballot or ballots has died, or if it is determined by a majority of the board that such vote is illegal for any other reason, then such vote shall be rejected, and thereupon some member of the board shall, without opening the envelope, mark across the face of such envelope, "rejected as illegal", and the reason therefor. The statement shall be initialed by the chairman of the board of election inspectors. Said envelope and the ballot or ballots contained therein shall be returned to the city, township or village clerk and retained and preserved in the manner now provided by law for the retention and preservation of official ballots voted at such election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.768 Absent voters' ballots; legal vote; deposit of ballot in box, record.

Sec. 768. If upon such examination of the envelope containing an absent voter's ballot or ballots, the board of inspectors of election shall determine that such vote is legal, the member of the board receiving ballots at such election shall open the absent voter's envelope, take out the ballot or ballots therein contained and shall, without unfolding such ballot or ballots, detach from each such ballot the perforated numbered corner, and shall deposit each such ballot in the proper ballot box. One of the inspectors of election shall note upon the poll book and list the fact that such voter voted at such election by means of an absent voter's ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.769 Absent voter ballots; voting in person; return of ballot; voting in person and absent voter ballot as felony; report.

Sec. 769. (1) An absent voter may vote in person within his or her precinct at an election, notwithstanding that he or she applies for an absent voter ballot and the ballot is mailed or otherwise delivered to the absent voter by the clerk. This subsection only applies if the absent voter does not vote the absent voter ballot mailed or otherwise delivered by the clerk.

(2) Before voting in person, except as otherwise provided in this section, the absent voter shall return the absent voter ballot to the board of election inspectors in his or her precinct. If an absent voter ballot is returned under this subsection, the board of election inspectors shall mark it “CANCELED” and place it in the regular box with other canceled ballots.

(3) An absent voter who did not receive an absent voter ballot that he or she applied for or lost or destroyed an absent voter ballot he or she received, and who desires to vote in person in his or her precinct on election day, shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, a voter being allowed to vote under this subsection is subject to challenge as provided in section 727.

(4) A person who votes at an election both in person and by means of an absent voter ballot or a person who attempts to vote both in person and by means of an absent voter ballot is guilty of a felony.

(5) An election official who becomes aware of a person who votes or attempts to vote both in person and by means of an absent voter ballot shall report that information to the prosecuting attorney for that county and to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate “straight party” vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.769a Use of voting machines by absentee voters; ballot format; election inspectors; locking and sealing voting machine; record; poll list; recording of votes; notice; challenger.

Sec. 769a. (1) In a city or township using voting machines the city or township election commission may provide that an absent voter who appears at the clerk's office at any time during the 13 days preceding a primary or election but not later than 4 p.m. of the day preceding the election may vote on a voting machine.

(2) In a city or township which permits the use of voting machines by absentee voters as provided in subsection (1) at least 1 voting machine shall be arranged for absent voters. The machine shall be in the city or township hall.

(3) Only 1 ballot format shall appear on a voting machine.

(4) The city or township election commission shall appoint 2 election inspectors who shall be in the office of the clerk during the time that the machine is present and the office is open to allow absentee voters to use it. The inspectors shall be of different political parties.

(5) When not in use by a voter the voting machine shall be locked by a key to prevent voting on that machine. The key shall be in the custody of the clerk or the clerk's designated representative.

(6) When the office of the clerk is closed the voting machine shall be sealed by a numbered seal in a manner that will prevent voting on the machine. The number of the seal shall be recorded and the record signed by the clerk or the clerk's designated representative. When the office is reopened the clerk or the clerk's designated representative shall examine the seal and record that the number is the same as the number shown on the record of sealing the machine. The record shall be maintained in the clerk's office with other election records.

(7) The machine shall at all times be sealed with a metal numbered seal in a manner that will prevent the votes cast on the machine to be read. This seal will remain on the machine until the recording of the votes. A record of the seal number shall be maintained by the clerk.

(8) A poll list shall be maintained by the inspectors of election in the same manner that a poll list is maintained in a precinct.

(9) On election day the votes cast on the machine shall be recorded by a counting board. After the recording of the votes the machine shall be resealed so that the counters cannot be read without breaking the seal and the seal number shall be recorded.

(10) The city or township clerk shall, at least 20 days before the election, notify the county committee of each political party having candidate son the ballot of the hours that the office will be open and the machine available for voting. A political party or a committee authorized under the provisions of section 731 may appoint 1 challenger to be present during these hours.

**History:** Add. 1980, Act 140, Imd. Eff. May 29, 1980.

**Popular name:** Election Code

VOTING MACHINES

### 168.770 Voting machines authorized; contracts between governing bodies as to use.

Sec. 770. (1) Unless the secretary of state implements the uniform voting system in a precinct, at all elections held in this state, ballots or votes may be cast, registered, recorded, and counted by means of voting machines, as provided in this chapter.

(2) The governing body of a governmental unit in this state may contract with the governing body of another governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 386, Eff. Mar. 31, 1966;—Am. 1972, Act 214, Imd. Eff. July 7, 1972;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.770a Voting device; authorization of use by secretary of state; petition; rules as to election procedures.

Sec. 770a. Until the secretary of state implements the uniform voting system, the secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules promulgated shall be consistent with the election law.

**History:** Add. 1965, Act 91, Imd. Eff. June 28, 1965;—Am. 1966, Act 86, Imd. Eff. June 14, 1966;—Am. 1967, Act 50, Eff. Nov. 2, 1967;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.771 Voting machines; purchase.

Sec. 771. Until notified by the secretary of state under section 37, a county board of commissioners, the legislative body of an incorporated city or village, or the township board of a township in the state of Michigan may, by a majority vote, authorize, purchase, and order the use of a thoroughly tested or reliable voting machine in 1 or more voting precincts within the county, city, village, or township until otherwise ordered by the officers adopting the same.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.772 Voting machines; construction and operation.

Sec. 772. A voting machine to be purchased as provided in section 771 of this act must be so constructed as to provide facilities for voting for the candidates of at least 7 different parties or organizations, and must permit all voters to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in secrecy. It shall also be so constructed that votes may be cast thereon for constitutional amendments or any other public measure; it must also be so constructed as to provide for at least 30 candidates for each party organization at any and all elections, and said machine must be constructed of good and durable material in a workmanlike manner, and also so constructed that it can be easily and conveniently operated by inspectors of election and the voters; it must also be so constructed as to prevent voting for more than 1 person for the same office, except where the voter is entitled to vote for more than 1 person for that office, and it must afford him an opportunity to vote for any and all persons for that office as he is by law entitled to vote for and no more, at the same time preventing his voting for the same person twice: Provided, That at any time when the polls are open, any voter finding in his use of the machine that same does not operate in exact accordance with the provisions of this section shall be entitled to notify the chairman or any member of the board thereof, whereupon the member so notified and the other members of the board present shall inspect said machine and determine whether or not the alleged irregularity of operation is a fact. If it is determined that the machine is not operating in accordance with this section, no further voting thereon shall be permitted until the machine is adjusted and the number of votes recorded thereon shall not be changed during the process of adjustment. If the machine cannot be properly adjusted, it shall be locked and no further voting permitted thereon. Any person charged with the duty of setting, adjusting or operating voting machines shall perform that duty in such a manner that the machines will enable voters to use same in accordance with the provisions of this section. Any person wilfully failing to carry out the provisions of this section shall, upon conviction thereof, be fined not more than $500.00, or imprisoned for not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### 168.773 Voting machines or uniform voting system; maintenance; custody.

Sec. 773. (1) A county board of commissioners, the legislative body of a city or village, or the township board of a township adopting a voting machine or implementing the uniform voting system shall, as soon as practicable, provide for each election district a voting machine or uniform voting system in complete working order. The county, city, township, or village clerk shall keep the voting machine or voting system in repair and shall have the custody of the machine or system. The clerk has custody of the furniture and equipment of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the polling place when not in use at an election.

(2) If it is impracticable to supply each and every election district with a voting machine at any election following the adoption, as many may be supplied as it is practicable to procure, and the voting machines may be used in the election district or districts within the county, city, village, or township as the officers adopting them may determine. More than 1 voting machine may be provided and used in an election precinct.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.774 Voting machines; contracts for purchase, terms.

Sec. 774. The board of supervisors of any county, the legislative body of any city or village, or the township board of any township, on the adoption and purchase of voting machines, may provide for the payment thereof in such manner as they deem for the best interest of the county, city, village or township, and may enter into a contract for the purchase of said machines with provision for payment thereof in annual installments not exceeding in all 10 years, and of such amounts and payable at such times as said local authorities shall determine, and said officials shall further have the right to acquire title to said machines at the time of installation or at any time thereafter by payment of the full amount of the purchase price or the balance thereof either in cash or by the issuance and delivery in payment therefor of certificates of indebtedness drawn for the amounts of said annual installments; said certificates shall be valid negotiable obligations of said county, city, village or township and may be issued with or without interest, but in no case shall the interest exceed 6%. It is further provided that in case any city, village or township of a county in which the use of voting machines shall have been determined upon by the board of supervisors shall have previously purchased voting machines, such city, township or village shall have returned to it from the general fund of said county such pro rata amount of the whole cost for the county as the number of voting precincts so previously provided by any such city, township or village bears to the whole number in the county, but not exceeding the amount previously paid by any such city, township or village.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.775 Voting machines; ballot labels, printing, order of names; amendments or questions; vignettes; printed ballots.

Sec. 775. All ballot labels shall be printed in black ink on clear white material or amendments, propositions and questions may be printed on red tinted material and the names of candidates for nonpartisan offices on blue tinted material of such size as will fit the ballot frame and in plain type as the space will reasonably permit. (The name of each candidate for nomination to any office by a political party shall be placed upon the party row of such party to which shall be prefixed the name and vignette of such party.) The names of candidates for office to be voted for at such election shall be placed upon such machines in the same order that the names of candidates for office are now required to be placed upon printed ballots by the general election law. Where candidates for local offices in any city, village or township are to be voted for at the same election with state or county candidates, the names of the candidates for such offices shall be placed last upon such voting machines, following the names of candidates for state, county and other offices to be voted for at such election, and the name of the local unit shall be prominently printed on the ballot to indicate the portion of the ballot on which the names of the local candidates appear. The order in which The names of such candidates for local offices shall be placed upon such machines shall be prescribed by the board of election commissioners of the city, village or township, as the case may be. Where amendments to the constitution or other questions are to be voted on, such amendments or questions shall be placed on the voting machine upon the portion of the keyboard provided therefor or upon any other available space when deemed advisable by the board of election commissioners of the county, city, village or township. In city and village elections where any special question is to be voted on, a condensed statement of such question not to exceed 100 words may be placed upon the voting machine in lieu of a verbatim statement of such question. Such condensed statement shall be in such form as to apprise the voter of the exact question to be voted on. Said provision may also apply to amendments, provided that verbatim statements thereof shall in such cases be placed conspicuously within the machine booth so that each voter may, if he desires, read the entire context of such amendments; such condensed statements shall be written under the direction of the proper legal authority in the state, county, city, village or township, as the case may be. Two or more independent nominations may be placed on the same party row and such candidates shall be voted for individually. The party lever or device, if any, in connection with such party row, shall be locked whenever such party row does not contain the names of candidates of a party organization or the names of an independent body which may have nominated candidates for more than 1 office. The vignettes adopted for such independent candidates, if any, shall be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

printed upon the ballot labels in connection with the names of such candidates. Where voting machines are purchased or are used, the election commissioners of the county, city, village or township shall not be required to print and furnish paper ballots for election districts using voting machines, except for any question or matter that cannot be provided for by the voting machines. The board of election commissioners of the county shall cause to be printed ballot labels or slips containing the names of candidates for all offices to be voted for or questions to be voted upon, except when the city, village or township officials only are to be elected, at which time the city, village or township clerk shall provide such ballot labels for use upon such voting machines, and shall forward the same to the board of election commissioners of each city, village or township within the county where such voting machines are used at least 5 secular days before the day of election. Whenever local officers are to be elected at any such general election, it shall be the duty of the city, township or village clerk, respectively, to file with the board of election commissioners of the county, the titles of offices, the names of all candidates to be voted for, and all questions or propositions to be voted upon within such city, township or village, at that election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 293, Eff. Sept. 27, 1957;—Am. 1959, Act 173, Eff. Mar. 19, 1960;—Am. 1961, Act 178, Eff. Sept. 8, 1961.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

**Popular name:** Election Code

### 168.776 Voting machines; supplies and equipment; keys, delivery and return.

Sec. 776. Not to exceed 3 additional sets of ballot labels shall be provided for each polling place for each election for use on the voting machine, and the same shall be delivered by the board of election commissioners to the election board of each voting precinct. Envelopes for the delivery and return of the keys of the voting machine shall be furnished by the county or city clerk, upon which shall be printed or written the number of the machine, the ward or precinct and the record of the protective counter, if any, and the numbers of the seals before and after the election, each of which shall be correctly filled out and be delivered to the proper board or official: Provided, however, That in communities where the registration books and supplies are delivered to their respective boards by the local law enforcement agency, a key ring to which is attached the keys to the voting machine and tags bearing the number of the machine and the ward and/or precinct, may be delivered by said agency to the proper board or official. The number registered on the protective counter, if any, and the numbers of the seals before the election, and after, if used, shall be recorded in the “statement of returns”. At the close of the polls, the key ring containing the keys to the voting machine and the tags bearing the number of the machine and of the ward and/or precinct shall be returned to the city, village or township clerk. In all general or city elections where voting machines are used, there shall be furnished by the board of election commissioners, to the election board in each such precinct, a sufficient number of instruction ballots or wall diagrams showing the keyboard of the voting machine with the titles of offices, names of candidates, with designating numbers and letters, if any, and questions, and with illustrations and brief instructions on how to vote.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.777 Voting machines; model, instructions.

Sec. 777. A model representing a portion of the face of the machine and containing fictitious names must be delivered to each board of election inspectors for use on election day, and one of said board, or some one appointed by said board, shall offer to exhibit and explain the operation of the voting machine, by use of the model, to each voter before such voter shall be allowed to vote. Printed instructions on how to vote, circulated to voters, must conform to the instructions approved by the official providing ballots, and adapted to the machine used.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.778 Voting machines; control; clerk and assistants as officers of election; compensation; exception; number of assistants; preparation of machines; inspection; certification; lighting; delivery of machines; police protection; supervision of machines.

Sec. 778. The clerk of a city, village, or township in which voting machines are used shall have complete control of the machines. However, if the machines are owned by the county, this control is vested in the county clerk. The clerk and his or her authorized assistants are, for the purpose of this chapter, officers of election and may be paid for the time spent in the discharge of their duties, in the same manner as other



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

election officers are paid. However, this section does not apply to a city where the clerk or his or her authorized assistants receive compensation that is fixed by the legislative body. In cities where there are more than 20 voting machines, more than 1 authorized assistant may be appointed. The clerk or his or her authorized assistants shall cause the machines to be properly labeled, put in order, set, and arranged. In preparing a voting machine for an election, the clerk or his or her authorized assistants shall arrange the machine and the ballots so that it will meet the requirements for voting and counting at the election, and thoroughly test and seal or lock the machine. When a machine has been prepared for the election, the election commissioners, or their authorized assistants, shall inspect the machine to determine whether it is properly prepared. An authorized assistant shall not be the same person who prepared and set the voting machine. The election commissioners or their authorized assistant shall prepare and file with the commissioners a written certificate certifying to the correct adjustment of the machine, the number of the machine, whether or not all the candidates and question counters and the public counter are set at zero, the number registered on the protective counter, if one is provided, and the number of the metal seal with which the machine is sealed. In elections in which state and county officers are to be voted for, an additional certificate shall be filed with the county clerk. Each voting machine shall be furnished with a light sufficient to enable voters while in the booth or other enclosure to read the ballot labels, and suitable for use by the election officers in examining the counters of the machine. The clerk or his or her authorized assistants shall cause the voting machines to be delivered at the polling places in which they are to be used at least 1 hour before the time set for opening the polls. Police protection shall be furnished by the local authorities whenever the officers charged with the duty of preparing the machines consider protection necessary to prevent possible injury to a machine, but the machines shall at all times be under the supervision of an officer, except during the hours prescribed by law for voting on election day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.779 Election inspectors; qualifications as to voting machines.

Sec. 779. No inspector of election shall serve in any election at which a voting machine is used unless he shall have received instruction as provided in section 683 of this act and is fully qualified to perform his duties in connection with the machine. This shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 67, Eff. Mar. 28, 1963.

**Popular name:** Election Code

### 168.780 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

**Compiler's note:** The repealed section dispensed with all clerks and gatekeepers in any city, village or township where voting machines were used.

**Popular name:** Election Code

### 168.781 Election inspectors and poll clerks; opening of polls, examination of machine seals and counter, delivery of keys, other duties.

Sec. 781. The inspectors of election and poll clerks, if any, of each district shall meet at the polling place therein, at least 1/2 hour before the time set for the opening of the polls at such election, and shall proceed to arrange within the guard rail the furniture and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election, and the registry of the electors required to be made and kept therefor. The inspectors shall thereupon cause at least 2 instruction cards to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine the ballot labels containing the names of the offices to be filled at such election, the names of the candidates nominated therefor and the question, if any, to be voted upon. The keys of the voting machines shall be delivered to the election officers or chairman of the election board not more than 24 hours nor less than 1/2 hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number on the seal and, if provided with a protective counter, the number registered on such counter as reported by the clerk or his authorized assistants: Provided, That where key rings to which are attached the keys to the voting machines, with tags bearing the numbers of the machines and of the wards and/or precincts, are delivered by the local law enforcement agency, the number on the seal and of the protective counter, if any, shall be recorded in the statement of returns. Before opening the machine, at least 2 of the officers present shall examine the number of the seal on the machine, also the number registered on the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

protective counter, if one is provided, and shall see if they are the same as recorded on the envelope containing the keys or on the statement of returns. If found not to agree, the machine must not be opened until the clerk, or the assistant duly appointed and authorized to act for such clerk, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and the protective counter, if one is provided, are found to agree with the numbers on the envelope or statement of returns, the inspectors shall proceed to open the doors concealing the counters. Before the polls are opened for the election, each inspector shall carefully examine every candidate and question counter and see that it registers zero, and the same shall be subject to the inspection of the official challengers who may be present. If any counter for a candidate or question is found not to register zero, the inspectors of election shall immediately notify the county, city or township clerk, under whose direction such machine has been prepared for election, and said clerk or the assistant appointed by him shall adjust the counter at zero, re-examine the machine and certify to its proper adjustment for use in the election. During the examination of the voting machine by the inspectors of election, the machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by the electors in voting, or by the inspectors in recording absent voters' ballots.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.782 Repealed. 1966, Act 62, Imd. Eff. June 9, 1966.

**Compiler's note:** The repealed section pertained to irregular and emergency ballots.

**Popular name:** Election Code

### 168.782a Voting machines; voting for more write-in candidates than space on machine, procedure.

Sec. 782a. If any voter wishes to vote for more write-in candidates than there are spaces upon the voting machine or for any person whose name is not on the machine or for any combination of names that cannot be voted with the machine, the following procedure shall be followed:

(a) The voter shall notify an election inspector of the situation.

(b) The election inspector shall tell the voter to clear the voting machine, in secret, of all votes including write-ins that the voter has attempted to cast.

(c) The voter shall advise the election inspector when he has cleared the machine.

(d) Not less than 2 election inspectors who shall not be of the same political party shall then inspect the machine to determine whether it is cleared, and if not, shall proceed to clear the machine, including the write-in slots.

(e) The election inspectors shall then operate the appropriate voting machine mechanism to prepare the machine for the next voter.

(f) The election inspectors shall make a notation of the facts in the poll book and shall initial the notation.

(g) The election inspectors shall provide the voter with a complete set of paper ballots identical to the paper ballots used by absentee voters in that precinct, and shall also provide the voter with an unsealed envelope in which to deposit the ballots.

(h) The voter shall mark his ballots, in secrecy, and deposit them in the envelope provided, seal the envelope and hand the sealed envelope to an election inspector.

(i) The election inspector shall commingle the envelope with absentee ballot return envelopes of the precinct, if any.

(j) The envelopes and ballots shall be called, tallied and processed in the same manner as absentee ballots.

(k) If any paper ballots are cast under the provisions of this section in any municipality using absent voter counting precincts, the chairman of the election board in the precinct where the ballots were cast shall immediately upon the close of the polls notify the clerk of the governmental unit of such fact and the clerk shall cause the ballots to be transmitted to the absent voter counting precinct.

**History:** Add. 1966, Act 62, Imd. Eff. June 9, 1966.

**Popular name:** Election Code

### 168.782b Voting machines; use of emergency ballots when no reserve machine available.

Sec. 782b. If there is no reserve machine available, emergency ballots may also be provided by the board of election commissioners of the county, having suitable blank spaces to permit the voter to vote a straight party ticket, or if he desires to split his party ticket, to indicate the party ticket the majority of whose candidates he favors, together with the names of such other candidates for whom he desires to vote. The ballots shall be used only in emergency and upon special permission of the board or official whose duty it is



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to provide ballots for the election and who shall prepare such ballots which shall be held by the city, township or village clerk, subject to the order of the county clerk or other authorized person. It shall not be necessary to provide emergency ballots for each election unless same shall have been used, destroyed or lost, in which case similar ballots shall again be provided. If at any time during the election, the voting machine is disabled and cannot be repaired and no other voting machine can be had to supply its place, an emergency shall be declared to exist and the voting thereafter at that election in that voting precinct shall be by ballot, in the manner provided in this section. The board or official having the custody of the emergency ballots, when so directed, shall supply a sufficient number of such ballots to the election board for use by the voters. One of the ballots shall be delivered by the election board to each voter who may thereafter appear to vote and shall be voted and counted subject to the provisions relative to voting by ballot at general elections, except as herein otherwise provided. The ballots shall be numbered consecutively from 1 up, which number and identification shall be printed upon a perforated stub as in the case where only regular ballots are used at elections.

**History:** Add. 1966, Act 62, Imd. Eff. June 9, 1966.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.783 Voting machines; challenged voter, procedure.

Sec. 783. When the right of any person offering to vote is challenged and his answers under oath shall show him to possess the qualifications to vote at that precinct, he must be allowed to cast his vote either upon the regular keyboard of the machine, or upon the machine in the space provided for voting an "irregular ballot", or upon a ballot such as provided for absent voters, in the discretion of the precinct inspectors. The poll list shall be marked and the paper ballot, if used, shall be identified in the manner provided where voting machines are not used and such ballots shall be counted, recorded and preserved in the same manner as prescribed elsewhere in this chapter for the handling of absent voters' ballots. If the vote be cast upon the machine in the space provided for voting an "irregular ballot", the poll list number shall be written in the space on the machine next preceding the ballot cast and the number concealed and the ballot preserved as near as possible in the manner as prescribed in case the voter is permitted to use the paper ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.784 Voting machines; irregular ballots, unlawful use.

Sec. 784. With the exception of persons not nominated or for a combination of names that cannot be voted with the machine and except for voting for president and vice-president and except for challenged votes, no irregular ballot shall be voted for any person for any office, whose name appears on the machine as a nominated candidate for that office. An irregular ballot must be cast in its appropriate place on the machine or it shall be void and not counted.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.785 Voting machines; location.

Sec. 785. The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and the public. The voting machine shall be placed at least 3 feet from every wall and partition of the polling place.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.786 Voting machines; voting; secrecy; time limit.

Sec. 786. Only 1 voter at a time shall be permitted to pass within the guard rail to vote. The operating of the voting machine by the elector while voting shall be secret and obscure, from all other persons, except as provided by this act in cases of assisted electors or a minor child accompanying an elector in the booth or voting compartment under section 736a. A voter shall not have the right to remain within the voting machine booth longer than 2 minutes and if he or she refuses to leave it after the lapse of 2 minutes, the voter shall be removed by the inspectors. However, the inspectors may grant the voter further time in their discretion.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

**Popular name:** Election Code

### 168.787 Voting machines; keyboard concealed.

Sec. 787. The front of the voting machine shall be in full view of the inspectors and bystanders at all times during the election, and the machine shall be so placed or equipped that the keyboard of the machine shall be concealed from the view of all persons, except the voter, so that the voting of each voter shall be in secrecy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.788 Voting machines; locking.

Sec. 788. An inspector of election shall attend to the locking and unlocking of the machine and it shall be his duty to prevent said machine from being unlocked at any time during said election, except when a voter is within for the purpose of voting, and whenever a voter has voted the inspector shall lock the machine and it shall remain so until another voter enters for the purpose of voting.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.789 Voting machines; election inspectors, instructions to voter, assistance to incapacitated voter.

Sec. 789. In case any elector, after entering the voting machine booth, shall ask for further instructions concerning the manner of voting, 2 inspectors shall give such instructions to him, but no inspector or other election officer or person assisting at any election shall set such machines for any such elector, or move, turn or operate any lever or other part or mechanism of such machine for such elector, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall be left alone in the voting machine booth and shall vote as in the case of an unassisted voter, and no inspector or other election officer or person assisting at any election shall be present in such voting machine booth when any such elector sets or operates such machine. When an elector shall make oath that because of physical disability he cannot set or operate such machine, or when such disability shall be made manifest to said inspectors, such machine shall be set and operated for him and in accordance with the manner in which he wishes to vote by 2 inspectors designated by the board for that purpose.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.790 Voting machines; defacing, altering or injuring machine or labels.

Sec. 790. No voter or other person shall deface, alter or injure the voting machine or change position of the ballot labels thereon. It shall be the duty of the inspectors of election to enforce the provisions of this section. The inspectors of election shall, at such intervals as they may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced, altered or injured, to detect the wrongdoer and to repair any injury.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 159, Eff. Sept. 27, 1957.

**Popular name:** Election Code

### 168.791 Voting machines; sealing against voting; reading and announcement of vote; absent voters' ballots; legality; count and tally; completion of returns; availability; sealing and locking machine.

Sec. 791. As soon as the polls of election are officially closed and the last voter has voted, the inspectors of election shall seal the operating lever of the machine, if any, against voting, with the numbered metal seal provided for that purpose and open the counter compartment in the presence of the challengers and all other persons lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board shall then under the scrutiny of another member, in the order of the offices as their titles appear on the machine, read and announce in a distinct voice the candidate's name or the designating number and letter, if any, of each counter for each candidate's name and the number of votes shown on said counter, and shall then in like manner read and announce the vote on each constitutional amendment, proposition or other question. He shall also announce the vote as recorded for each office on the irregular ballots, if any. The candidate counters shall be read consecutively along the row or column and the votes as registered and announced shall be entered in ink by members of the board, directly into the inspectors' statement of returns, in the space which has the same candidate's name or designating number and letter, if any. After recording on the inspectors' statement of returns, the vote as shown by the counters, the figures shall be verified by being called off in the same manner from the counters of the machine by another inspector. At least 2 copies of the statement of returns shall be made simultaneously.

When absent voters' ballots have been returned to the city clerk and delivered to the precinct board of election inspectors such election inspectors shall determine the legality of such ballots as prescribed in this act, and shall count and tally the votes on such ballots on 2 separate tally sheets which shall be provided by the county clerk. The canvass will be performed in the same manner as is provided for paper ballot precincts. The totals from this canvass shall be entered separately on the statement of returns and also included in the total precinct vote as shown on the statement.

The counter compartment of the voting machine shall remain open until the statement of returns and other records, if any, have been fully completed and signed by the election board. During such time any challenger of any party, duly accredited as provided by the election law, who may desire to be present shall be admitted to the polling place. Immediately after the canvass has been completed, the results, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present. Ample opportunity shall be given to any person lawfully present to compare the results with the counterdials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked.

When absent voters' ballots have been cast in the voting precinct, the machine shall not be closed and locked until such ballots, from which the perforated numbered corners have been detached, have been sealed in an envelope provided for that purpose or wrapped and tied in the manner provided at elections where voting machines are not used, and placed inside the machine, after which the doors shall be securely closed and locked. On the envelope or wrapper shall be printed a certificate which shall be signed by all members of the election board certifying that the absent voters' ballots contained therein have been properly recorded on the absent voters' tally sheet and the statement of returns.

Such machines shall remain sealed or locked and shall not be operated subsequent to any primary or election until the day following the last day for filing petitions for recount of any votes cast on such machines, after which period the seals may be broken and machines released, unless a recount petition has been filed and the recount not completed, or the release of the machine has been stayed by a court order. In any case, the seals shall be broken and machines released not less than 20 days preceding an election at which such machines are to be used. In city, village and township elections, the legislative body may, if not prohibited by the charter of such city, village or township, provide for a different period during which the machine shall remain sealed or locked.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970.

**Popular name:** Election Code

### 168.791a Printer type voting machines; definition, operation.

Sec. 791a. “Printer type voting machine” as used in this act means a voting machine which prints the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

reading upon each of the respective candidate and proposition counters directly upon one or more sheets of paper and shows the counter reading as appearing upon such machine both before the opening of the polls and after the last vote is recorded. If a printer type voting machine is used in a precinct at an election, the board of election inspectors of the precinct shall not have a key to the counter compartment of the machine, nor open the same at any time. All of the other provisions of this act relating to the conduct of elections through the use of voting machines shall be applicable to such machines, except that the counter readings shall be taken from the printed sheets rather than from the respective counters, and such sheets shall be subject to inspection the same as the counters would otherwise be. At the conclusion of the precinct canvass, one sheet showing the reading upon each of the respective counters after the last vote is recorded upon each of such machines used in the precinct, shall be included with the returns to the county board of canvassers, and one sheet from each of such machines shall be included with the returns to the local clerk. One of such sheets from each machine, and one sheet showing the counter reading as appearing before the opening of the polls, shall be locked in the machine from which the same was taken. Such sheets shall be initialed by each of the members of the precinct board of election inspectors before completing the returns.

**History:** Add. 1963, Act 171, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### 168.792 Voting machines; discrepancy in return; investigation, re-canvass procedure, petition.

Sec. 792. Whenever it shall appear that there is a discrepancy in the returns of any election district, the board of canvassers of the county, if it be a general election at which county or state officers are elected, or the board of canvassers of the city, village or township, if it be a city, village or township election at which city, village or township officers only are elected, or the authorized representatives of such board of canvassers, shall make a record of the number of the seal, if any, the number on the protective counter, if one is provided, and shall open the counter compartment of said machine, and without unlocking the machine against voting, shall re-canvass the vote cast thereon. Before making such re-canvass, the said board of canvassers shall give sufficient notice in writing to the clerk of the time and place where said re-canvass is to be made. If upon such re-canvass it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the clerk or authorized assistant, in the presence of the inspectors of election and the said board of canvassers, shall unlock the voting and counting mechanism of said machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the return from said machine. Before testing the machine, the counters in the party row or column in which the discrepancy is alleged to have occurred shall be set at zero after which each of such counters shall be operated at least 100 times. After the completion of said examination, the clerk or authorized assistant shall then and there prepare a statement in writing giving the result thereof, and said statement shall be witnessed by the persons present and shall be filed with the board of canvassers. Any candidate voted for at any election who conceives himself aggrieved on account of any fraud, error or mistake in the canvass of the vote by the inspectors or in the returns made by the inspectors of election, may file a written petition for a recount with the board of canvassers, as provided in cases where voting machines are not used.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.792a Absent voter counting boards.

Sec. 792a. (1) Except as otherwise provided in this subsection, the absent voter ballots in a city, township, or village that uses voting machines shall be counted by absent voter counting boards. The board of election commissioners of a city, township, or village that has 2 precincts or less or of a city that has 500,000 or more in population may decide that the absent voter ballots shall be counted in the manner provided in section 791. In a city, township, or village that does not use voting machines, the absent voter ballots may be counted by absent voter counting boards or in the same manner as is otherwise provided for precincts in which voting is not done on voting machines.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

until after the polls are closed.".

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, township, or village clerk, the secretary of a school board, or an employee of a school district designated to conduct a school election.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, village, school district, or any other jurisdiction empowered to conduct an election under this act.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1961, Act 230, Eff. Sept. 8, 1961;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970;—Am. 1971, Act 15, Eff. Mar. 30, 1972;—Am. 1973, Act 15, Imd. Eff. Apr. 30, 1973;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1990, Act 95, Imd. Eff. June 6, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.792b Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

**Compiler's note:** The repealed section pertained to inapplicability of MCL 168.792a in presidential primary elections.

**Popular name:** Election Code

### 168.793 Voting machines; inspectors' statement forms.

Sec. 793. The proper board of election commissioners shall furnish the necessary inspectors' statement of returns sheets and the certificates and envelopes suitable to the machine used, together with ballot labels and other election supplies for each election, to be delivered to the respective boards of election inspectors to make returns where voting machines are to be used. The form of the inspectors' statement of returns sheets shall be suitable to the type of machine used and the inspectors' certificate contained therein shall in addition certify to the machine number, the number on the protective counter, if any, the number on the seal, and that all candidate counters, question counters and the public counter registered zero before the polls opened; also the record on the protective counter and on the seal, if any, with which the machine is sealed by the inspectors, the number on the public counter and the number of names on the poll list after the polls close; also a record of the disposition of the absent voters' ballots as provided in section 791 of this act. As soon as the names of all candidates for the several offices to be elected at that election are filed as required by law, the board or official whose duty it is to prepare the ballot labels for the machine, shall forthwith have the names of each regularly nominated candidate, together with the designating number and letter, if any, corresponding to each of the candidate's counter on the voting machine, printed in the space provided therefor: Provided, That in case of the death, resignation or failure to qualify of any of such candidates after such inspectors' statement of returns are printed, a slip may be furnished giving the name, designating number and letter, if any, of the candidate substituted therefor and same shall be pasted, before the delivery of the inspectors' statement of returns to the board of inspectors, over the candidate's name who died, resigned or failed to qualify.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.794 Definitions used in MCL 168.794 to 168.799a.

Sec. 794. As used in sections 794 to 799a:

(a) “Audit trail” means a record of the votes cast by each voter that can be printed, recorded, or visually reviewed after the polls are closed. The record shall not allow for the identification of the voter.

(b) “Ballot” means a card, ballot label, paper ballot, envelope, or any medium through which votes are recorded.

(c) “Ballot label” means the display or material containing the names of offices and candidates or the questions to be voted on.

(d) “Counting center” means 1 or more locations selected by the board of election commissioners of the city, county, township, village, or school district at which ballots are counted by means of electronic tabulating equipment or vote totals are electronically received from electronic tabulating equipment and electronically compiled.

(e) “Electronic tabulating equipment” means an apparatus that electronically examines and counts votes recorded on ballots and tabulates the results.

(f) “Electronic voting system” means a system in which votes are recorded and counted by electronic tabulating equipment.

(g) “Escrow account” means a third party approved by the secretary of state for the purpose of taking custody of all source codes, including all revisions or modifications of source codes.

(h) “Source code” means the assembly language or high level language used to program the electronic voting system.

(i) “Voting device” means an apparatus that contains the ballot label and allows the voter to record his or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

her vote.

(j) “Voting station” means an enclosure provided to ensure ballot secrecy during the voting of the ballot.

(k) “Memory device” means a method or device used to store electronic data.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

### 168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### 168.794b Electronic voting system; manner of payment.

Sec. 794b. The board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, on the adoption and acquisition of an electronic voting system, shall provide for payment for the system in the same manner as is provided for the payment for voting machines in section 774.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.794c Applicability and construction of provisions; rules.

Sec. 794c. The provisions of sections 794 to 799a control with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose of the provisions. A provision of law relating to the conduct of elections that conflicts with sections 794 to 799a does not apply to the conduct of elections with an approved electronic voting system. The secretary of state shall promulgate rules to implement the provisions of sections 794 to 799a, in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### 168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable; equipping each polling place with accessible voting device.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(*l*) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(m) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device shall include nonvisual accessibility for the blind and visually impaired.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls. Electronic tabulating equipment that tabulates ballots, including absentee ballots, at a central location shall be programmed to reject a ballot if the choices recorded on an elector's ballot for an office or a question exceed the number that the elector is entitled to vote for on that office or question, if no valid choices are recorded on an elector's ballot, or if, in a primary election, votes are recorded for candidates of more than 1 political party.

(3) Beginning January 1, 2006, each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(m).

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002,



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.795a Electronic voting system; approval by board of state canvassers; conditions; approval of improvement or change; inapplicability of subsection (1); intent to purchase statement; instruction in operation and use; disapproval.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of $1,500.00 for a new voting system and a fee of $500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(*i*) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(*ii*) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).

(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

correction of software or firmware after testing the software or firmware performance.

(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).

(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

(7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the "intent to purchase statement".

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### 168.795b Printing or displaying ballot labels, questions, office titles, and names of candidates; columns, pages, and directional signs; ballot stub.

Sec. 795b. (1) Ballot labels shall be printed or displayed in plain, clear, black type on white surface. Questions may be printed or displayed on red tinted surface and the names of candidates for nonpartisan offices on blue tinted surface. County questions may be printed or displayed on green tinted surface and local questions may be printed or displayed on buff surface. In a primary election to identify each political party, the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages or displays. The office title with a statement of the number of candidates to be voted for shall be printed or displayed above or at the side of the names of the candidates for that office. The offices and candidates shall be printed or displayed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the county, city, village, township, or school district. If there are more candidates for an office than can be printed or displayed in 1 column or on 1 page or display, the ballot label shall be clearly marked that the list of candidates is continued on the following column, page, or display, and so far as possible, the same number of names shall be printed or displayed on each column, page, or display. Arrows or other directional signs may be used to indicate the place to vote for each candidate or question.

(2) Ballots that are processed through electronic tabulating equipment after the elector has voted shall have an attached, numbered, perforated stub.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day; partisan elections; voting split or mixed ticket.

Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan, and questions, shall be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label shall be clearly marked to indicate the ballot for each election. In partisan elections the ballot label shall include a position by which the voter may by a single selection record a straight party ticket vote for all the candidates of 1 party. The voter may vote a split or mixed ticket.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.796 Sample ballots.

Sec. 796. Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided as required by law. At least 2 copies shall be posted in each polling place on election day. Sample ballots may be printed on a single page or on a number of pages stapled together.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

## 168.796a Electronic voting system; preparation for election; equipment and supplies; voting stations.

Sec. 796a. (1) Before an election at which an electronic voting system is used, the board of election commissioners of the county, city, village, township, or school district shall have the system prepared for the election. The board shall provide the election board of each voting precinct with the necessary equipment and supplies.

(2) Before an election, the board of election commissioners of a county, city, village, township, or school district shall provide a sufficient number of voting stations needed to ensure the orderly conduct of the election taking into consideration the projected turnout, the length of the ballot, and the number of voters the voting system can process per hour as determined under section 795a. As a minimum for each election, the board of election commissioners shall provide at least 1 voting station for each 400 registered voters in each precinct through August 31, 1998 and at least 1 voting station for each 300 registered voters on and after September 1, 1998. If counting centers are used, the board of election commissioners of the county, city, village, township, or school district shall establish 1 or more counting centers as needed before the election.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1987, Act 21, Imd. Eff. Apr. 24, 1987;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

**Popular name:** Election Code

## 168.796b Repealed. 1990, Act 109, Imd. Eff. June 18, 1990.

**Compiler's note:** The repealed section pertained to instruction of election inspectors.

**Popular name:** Election Code

## 168.797 Inspectors of election; duties; certification of equipment operation.

Sec. 797. Not less than 30 minutes before the opening of the polls, the inspectors of election shall arrive at the polling place and prepare the polling place for voting. The inspectors of election shall determine that the correct ballot has been provided to the precinct by comparing the ballot provided with the sample ballot and any other documents provided to the precinct. The inspectors of election shall complete required tests of the equipment of the electronic voting system and certify in writing that the equipment is operating properly. The written certification shall be on a form prescribed by the secretary of state and shall include pertinent information regarding seal numbers, counters, and the operation and use of the particular equipment.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

### 168.797a Instruction in method of voting on electronic voting system; use of ballot processed through electronic tabulating equipment; procedure; detached stub; spoiled ballot; processing of challenged voter ballot; removal of ballot.

Sec. 797a. (1) Before entering the voting station, each elector shall be offered instruction in the proper method of voting on the electronic voting system. If the elector needs additional instruction after entering the voting station, 2 election inspectors from different political parties may, if necessary, enter the voting station and provide the additional instructions.

(2) If the electronic voting system provides for the use of a ballot that is processed through electronic tabulating equipment after the elector votes, the elector shall transport the ballot to the ballot box, or other approved ballot container, without exposing any votes. An election inspector shall ascertain, by comparing the number appearing on the ballot stub with the number recorded on the poll list, that the ballot delivered by the voter is the same ballot that was issued to the elector. If the numbers do not agree, the ballot shall be marked as "rejected", and the elector shall not be allowed to vote. If the numbers agree, an election inspector shall remove and discard the stub. Except as otherwise provided in this subsection, the election inspector shall deposit the ballot in the ballot box or other approved ballot container. If electronic tabulating equipment that deposits the voted ballot into the ballot box or other approved ballot container is used at the precinct, the election inspector shall return the ballot to the elector, and the elector shall then deposit the ballot into the electronic tabulating equipment. The electronic tabulating equipment shall be arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the electronic tabulating equipment, 2 election inspectors from different political parties may periodically open the equipment to rearrange voted ballots and may transfer voted ballots to another approved ballot container.

(3) A ballot from which the stub is detached shall not be accepted by the election inspector in charge of the ballot box or other approved ballot container. An elector who spoils his or her ballot may return it and secure another ballot. The word "spoiled" shall be written across the face of the ballot, and the ballot shall be marked and secured for later return.

(4) A ballot of a challenged voter that has the names of candidates and questions printed directly on the voted ballot shall be processed in the manner prescribed for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual hard copy ballot shall be processed in the manner prescribed for challenging a vote cast on a voting machine.

(5) Except as otherwise provided in this act, an election inspector shall not allow any portion of a ballot, including a ballot stub, to be removed by any person other than an election inspector from the polling place.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.797b Rules.

Sec. 797b. The secretary of state shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the tabulation of ballots, certification of results, delivery of ballots and certified results, and sealing of devices and ballot boxes after the polls are closed.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.797c Computer program; disposition and use of source code.

Sec. 797c. A person or company providing a computer program that examines, counts, tabulates, and prints results of the votes cast by a voter on an electronic voting system shall place in an escrow account a copy of the source code of the program and any subsequent revisions or modifications of the source code. The secretary of state or an authorized agent of the secretary of state shall agree to use the information contained in the source code solely for the purpose of analyzing and testing the software and shall not disclose proprietary information to any other person or agency without the prior written consent of the vendor.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### 168.798a Separate counting center; direction and conduct of proceedings; method.

Sec. 798a. If a separate counting center is used, all proceedings shall be under the direction of the clerk or authorized assistants. The proceedings shall be conducted under observation by the public, but no persons except those authorized shall touch a ballot or return. Persons who engage in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If a ballot is damaged or defective so that it cannot properly be counted by the electronic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged or defective ballot. Each duplicate ballot shall be clearly labeled “duplicate”, and shall bear a serial number, which shall be recorded on the damaged or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

defective ballot.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.798b Electronic tabulating equipment; unofficial and official returns; manual count.

Sec. 798b. Before the conduct of the official count, the clerk may conduct an unofficial count in order to provide early unofficial returns to the public. Upon completion of the count, the official returns shall be open to the public. The return of the electronic tabulating equipment, to which have been added the write-in and absentee votes if necessary, shall constitute, after being duly certified, the official return of each precinct or election district. If it becomes impracticable to count all or a part of the ballots with tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.798c Casting absentee votes on paper ballots or ballot cards; count; recording; voting and processing absent voters' ballots; inspection of rejected ballot.

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspectors on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1969, Act 186, Imd. Eff. Aug. 5, 1969;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.799 Injuring, altering, or defacing voting device, ballot, or other equipment; interference with correct operation of equipment; enforcement; examination.

Sec. 799. A person shall not willfully injure any voting device, ballot, or other record or equipment or interfere or attempt to interfere with its correct operation. The inspectors of the election shall enforce the provisions of this section. The inspectors of election, at such intervals as they consider proper, shall examine any voting device, ballot, or other equipment used in the election to ascertain whether it has been injured, altered, or defaced, to detect the wrongdoer, and to repair the injury.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### 168.799a Recounting punched, marked, or stamped ballot; procedure; stray marks; releasing sealed materials.

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

**History:** Add. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

## CHAPTER XXIX
## CANVASS BY THE PRECINCT INSPECTORS

### 168.801 Canvass of votes by precinct inspectors; public access.

Sec. 801. Immediately on closing the polls, the board of inspectors of election in each precinct shall proceed to canvass the vote. Such canvass shall commence by a comparison of the poll lists and a correction of any mistakes that may be found therein until they shall be found or made to agree. Such canvass shall be public and the doors to the polling places and at least 1 door in the building housing the polling places and giving ready access to them shall not be locked during such canvass.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, Act 67, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### 168.802 Excess ballots; disposition.

Sec. 802. When the board is ready to proceed with the counting of any kind of ballots, the box containing such ballots shall be opened and the whole number of ballots counted. If the ballots shall be in excess of the number of the electors voting according to the poll lists, the ballots shall be replaced in the box and 1 of the inspectors shall publicly draw out and destroy so many ballots therefrom unopened as shall be equal to such excess.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.803 Counting and recounting of votes; intent of voter; stray marks; instructions issued by secretary of state.

Sec. 803. (1) Except as otherwise provided in this act, the following rules govern the counting and recounting of votes:

(a) If it is clearly evident from an examination of a ballot that the ballot has been mutilated for the purpose of distinguishing it or that there has been placed on the ballot some mark, printing, or writing for the purpose of distinguishing it, then that ballot is void and shall not be counted.

(b) A cross, the intersection of which is within or on the line of the proper circle or square, or a check mark, the angle of which is within a circle or square, is valid. Crosses or check marks otherwise located on the ballot are void.

(c) Marks other than crosses or check marks used to designate the intention of the voter shall not be counted.

(d) A cross is valid even though 1 or both lines of the cross are duplicated, if the lines intersect within or on the line of the square or circle.

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, are valid if it is apparent that the voter intended to make a cross.

(f) A failure to properly mark a ballot as to 1 or more candidates does not alone invalidate the entire ballot if the ballot has been properly marked as to other candidates, unless the improper marking is determined to be a distinguishing mark as described in this subsection.

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for this purpose shall not be considered distinguishing marks or mutilations.

(h) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate is void as to the candidate or candidates affected by that determination.

(i) Any votes cast for a deceased candidate are void and shall not be counted, except that votes cast for a candidate for governor who has died, and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(j) All ballots cast that are not counted shall be marked by the inspector “not counted”, kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(k) A vote shall not be counted for any candidate unless a cross or a check mark has been placed by the voter in the circle at the head of the party ticket, if any, on which the name of the candidate has been printed, written, or placed or unless a cross or a check mark has been placed by the voter in the square before the space in which the name of the candidate has been printed, written, or placed.

(2) If an electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 195, Eff. Sept. 27, 1957;—Am. 1967, Act 37, Eff. Nov. 2, 1967;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.804 Canvass; tallying.

Sec. 804. In the canvass of votes cast for candidates for public office, the board shall first select and count the straight tickets and shall cause to be credited on the tally sheets the number to each candidate voted for on a straight ticket. All other ballots shall be counted and tallied in such manner as will best insure accuracy and promptness in determining the result, and the inspectors of election shall see that proper credit is given on the tally sheets to the candidates voted for on such ballots. All computations and tallies shall be made upon the tally sheets used at such election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.805 Ballots; packaging; statement; placement in ballot box; seal; delivery.

Sec. 805. (1) After the ballots are counted as provided in this chapter, the board of election inspectors shall securely tie the ballots in packages or rolls, and the board of election inspectors shall attach to each ballot bag an endorsed statement showing the number and kind of ballots included in the ballot bag. The statement shall be securely attached to the outside of the bag, as prescribed by the secretary of state.

(2) After all ballots are tied in packages or rolls, the board of election inspectors shall place the ballots in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

ballot bags approved by the secretary of state. The board of election inspectors shall then seal the bags with an approved seal that shall be furnished with the election supplies. The bags shall be placed in the ballot box or other ballot container provided for ballots under section 669 along with 1 tally sheet, if the tally sheet is not combined with the statement of returns. The board of election inspectors shall securely fasten and seal the ballot box or other ballot container with an approved seal furnished with the election supplies. The seal shall be affixed to render it impossible to open the ballot box or other ballot container without breaking the seal. The board of election inspectors shall then deliver the ballot box or other ballot container to the township, city, or village clerk.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 206, Imd. Eff. July 16, 1965;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.806 Duplicate statements of returns; contents, certificate of accuracy.

Sec. 806. The inspectors shall then prepare duplicate statements of the returns showing the whole number of votes cast for all offices voted for which are to be canvassed by the board of county canvassers, the names of the persons for whom such votes were given and the number each person received, and shall also prepare duplicate statements of the results on any proposed constitutional amendment or other propositions submitted to the voters at the election which are to be canvassed by the board of county canvassers, showing the whole number of votes cast, the number of votes cast for and the number of votes cast against the proposed constitutional amendment or other proposition. Each member of the board of election inspectors shall sign the certificate on the statement of returns as to the correctness of the returns and that the ballots have been packaged, sealed and indorsed in the manner therein specified. Separate duplicate returns shall be completed for all offices, propositions or questions which are to be canvassed by a city or township board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.806a Seal; procedures.

Sec. 806a. Notwithstanding any other provision of this act to the contrary, when the board of election inspectors is required to seal a ballot box, voting machine, transfer case, electronic voting device, or any other election material, the following procedure shall be followed:

(a) An election inspector shall properly affix the seal to the item and shall certify the sealing on a form prescribed by the secretary of state for this purpose.

(b) Another election inspector who is from the other major political party than the election inspector described in subdivision (a) shall verify that the seal is properly affixed to the item and shall certify the verification on the form described in subdivision (a).

(c) The completed form described in this section shall be securely attached to the outside of the ballot box in the manner prescribed by the secretary of state.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.807 Election results; availability.

Sec. 807. Immediately after the canvass has been completed, the result, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.808 Statement of returns; failure to sign certificate, falsification, penalty.

Sec. 808. Any member of the board of inspectors who fails to sign said certificate shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of election inspectors subscribe to any statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of inspectors knowingly subscribe to any statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a felony. Any person convicted of a misdemeanor under the provisions of this section shall be punished by a fine of not more than $100.00, or by imprisonment in the county jail for not more than 90 days, or by both such fine and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

imprisonment in the discretion of the court. Any person convicted of a felony under the provisions of this section shall be punished by a fine of not more than $1,000.00 or by imprisonment in a state penal institution for not more than 4 years.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.809 Election returns and records; delivery; unofficial tabulation.

Sec. 809. (1) The board of election inspectors shall seal 1 of the statement of returns and 1 of the tally sheets or the combined tally return sheet with a red state election seal in an envelope and shall address the envelope to the board of county canvassers, in care of the judge of probate. The board of election inspectors shall deliver the sealed envelope to the clerk of the township or city. Upon receipt of the sealed envelope, the township or city clerk shall immediately deliver the envelope to the person to whom addressed. The judge of probate shall deliver the sealed envelope received by him or her to the board of county canvassers when it meets to canvass the returns.

(2) The board of election inspectors shall seal the other statement of returns or combined tally and statement, together with the poll list, in an envelope addressed to the county clerk. The board of election inspectors shall deliver the sealed envelope to the clerk immediately upon completion of the count. The county clerk shall open the envelope at that time, compile unofficial returns, and make the returns in the envelope available to the public. The office of the county clerk shall be open on election day for election purposes and shall remain open until the last returns have been received and the clerk completes an unofficial tabulation.

(3) If a city or township election to be canvassed by a board of city or township canvassers is held at a time at which no election returns must be forwarded to the board of county canvassers, the board of election inspectors shall return all poll books, tally sheets, and returns to the city or township clerk. The city or township clerk shall perform the duties required in this section of the county clerks. If a local election to be canvassed by the board of county canvassers is not held in conjunction with a county or state election, the board of election inspectors shall deliver both sealed envelopes to the local clerk. The local clerk shall deliver both sealed envelopes to the county clerk before 11 a.m. on the day following the election. In a city or township election, in which the city or township consists of more than 5 precincts, held in conjunction with an election to be canvassed by the board of county canvassers, the board of election inspectors shall deliver the duplicate returns required by section 806 to the city or township clerk.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 1969, Act 241, Eff. Mar. 20, 1970;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.810 Poll list; delivery to clerk.

Sec. 810. One of the poll lists shall be delivered to the clerk of the township or city, as the case may be, and shall be by him filed in his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.810a Security of election materials.

Sec. 810a. (1) Upon request of the county clerk, a member of the board of county canvassers, or the county chair of a major political party, a city or township clerk, as appropriate, shall provide for security as prescribed in this section of the ballots, ballot boxes, and other election material described in the request and used in a precinct on election day. The city or township clerk shall provide the required security until 1 p.m. on the day immediately following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3). Subject to this section, the city or township clerk shall retain possession of the ballots, ballot boxes, keys to the boxes, keys to voting machines, and other election materials as otherwise required by law, until otherwise directed by the board of county canvassers.

(2) Upon receipt of the election materials described in subsection (1), the clerk shall immediately place the described election materials in a secure location. The clerk shall ensure that he or she is the only person who has access to the election materials placed in the secure location. A major political party may designate individuals to monitor all access points to the secure location that contains the election material. The clerk shall provide space for an individual designated by the county chair of a major political party to monitor all access points to the secure location that contains the election materials until 1 p.m. on the day immediately



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3).

(3) On and after 1 p.m. on the day immediately following the election, the county clerk, a member of the board of county canvassers, or the county chair of a major political party may petition the board of county canvassers for security as prescribed in this section of the ballots, ballot boxes, voting machines, and other election material described in the petition and used in a precinct on election day. If the board of county canvassers grants the petition for the additional security, the board of county canvassers shall prescribe the amount of security to be provided and the persons responsible for that security.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### 168.811 Election returns and records; preservation, destruction, time.

Sec. 811. All election returns, including poll lists, statements, tally sheets, absent voters' applications, absent voters' return envelopes bearing the statement required by section 761, absent voters' records required by section 760 and other returns made by the inspectors of election of the several precincts shall be carefully preserved and may be destroyed after the expiration of 2 years following the primary or election at which the same were used. All ballots used at any primary or election may be destroyed after 7 days following the final determination of the board of canvassers with respect to such primary or election unless a petition for recount has been filed and not completed or unless their destruction is stayed by an order of a court.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 122, Imd. Eff. May 10, 1963.

**Popular name:** Election Code

### 168.812 Sending election results to secretary of state; obtaining election results.

Sec. 812. At the time the county canvass is forwarded a county clerk shall send to the secretary of state the results of the election in each precinct in his county for each office and proposal which is being voted upon on a statewide basis, for each congressional and legislative office, and for the judicial offices of the supreme court and court of appeals. A person may obtain the election results from the secretary of state upon payment of the reproduction costs.

**History:** Add. 1973, Act 24, Imd. Eff. June 12, 1973.

**Popular name:** Election Code

### 168.813 Provisional ballot; tabulation; report.

Sec. 813. (1) Within 6 days after the election, for each provisional ballot that was placed in a provisional ballot return envelope, the city or township clerk shall determine whether the individual voting the provisional ballot was eligible to vote a ballot and whether to tabulate the provisional ballot. In making this determination, the city or township clerk shall not open the provisional ballot return envelope. A provisional ballot shall only be tabulated if a valid voter registration record for the elector is located or if the identity and residence of the elector is established using a Michigan operator's license, chauffeur's license, personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 along with a document to establish the voter's current residence address as provided in section 523a(5). Before the provisional ballot is tabulated, election officials shall process the ballot as a challenged ballot under sections 745 and 746.

(2) Within 7 days after the election, but sooner if practicable, the city or township clerk shall transmit the results of provisional ballots tabulated after the election to the board of county canvassers. The results shall be transmitted in a form prescribed by the secretary of state.

(3) Within 7 days after the election, the city or township clerk shall transmit to the county clerk a provisional ballot report for each precinct in the jurisdiction. The report shall include for each precinct the number of provisional ballots issued, the number of provisional ballots tabulated on election day, the number of provisional ballots forwarded to the clerk to be determined after the election, the number of provisional ballots tabulated by the clerk after election day, and any additional information concerning provisional ballots as required by the secretary of state.

**History:** Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

CHAPTER XXX

THE COUNTY CANVASS



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.821 Meeting of board of county canvassers; place; time.

Sec. 821. (1) The board of county canvassers shall meet at the office of the county clerk at 1 p.m. on the day after the day of a general election, August primary, or presidential primary election in the county. Except as provided in subsection (2), for other elections the board shall meet within 5 days following the election.

(2) If, at an election held on the May regular election date, a ballot question appears on the ballot concerning authorized millage that is subject to a millage reduction as provided in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, the board of county canvassers shall meet to canvass and certify the results of the vote on that proposition after May 31 and before June 15 following the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1969, Act 138, Imd. Eff. July 31, 1969;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.822 Board of county canvassers; canvass of returns, conclusion.

Sec. 822. (1) The board shall then proceed without delay to canvass the returns of votes cast for all candidates for offices voted for and all questions voted on at said election, according to the precinct returns filed with the probate judge or presiding probate judge by the several city and township clerks, or in case of local elections according to the precinct returns filed with the county clerk, and shall conclude such canvass at the earliest possible time and in every case within 14 days.

(2) Should the board fail to certify the results of any election for any officer or proposition within the 14 days as provided, or fail to certify results forwarded to them from any city or township election, as provided in section 30e, within 7 days of the receipt of that record, they shall immediately deliver to the secretary of the state board of canvassers all records and other information pertaining thereto. The board of state canvassers shall meet forthwith and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the county board. The cost of such canvass shall be borne by the county involved.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.823 Board of county canvassers; power to summon and open ballot boxes; correction of errors; summoning of election inspectors.

Sec. 823. If it is found, upon the convening of the board of canvassers, that the returns from any of the boards of election inspectors of the several election precincts are missing, incomplete or incorrect, or for any other reason it is found necessary, then the board of county canvassers shall have power to adjourn from day to day until the returns shall have been procured or corrected. The board of canvassers are empowered to summon the persons having the boxes containing the ballots cast at the election and the keys and seals of the boxes, or having the returns or the poll lists or tally sheets used and made at the elections, to bring the boxes, keys, seals, returns, poll lists and tally sheets before the board, and the board of canvassers are authorized to open the boxes and take therefrom any books or papers bearing upon the count and return of the election inspectors of the election precincts, but they shall not remove or mark the ballots therein. The board of canvassers shall correct obvious mathematical errors in the tallies and returns and, when deemed necessary for a proper determination, may summon the election inspectors before them, and require them to count any ballots which they failed to count, to make correct returns in case, in the judgment of the board of canvassers after examining the returns, poll lists or tally sheets, the returns already made are incorrect or incomplete, and the board of canvassers shall canvass the votes from the corrected returns. When the examination of the papers is completed, or the ballots have been counted, they shall be returned to the ballot boxes or delivered to the persons entitled by law to their custody, and the boxes shall be locked and sealed and delivered to the legal custodians thereof.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.824 Board of county canvassers; statement of votes; preparation; seal.

Sec. 824. (1) Upon completion of the canvass under section 822, the board of county canvassers shall



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

prepare a statement in detail of the number of votes cast for each office, the names of the persons for whom such votes were given, and the number of votes given to each person, as shown by the returns of the boards of inspectors of election of the various voting precincts of the county. The board of county canvassers shall also prepare a statement in detail of the number of votes cast on any proposed constitutional amendment or other ballot question submitted to the electors at the election and the number of votes cast in favor of and the number of votes cast against such proposed amendment or other ballot question, as shown by such returns.

(2) Immediately upon completion of the canvass under section 822, the board of county canvassers shall seal the statement of returns or combined tally and statement and poll list, if applicable, received from the board of election inspectors in an envelope to prevent tampering with those items.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.825 Statements of votes; contents, certification, filing.

Sec. 825. In said statements, the whole number of votes given for each office, the names of the candidates and the number of votes given to each, the whole number of votes given on any proposed constitutional amendment or other proposition submitted to the electors at such election, and the number of votes given for and the number of votes given against such proposed amendment or other proposition shall be written out in words at length, and the number of votes shall in each case be also stated in figures. Each such statement shall be certified to by the said board of county canvassers, under their hands and the seal of the circuit court of the county, and shall be attested by the clerk of said board. Thus certified and attested, each such statement shall be filed with the county clerk and kept by him in his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.826 Determination and declaration of election results; preparation, delivery, and filing of certificate of determination; publication of statement of votes; certified certificate of election.

Sec. 826. (1) Except as otherwise provided in this subsection, the board of county canvassers shall determine and declare the result of the election for county and local officers, and for all county and local ballot questions. If a city or township has more than 5 precincts, the board of city or township canvassers shall canvass votes for city or township officers and ballot questions. If a state senatorial or representative district is located solely within 1 county, the board of county canvassers shall determine and declare the result of the election for that office. Upon making the determination under this subsection, the board of county canvassers shall prepare a certificate of determination and deliver the properly certified certificate of determination to the county clerk. If the determination relates to a state senatorial or representative district located solely within 1 county, the board of county canvassers shall also deliver the properly certified certificate of determination to the board of state canvassers.

(2) Upon receipt of a properly certified certificate of determination from a board of county canvassers under subsection (1), the county clerk shall file the certificate in his or her office. The county clerk may have a statement of the total county or district votes cast for the various candidates and the total vote cast for and against the various ballot questions at the election to be published in at least 1 newspaper printed or circulated in that county. The county clerk shall immediately execute and deliver to the persons declared elected, a properly certified certificate of election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 1985, Act 162, Eff. Mar. 31, 1986;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1999, Act 217, Eff. Mar. 10, 2000;—Am. 2003, Act 119, Imd. Eff. July 29, 2003.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.827 Certificate of determination to secretary of state.

Sec. 827. The county clerk of each county which alone constitutes 1 or more senatorial or representative districts shall, upon suitable blank forms furnished by the secretary of state, transmit by mail, without delay, to the secretary of state a copy of such certificate of determination certified by said county clerk under his hand and seal of office. The said county clerk shall at the same time report to the secretary of state the postoffice address of each person elected in said county to any county office or to the office of state senator or representative in the legislature.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.828 Statements of votes; certified copy to secretary of state.

Sec. 828. The clerk of the board of county canvassers forthwith, and in no case later than 24 hours after the completion of the canvass, upon forms provided by the secretary of state, shall deliver in person or send to the secretary of state, by registered or certified mail with return receipt demanded, a certified copy of each of the statements prepared by the board as required by section 824 of this act, so far as such statements shall relate to the vote for any state office, electors of president and vice-president of the United States, United States senator, representative in congress, circuit judges, state senators and representatives in the state legislature, and any proposed amendment to the constitution or other question or proposition submitted at such election to the electors of the state at large, together with a certificate of authenticity signed by himself and the chairman of the board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1958, Act 192, Eff. Sept. 13, 1958.

**Popular name:** Election Code

### 168.829 County provisional ballot report.

Sec. 829. (1) The board of county canvassers shall include the results of the tabulated provisional ballots in the canvass of the election following procedures prescribed by the secretary of state designed to maintain the secrecy of the ballot.

(2) Within 14 days after a primary or election, the county clerk shall transmit a county provisional ballot report to the secretary of state. The county provisional ballot report shall be in a manner prescribed by the secretary of state. After the secretary of state receives a county provisional ballot report, the county provisional ballot report shall be immediately available for public inspection.

**History:** Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Former MCL 168.829, which pertained to meetings for canvass of special elections, was repealed by Act 222 of 1977, Imd. Eff. Nov. 23, 1977.

**Popular name:** Election Code

### 168.830 County canvassers and county clerk; compensation.

Sec. 830. Each county canvasser and county clerk shall receive such reasonable compensation for services performed pursuant to the provisions of this act as shall be allowed by the board of supervisors or county auditors, which compensation shall be paid out of the treasury of the county.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.831 Defect or mechanical malfunction in election equipment or material; inability of elector to cast valid vote; petition for special election.

Sec. 831. If an elector cannot cast a valid vote at an election for the candidate of that elector's choice or for or against a ballot question submitted to the voters because of a defect in or a mechanical malfunction of a voting machine, voting device, ballot, or other election equipment or material, a special election may be petitioned for and held as provided for in sections 832 to 839.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.832 Defect or mechanical malfunction described in MCL 168.831; aggrieved candidate or elector; filing petition for special election.

Sec. 832. A candidate aggrieved by a defect or mechanical malfunction as described in section 831 or a registered elector, whose name appears in a poll book at the election for a ballot question aggrieved by a defect or mechanical malfunction as described in section 831, may petition for a special election. The petition shall be filed with the secretary or clerk of the board of canvassers that canvasses the election no later than 10 days after the date of the election.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.833 Petition for special election; requirements.

Sec. 833. A petition filed under section 832 shall meet all of the following requirements:

(a) Be typed or printed.

(b) Allege the facts that made it impossible to cast a vote for the petitioning candidate or for or against the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

ballot question.

(c) Identify the precinct and city or township, and, if applicable, the number of the voting machine or device.

(d) Be signed and certified by the candidate or elector.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.834 Repealed. 1990, Act 95, Imd. Eff. June 6, 1990.

**Compiler's note:** The repealed section pertained to service of petition for special election.

**Popular name:** Election Code

### 168.835 Petition for special election; qualification; meeting of board of canvassers; notice of time and place.

Sec. 835. The secretary or clerk of the board of canvassers shall determine if a petition meets the requirements of section 833. If a petition is so qualified, the secretary or clerk shall call a meeting of the board of canvassers no later than 5 days after receipt of the petition. The secretary or clerk shall notify the following persons by first class mail or phone of the time and place of the meeting:

(a) The appropriate city or township clerk.

(b) If the election was a general election or special election, each candidate whose name appears on the ballot for the same office.

(c) If the election was a primary election, each candidate whose name appears on the ballot for the same office under the political party of the candidate.

(d) The filer or sponsor of the ballot question, if known, any ballot question committee filed under Act No. 388 of the Public Acts of 1976, being sections 169.201 to 169.282 of the Michigan Compiled Laws, supporting or opposing the ballot question, and the registered elector who filed the petition under section 832.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.836 Ordering special election in precinct affected by defect or mechanical malfunction; conditions; effect of votes in excess of electors.

Sec. 836. (1) The board of canvassers shall order a special election for the office of the petitioning candidate or the ballot question only in each precinct affected by a defect or mechanical malfunction as described in section 831 if all of the following are true:

(a) An elector could not cast a valid vote in the precinct for the petitioning candidate or for or against the ballot question because of the defect or mechanical malfunction.

(b) Based on the available canvass, the number of electors who could not cast valid votes for the office or for or against the ballot question in an election because of the defect or mechanical malfunction is greater than the number of votes separating the candidates getting the most and the second most number of votes or is greater than the number of votes separating total “yes” votes and the total “no” votes.

(2) If the number of votes for an office or for or against a ballot question recorded on a voting machine exceeds the number of electors that voted on the machine, then for the purposes of subsection (1), the difference shall be regarded as the number of electors who, because of a defect or mechanical malfunction as described in section 831, could not cast valid votes for the office or for or against the ballot question.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### 168.837 Special election to be conducted by mail; sending ballot to each elector; time limitation; request from board of canvassers; time for returning ballot.

Sec. 837. (1) A special election ordered under section 836 shall be conducted by mail. Not later than 5 days after the order, the city or township clerk shall send a ballot to each elector whose name was entered in the poll book as having voted in that precinct at the election.

(2) The ballot shall include a request from the board of canvassers that the elector cast a ballot as the elector did or attempted to cast at the election.

(3) Electors shall have 5 days after the date of mailing to return the ballot to the city or township clerk either by mail or in person.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.838 Counting and reporting ballots; manner; count to include number of votes cast by absent voters.

Sec. 838. Ballots returned under section 837 shall be counted and reported in the same manner provided in this act for the counting and reporting of absent voter ballots. The count shall include the number of votes cast by absent voters as shown by the original canvass for that precinct.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

### 168.839 Candidate not required to petition for recount; special election not subject to recount.

Sec. 839. (1) A candidate who petitions for a special election under section 832 is not required to petition for a recount.

(2) A special election held under sections 832 to 838 is not subject to recount.

**History:** Add. 1982, Act 505, Eff. Mar. 30, 1983.

**Popular name:** Election Code

## CHAPTER XXXI
## THE STATE CANVASS

### 168.841 Board of state canvassers; duties.

Sec. 841. (1) The board of state canvassers shall canvass the returns and determine the result of all elections for electors of president and vice-president of the United States, state officers, United States senators, representatives in congress, circuit judges, state senators and representatives elected by a district that is located in more than 1 county, and other officers as required by law. The board of state canvassers shall also determine the result of an election on a proposed amendment to the constitution or on any other ballot question that has been submitted, pursuant to law, to the qualified and registered electors of this state at large for ratification or rejection. Upon making the determination, the board of state canvassers shall immediately prepare a certificate of determination and deliver the properly certified certificate of determination to the secretary of state.

(2) Upon receipt of a properly certified certificate of determination from a board of county canvassers pursuant to section 826, the board of state canvassers, at its next meeting, shall record the results of the county canvass contained in the certificate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.842 Board of state canvassers; meeting; time and place, notice, adjournment; expedited canvass of returns.

Sec. 842. (1) The board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of an election, shall meet at the office of the secretary of state on or before the twentieth day after the election. The secretary of state shall appoint the day of the meeting and shall notify the other members of the board. The board has power to adjourn from time to time to await the receipt or correction of returns, or for other necessary purposes, but shall complete the canvass and announce their determination not later than the fortieth day after the election. The board may at the time of its meeting, or an adjournment of its meeting, canvass the returns for any office for which the complete returns have been received.

(2) If the unofficial election returns show that the election of electors of president and vice president is determined by a vote differential between the first place and second place candidates for president and vice president of the United States of less than 25,000 votes, the secretary of state may direct the boards of county canvassers to canvass returns for electors of president and vice president on an expedited schedule. The secretary of state may direct the boards of county canvassers to complete the statements for electors of president and vice president required by section 824 and certify the statements as required by section 828 to the secretary of state by the seventh day after the election or by a date before the fourteenth day after the election.

(3) The secretary of state may appoint the day for the board of state canvassers to conduct the expedited canvass of the returns for electors of president and vice president and determine the results of that election. The day appointed for the expedited canvass shall be as soon as practicable after receipt of the returns from the boards of county canvassers, but no later than the twentieth day after the election.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate "straight party" vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____"

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### 168.843 Statements of votes; filing and preservation by secretary of state; certified copies.

Sec. 843. The secretary of state, on the receipt of the certified copies of the statements of votes given in the several counties directed by law to be sent to him by the county clerks, shall place on file and preserve such certified copies in his office. If from any county clerk such certified copies shall not have been received by the secretary of state on or before the fifteenth day after any election, the secretary of state shall communicate with such county clerk by telephone, telegraph or mail, requesting that such certified copies be immediately forwarded and such county clerk shall forthwith forward such certified copies to the secretary of state. When the board of state canvassers meets to canvass the returns and determine the result of any election, the secretary of state shall lay before the board the statements received by him of the votes given at such election in the several counties.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.844 Statements of votes; examination, preparation of statement of totals by board of state canvassers.

Sec. 844. The board of state canvassers shall examine the statements received by the secretary of state of the votes cast in the several counties and prepare a statement showing the total number of votes cast for all candidates for each office, the names of the persons for whom such votes were cast, the number of votes cast for each of such persons, the total number of votes cast on each constitutional amendment and proposition which may have been submitted, and the number of votes cast for and the number of votes cast against each such constitutional amendment and proposition.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.845 Certifying correctness of statement; certificate of determination; certificate of election; declaration of vacancy; publication of constitutional amendment.

Sec. 845. The members of the board of state canvassers shall certify as to the correctness of the statement provided for in section 844 and subscribe their names to the statement. The members of the board of state canvassers shall determine which persons have been duly elected to each office and which constitutional amendments and propositions, if any, have been approved or rejected. The board shall certify the determinations and deliver the statement and certificate of determinations to the secretary of state. The secretary of state shall file and preserve the statement and certificate of determinations in his or her office and shall immediately execute and deliver a certificate of election to each person elected. If the secretary of state receives notice before the certificate of determinations is issued that the person to whom the certificate of election is to be issued died, withdrew from the district, was declared legally incapacitated by a court having



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

jurisdiction, or submitted to the secretary of state an affidavit declaring that person's intention to refuse the certificate of election, then the secretary of state shall not issue a certificate of election and the office shall be declared vacant as of the commencement of the term of office to which that person would otherwise have been elected. The secretary of state shall also publish any amendment to the constitution that is approved and ratified with the laws enacted by the legislature at its next succeeding session.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1976, Act 162, Imd. Eff. June 21, 1976;—Am. 1999, Act 217, Eff. Mar. 10, 2000;—Am. 2003, Act 119, Imd. Eff. July 29, 2003.

**Popular name:** Election Code

### 168.846 Board of state canvassers; tie vote, certification to legislature, determination.

Sec. 846. In case 2 or more persons have an equal and the highest number of votes for any office, as canvassed by the board of state canvassers, the board of state canvassers shall certify the result of the canvass as to such office to the legislature and the legislature in joint convention shall choose 1 of said persons to fill such office. When the determination of the board of state canvassers is contested, the legislature in joint convention shall decide which person is elected.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.847 Release of ballots, ballot boxes, voting machines, and equipment.

Sec. 847. The secretary of state may authorize the release of all ballots, ballot boxes, voting machines, and equipment after 10 days following certification of an election by the board of state canvassers in a precinct other than a precinct in which 1 or more of the following occur:

(a) A petition for recount has been filed with the board of state canvassers.

(b) A petition has been filed pursuant to section 879.

(c) A court of competent jurisdiction has issued an order restraining interference with ballots, ballot boxes, voting machines, and equipment.

**History:** Add. 1973, Act 157, Imd. Eff. Dec. 6, 1973;—Am. 1978, Act 7, Imd. Eff. Feb. 7, 1978;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.848 Postelection statement; violation as misdemeanor; false statement as perjury.

Sec. 848. (1) Each elected candidate subject to the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, and whose candidate committee received or expended more than $1,000.00 during the election cycle shall file a postelection statement with the filing official designated to receive the elected candidate's candidate committee campaign statements under section 36 of the Michigan campaign finance act, 1976 PA 388, MCL 169.236. All of the following apply to a postelection statement required by this section:

(a) The postelection statement must be on a form prescribed by the secretary of state.

(b) The elected candidate shall file the postelection statement before the elected candidate assumes office.

(c) The postelection statement shall include an attestation signed by the elected candidate that, as of the date of the postelection statement, all statements, reports, late filing fees, and fines required of the candidate or a candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid.

(d) The postelection statement shall include an attestation signed by the elected candidate acknowledging that making a false statement in a postelection statement is punishable by a fine of not more than $1,000.00 or imprisonment for not more than 5 years, or both.

(2) Failure to file a postelection statement as required by subsection (1) is a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 93 days, or both.

(3) Making a false statement in a postelection statement required under subsection (1) is perjury, punishable as provided in section 936.

**History:** Add. 2003, Act 119, Imd. Eff. July 29, 2003.

**Popular name:** Election Code

## CHAPTER XXXII
## DETERMINATION OF ELECTION BY LOT

### 168.851 Tie vote; determination of election by lot, procedure; drawing for state legislature.

Sec. 851. If it shall appear on the canvass of the votes polled at any election canvassed by the board of county canvassers that 2 or more persons have received an equal number of votes for the same office, and that



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

a failure to elect to any office is caused thereby, the election to the office shall be determined in the following manner: The board of canvassers for the county in which such election was held shall appoint a day for the appearance of all affected persons before the county clerk for the purpose of determining by lot among such persons the right to the office, and shall cause notice thereof to be given to all the persons interested. The county clerk shall prepare as many slips of paper as there are such persons, and write the word "elected" on as many slips of paper as there are offices to be filled, and the words "not elected" on the remaining slips, and fold the same so as to conceal the writing and so that they may appear as near alike as possible. The slips shall be placed in a box and, at the time and place appointed for the drawing of the lots, each of the persons aforesaid may draw 1 of the slips from the box, and any person drawing a slip on which is written the word "elected" shall be deemed legally elected to the office in question and the county clerk shall forthwith give him a certificate of election. The county clerk may appoint any person present to draw a slip for any affected person who fails to appear at the time specified in the notice. If the office of county clerk is in question, the drawing shall take place before the sheriff of the county. Such determination, however, shall not preclude the right of a defeated candidate to a recount of the votes cast as provided in chapter 36.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code

### 168.852 Procedure when no provision for determination of tie vote, right to recount.

Sec. 852. In case it shall appear that 2 or more persons have an equal number of votes for the same office for which but 1 person is to be nominated or elected and the same shall be the highest number of votes cast therefor, and no other provision is made in this act for determination of such tie, the board of canvassers, after notice to each of such candidates of a time and place therefor, shall determine the successful candidate by lot and shall declare and certify the same accordingly. Such determination, however, shall not preclude the right of a defeated candidate to a recount of the votes cast as provided in chapter 36 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XXXIII
## RECOUNTS

## COUNTY, CITY, TOWNSHIP AND VILLAGE BOARDS OF CANVASSERS

### 168.861 Fraudulent or illegal voting, or tampering with ballots or ballot boxes; remedy by quo warranto.

Sec. 861. For fraudulent or illegal voting, or tampering with the ballots or ballot boxes before a recount by the board of county canvassers, the remedy by quo warranto shall remain in full force, together with any other remedies now existing.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.862 Fraud or mistake in canvass or returns of votes; recount petition by candidate.

Sec. 862. A candidate for office who believes he or she is aggrieved on account of fraud or mistake in the canvass or returns of the votes by the election inspectors may petition for a recount of the votes cast for that office in any precinct or precincts as provided in this chapter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1976, Act 141, Imd. Eff. June 2, 1976;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.863 Fraud or error as to proposed charter amendment or other ballot question; recount petition by elector.

Sec. 863. A qualified and registered elector voting in a city, township, or village election who believes there has been fraud or error committed by the inspectors of election in its canvass or returns of the votes cast at the election, upon a proposed amendment to the charter of the city or village or other ballot question submitted to the voters of the county, city, township, school district, community college district, or village, may petition for a recount of the votes cast in any precinct or precincts of that county, city, township, school district, community college district, or village, upon that proposed amendment or other ballot question as



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

provided in this chapter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 141, Imd. Eff. June 2, 1976;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.864 Repealed. 1996, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** The repealed section pertained to conducting recount in primary election.

**Popular name:** Election Code

### 168.865 Recount petition; contents.

Sec. 865. Such petition shall be sworn to and shall set forth as near as may be the nature of the mistakes or frauds complained of and the city, ward, township, village and precinct in which they are alleged to have occurred, and shall ask for a correction thereof.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.866 Recount petition; filing; deadline; filing or transmission of copy.

Sec. 866. (1) Except as otherwise provided in subsection (2), recount petitions, either for an office or proposition, other than those filed with the board of state canvassers, shall be filed with the clerk of the board of canvassers, which board originally conducted the canvass.

(2) For a school district election, recount petitions, either for an office or proposition, shall be filed with the clerk of the board of canvassers, which board certified the result of the school district election.

(3) Recount petitions shall be filed within 6 days after the original canvass has been completed by the county, city, township, village, or district board of canvassers. A copy of the recount petition shall also be filed with the secretary of state within 2 days after the time the original recount petition is filed with the board of county canvassers as provided in this section. If the office or proposition in question is a city, ward, township, village, or district office or proposition, a copy of the recount petition shall not be filed with the secretary of state, but a copy shall be transmitted within 24 hours to the clerk of the board of county canvassers by the appropriate local clerk if the recount fee has been paid.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963;—Am. 2010, Act 53, Imd. Eff. Apr. 22, 2010.

**Popular name:** Election Code

### 168.867 Recount petition; deposit; refund; disposition of sum deposited.

Sec. 867. The candidate or elector filing a recount petition with the clerk of the correct board of canvassers shall at the same time deposit with the clerk the sum of $10.00 for each precinct referred to in his or her petition. If, by reason of the recount, the petitioner establishes sufficient fraud or mistake as set forth in his or her petition to change the result of the election and receives a certificate of election or establishes sufficient fraud or mistake to change the result, upon an amendment or proposition, the votes for and against, which were recounted, the money deposited by the petitioner shall be refunded. If the petitioner does not establish a fraud or mistake as set forth in his or her petition, the sum deposited shall be paid by the clerk of the board of county, city, township, or village canvassers to the treasurer of the county, city, township, or village.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 200, Imd. Eff. July 18, 1980.

**Popular name:** Election Code

### 168.868 Recount petition; notice to opposing candidates; counter petition; objections to recount petition; hearing; ruling; failure to give notice to opposing candidate.

Sec. 868. (1) If a candidate has filed a recount petition and made the deposit under sections 862 and 866, the clerk of the board of canvassers shall give notice of the recount petition to the opposing candidates described in this subsection within 24 hours after filing of the petition by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the clerk of the board of canvassers may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence. The clerk of the board of canvassers is not required to give notice to candidates other than the 2 candidates who, according to the return of the board of canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of canvassers, received the highest number of votes among those candidates who were not nominated or elected.

(2) A candidate may file a counter petition in the same manner as the original petition under section 866



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

within 48 hours after the original recount petition was filed with the board of canvassers. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 866 for the original petitioner. The clerk of the board of canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election. Except as otherwise provided in this subsection, the counter petitioner shall file a copy of the counter petition with the secretary of state within 4 days after the time the original petition is filed with the proper board of canvassers as provided in this section. If the office or ballot question in question is a city, township, ward, village, or district office or ballot question, the counter petitioner is not required to file a copy of the counter petition with the secretary of state.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 866, an opposing candidate may file objections to the recount petition with the appropriate board of canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of canvassers to consider the objections. The board of canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of canvassers shall rule on the objections raised to the recount petition. The board of canvassers shall not begin a recount unless 2 or more business days have elapsed since the board ruled on the objections under this subsection, if applicable.

(4) If the time designated for filing a petition under this section falls on a Saturday, Sunday, or legal holiday, the petition may be filed on the next succeeding business day. Failure of the clerk of the board of canvassers or the secretary of state to give notice to the opposing candidate as required in this section shall not affect the results of the recount.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1959, Act 24, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963;—Am. 1969, Act 188, Imd. Eff. Aug. 5, 1969;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.869 Recount petition; investigation, delay; expenses of local recount.

Sec. 869. Upon the filing of a petition for recount, and the giving of notice, if notice is required to be given, the board of county canvassers shall be summoned by the clerk of the board and here make an investigation of the facts set forth in the petition. Should the recount involve a county or district office or proposition, the recount shall not be commenced until the board shall determine by communicating with the secretary of state that no petition has been filed requesting a recount by the board of state canvassers of ballots cast in the same district. In case said board shall be advised by the secretary of state that a petition has been filed with him praying for a recount by the board of state canvassers of the ballots cast in the same county or district, then no action shall be taken upon the recount until the county board shall receive instructions from the board of state canvassers. Nothing herein contained shall act to delay any recount of the ballots cast at any city, ward, township or village election if the ballots cast at such election are not sealed in the same ballot boxes with the state and county offices. With respect to any recount of ballots cast in any city, ward, township, village, school or district election, the board of county canvassers shall charge the appropriate local unit the actual and necessary expenses of conducting the recount, and the local unit shall pay such charges to the county treasurer.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963.

**Popular name:** Election Code

### 168.870 Board of canvassers; investigation of recount.

Sec. 870. For the purpose of such investigation, the clerk, if no meeting be already appointed, shall call a meeting of such board of canvassers and the said board shall have power to issue subpoenas requiring the person in charge thereof to bring before it the ballot boxes used in the election precinct or precincts referred to in the petition, as well as the poll lists, tally sheets, statements of returns and such other documents or reports as may be deemed necessary. Said board shall safely guard such ballots, poll lists, tally sheets and returns and when no longer required shall deliver them to the officials charged with the custody thereof. Whoever, being so subpoenaed, shall fail to appear or shall fail to produce any such box, shall be deemed guilty of a misdemeanor. The persons who are required to appear before the board of canvassers shall be paid the same fees and mileage as are paid circuit court witnesses in the county. They shall be paid by the political subdivision before whose board of canvassers they appear.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 168.871 Recount; counting of paper ballots; use of electronic voting system; use of voting machines; recount of absent voter ballots; ballots ineligible for recount; procedures for conduct of recount; use of computer; testing software application.

Sec. 871. (1) In a precinct using paper ballots, the board of canvassers conducting a recount pursuant to this chapter shall conduct the recount, subject to all of the following:

(a) The ballots in packages or ballot bags that are secured and sealed so that a ballot cannot be removed or inserted unless the ballot corresponds in number with the poll list delivered to the appropriate clerk by the board of election inspectors, shall be recounted even though the ballot box or other ballot container is not securely sealed with the seal of record.

(b) If the ballot box or other ballot container is securely sealed with the seal of record, only the ballots that correspond in number with the poll list delivered to the appropriate clerk by the board of election inspectors shall be recounted even though the ballots are not secured and sealed in packages or ballot bags.

(c) If the ballot box or other ballot container is not securely sealed or if the seal on the ballot box or other ballot container is not the seal of record and the ballots in packages or ballot bags are not secured and sealed so that a ballot cannot be removed or inserted, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(d) If the number of ballots in a secured and sealed package or bag and the number of ballots issued on election day as shown on the poll list do not match and the difference is not explained to the satisfaction of the board of canvassers, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(2) Except as otherwise provided in this section, the board of canvassers conducting a recount pursuant to this chapter shall recount all ballots of a precinct using an electronic voting system unless 1 or more of the following circumstances exist:

(a) The seal on the transfer case or other ballot container is broken or bears a different number than that recorded on the poll book, the breaking or discrepancy is not explained to the satisfaction of the board of canvassers, and security of the ballots has not been otherwise preserved.

(b) The number of ballots to be recounted and the number of ballots issued on election day as shown on the poll list or the computer printout do not match and the difference is not explained to the satisfaction of the board of canvassers.

(c) The seal used to seal the ballot label assembly to a voting device in the precinct is broken or bears a different number than that recorded in poll records and the ballot labels or rotation of candidates' names is different than that shown by other voting devices in the precinct and records of the board of election commissioners.

(3) In a precinct in which voting machines are used, the board of canvassers conducting a recount pursuant to this chapter shall recount all voting machines used in the precinct unless 1 or more of the following circumstances exist:

(a) All voting machines used in a precinct shall not be recounted if the sum of the numbers appearing on the public counters of all voting machines used in the precinct exceeds the total number of voters who voted in the precinct as shown by the poll book, plus the number of times the machine was operated by the inspectors of election and custodians, as shown by the record of the board of election inspectors, and the excess is not explained to the satisfaction of the board of canvassers by the inspectors of election of that precinct.

(b) A voting machine used in a precinct shall not be recounted if the voting machine is not sealed with the seal of record in such a manner as to render it impossible to vote on the machine or to otherwise change the totals appearing on the individual candidate or ballot question counters.

(c) A voting machine used in a precinct shall not be recounted if the number appearing on the protective counter of the voting machine at the time of the recount does not equal the sum of the number appearing on the protective counter at the opening of the polls as shown by the certificate of the board of election inspectors and the number appearing on the public counter at the time of the recount.

(4) In a precinct in which voting machines are used, which precinct cannot be recounted under subsection (3), absent voter ballots tallied in that precinct shall not be recounted unless recorded separately. This section does not prohibit the recounting of absent voter ballots tallied in a precinct using an absent voter counting board or in a precinct in which 1 or more voting machines are recountable, if the absent voter ballots are securely packaged and sealed.

(5) If a board of canvassers conducting a recount pursuant to this chapter determines that the ballots of a precinct are not eligible for recount under this section, the original return of the votes for that precinct shall be



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

taken as correct.

(6) A board of canvassers conducting a recount pursuant to this chapter may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on a computer using a software application designed to specifically count only the office or ballot question subject to the recount.

(c) A tabulation of the ballots on a computer using the same software application used in the precinct on election day.

(d) Any combination of methods in subdivision (a), (b), or (c), as determined appropriate by the board of canvassers.

(7) If a board of canvassers conducting a recount pursuant to this chapter intends to conduct a recount on a computer, the board of canvassers shall first test the software application by use of a test deck to determine if the program accurately counts the votes for the office or ballot question subject to the recount. If the test under this subsection fails to show that the software application accurately counts the votes for the office or ballot question subject to the recount, the board of canvassers shall use another means prescribed in subsection (6) to conduct the recount.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 96, Imd. Eff. June 28, 1965;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### 168.871a Challenge raised by candidate or elector; resolution; petition disagreeing with resolution; notice; hearing; ruling.

Sec. 871a. If a proper challenge is raised by a candidate or an elector interested in a ballot question during a recount being conducted by the board of state canvassers, a member of the board of state canvassers or other representative designated by the board of state canvassers under section 890 shall resolve that challenge before the recount is completed in that county. A candidate or elector interested in a ballot question who is involved in the recount and who disagrees with the resolution of the challenge may petition the state board of canvassers for a de novo review of the challenge. The candidate or elector shall file a petition disagreeing with the resolution of a challenge not later than 5 business days after the board of state canvassers mails notice that the recount has been completed to the candidates or electors. Upon receipt of a petition disagreeing with the resolution of a challenge under this section, the board of state canvassers shall notify all candidates and electors involved in the recount of the date of the hearing of the board of state canvassers to consider the petition. The board of state canvassers shall allow the candidates and electors involved in the recount to present oral or written, or both, arguments on the challenge at the hearing. The board of state canvassers shall rule on the challenge at that meeting.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.872 Board of canvassers; investigation, report to prosecutor and circuit judge.

Sec. 872. Whenever a petition has been filed for a recount by any person conceiving himself aggrieved on account of any fraud, wrongdoing or violation of the law perpetrated or committed by any election inspector or inspectors or any other person in respect to said election for which said recount has been petitioned, in any primary or election, and it shall appear to the board of canvassers having jurisdiction over said recount that there is probably cause to believe that there has been fraud, wrongdoing or a violation of the law in respect to said election for which said recount has been petitioned, the said canvassers shall make full and complete investigation of the same. Said canvassers shall have full power and authority to subpoena witnesses and to open any ballot box, regardless of the condition in which the same may be found, and may break open, if sealed, the seal thereon and examine the ballots contained therein. If, after the investigation, said board has good reason to believe that any fraud, wrongdoing or a violation of the law has been committed in respect to said election, then said board of canvassers shall forthwith make a written report of their findings to the prosecuting attorney and to the circuit judge or judges of the county where the petitioner resides if it be a county, city, township or village election, and to the attorney general and to the circuit judge of the county of Ingham if it be a district or state election. Said reports shall be signed by each of the canvassers having jurisdiction of said recount, or a majority thereof. Pending the making of such report, the board of canvassers having jurisdiction of such recount shall carefully preserve and safeguard the ballot boxes and the ballots contained therein until an order of the court, to which said report was submitted, is made authorizing the disposition of the same. Any action taken in such investigation shall not preclude any official recount of the ballots cast at any such election, if otherwise allowed by the general election laws. The powers of



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

investigation referred to in this section shall terminate with the completion of the recount.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 82, Imd. Eff. June 24, 1965.

**Popular name:** Election Code

### 168.873 Recount; misconduct of employees, felony.

Sec. 873. Any officer, assistant, clerk or employee engaged in the conduct of a recount who shall wilfully commit any act which shall interfere with a fair and impartial recount of the votes cast for a contested office, amendment or proposition shall be deemed guilty of a felony and subject to the penalties thereof.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.874 Recount; return of ballots; manner of counting votes.

Sec. 874. (1) Pursuant to this chapter, the board of canvassers conducting the recount shall reject all previous returns from the precincts, townships, or wards, except the returns from a precinct that cannot be recounted as to that candidate or ballot question pursuant to section 871. In a public place where the candidates or persons interested in the ballot question and their counsel may be present, if they so desire, the board of canvassers shall proceed in the manner prescribed in section 871. If applicable, the board of canvassers shall open the ballot boxes from the precincts, townships, or wards, and the rolls or packages of ballots in the ballot boxes, and to make a recount of the ballots as to the candidates or ballot question. Upon completion of the recount, the board of canvassers shall make a full, complete, and correct return in writing, showing the full number of votes given to each candidate, or the total number of votes cast for and against any ballot question, written out in words and figures.

(2) The board of canvassers shall conduct the recount so that the complete procedure may be observed and noted by the candidates or persons interested in the ballot question, their counsel, and not to exceed 1 watcher and 1 tallier at each table to check the work of the recount clerks. The secretary of state shall develop instructions consistent with this act for conducting a recount pursuant to this subsection. All votes cast, whether for candidates or ballot questions, shall be recounted in the following manner:

(a) The ballots from any given precinct shall first be counted and the total compared with the number of ballots issued on election day as shown on the poll list. If the first count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, the ballots from that precinct shall be counted a second time and the total compared with the number of ballots issued on election day as shown on the poll list. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list match, the ballots from that precinct shall be counted a third time and the total compared with the number of ballots issued on election day as shown on the poll list. If the third count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871.

(b) If the first count described in subdivision (a) or the second and third counts described in subdivision (a) match the number of ballots issued on election day, the ballots shall be placed face up on the table and 1 recount clerk shall call the votes for each candidate or ballot question involved in the recount.

(c) Two tally clerks shall simultaneously record the called votes on forms provided for that purpose.

(3) The candidates or persons interested in the ballot question, their counsel, watchers, and talliers shall be allowed to observe each ballot as it is called and to take notes as they desire for their own records. The board of canvassers shall identify by an exhibit number a ballot counted or rejected under protest, keep a record of the protest, and proceed as required under section 871a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.875 Recount; completion.

Sec. 875. All recounts shall be completed for a primary election not later than the twentieth day and for any other election not later than the thirtieth day immediately following the last day for filing counter petitions or the first day that recounts may lawfully begin. As soon as the recount is completed, the board shall return any ballots to their respective containers and seal the containers. The board shall then return the ballots, voting devices, machines, any related keys, and seals to the officer or officers having the care and custody of those items.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 82, Imd. Eff. June 24, 1965;—Am. 1995, Act 261, Eff. Mar. 28, 1996.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.876 Recount; returns by board of canvassers, withdrawal of petition; final report open to public inspection.

Sec. 876. The returns made by the said board of canvassers upon recount shall be deemed to be correct, anything in the previous returns from such city, township, ward or precinct to the contrary Notwithstanding: Provided, however, That if the person petitioning for such recount shall withdraw his petition or discontinue the recount before the completion thereof, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of such recount: Provided further, That the final report on the results of any recount shall be open to public inspection immediately following its certification by the board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.877 Review of apparent error by certiorari.

Sec. 877. Any candidate for a county, city, ward, township or village office not receiving a certificate of election, or any qualified and registered elector voting at the last preceding election when any amendment or proposition has been voted on, may, for error apparent upon the face of the returns, have the same examined and corrected upon certiorari to the circuit court of the county, according to the rules and practices applicable to such writs.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

STATE CANVASSERS

### 168.878 Construction of sections; action against board of state canvassers by mandamus.

Sec. 878. Nothing in the following sections of this chapter contained shall be construed to repeal any action or remedy which may now exist by reference of any controversy to the courts, except that any proceeding intended to restrain, enjoin, modify, control or otherwise interfere with the action of the board of state canvassers, the board of county canvassers or any other representative of the board of state canvassers operating under the provisions of the following sections of this chapter, shall be instituted only against the board of state canvassers and by no other action than mandamus.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.879 Petition for recount; requirements; petition by state political party chairperson; recount and preservation of ballots; report; authority of legislature.

Sec. 879. (1) A candidate voted for at a primary or election for an office may petition for a recount of the votes if all of the following requirements are met:

(a) The office is an office for which the votes are canvassed by the board of state canvassers under section 841 or is the office of representative in Congress, state representative, or state senator for a district located wholly within 1 county.

(b) The petition alleges that the candidate is aggrieved on account of fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by the inspectors, or by a board of county canvassers or the board of state canvassers. The petition shall contain specific allegations of wrongdoing only if evidence of that wrongdoing is available to the petitioner. If evidence of wrongdoing is not available, the petitioner is only required to allege fraud or a mistake in the petition without further specification.

(c) Except as otherwise provided in this subdivision, the petition for a recount is filed not later than 48 hours following the completion of the canvass of votes cast at an election. If the recount petition relates to a state senatorial or representative district located wholly within 1 county or to the district of a representative in Congress located wholly within 1 county, the petition for a recount shall be filed not later than 48 hours following the adjournment of the meeting of the board of state canvassers at which the certificate of determination for that office was recorded pursuant to section 841. However, for a special election for representative in Congress, state senator, or state representative for a district located wholly within 1 county, the petition for recount shall be filed not later than 48 hours after the certificate of determination is filed with the secretary of the board of state canvassers.

(d) The petition is presented to and filed with the secretary of state.

(e) The petition is written or printed and is signed and sworn to by the candidate.

(f) The petition sets forth as nearly as possible the nature and character of the fraud or mistakes alleged and



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the counties, cities, or townships and the precincts in which they exist.

(g) The petition specifies the counties, cities, townships, and precincts in which the recount is requested.

(h) If the office is the office of state representative, a copy of the petition is filed with the clerk of the house of representatives. If the office is the office of state senator, a copy of the petition shall be filed with the secretary of the senate.

(2) If a state senatorial race is determined by a vote differential of 500 votes or less or a state representative race is determined by a vote differential of 200 votes or less, the chairperson of a state political party may petition for a recount of the votes on behalf of a candidate in that race in the manner prescribed in subsection (1). Notwithstanding subsection (1)(b) and (f), the petition filed under this subsection need not allege fraud or mistake. Notwithstanding subsection (1)(e), the petition shall be signed by the chairperson of the state political party filing the petition under this subsection.

(3) The ballots in a precinct petitioned for recount in a legislative contest shall be recounted for that office by the board of state canvassers and shall be preserved until the contest is disposed of under the rules of the legislative body that takes office beginning in January following the contested general election. In legislative recounts of a special general election, ballots in a precinct petitioned for recount shall be preserved until the contest is disposed of under the rules of the legislative body serving at the time the report in subsection (4) is filed.

(4) Upon the completion of a recount for a legislative office, the board of state canvassers, in addition to the certification required by section 892, shall forward to the appropriate legislative body a report of the results of the recount.

(5) This section does not limit the authority of the legislature under section 16 of article IV of the state constitution of 1963.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1973, Act 157, Imd. Eff. Dec. 6, 1973;—Am. 1980, Act 61, Imd. Eff. Apr. 1, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Popular name:** Election Code

### 168.879a Section 168.879 inapplicable to presidential primary election.

Sec. 879a. Section 879 does not apply to a presidential primary election.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988.

**Popular name:** Election Code

### 168.880 Recount of votes; petition by elector on constitutional amendment or question, deadline, contents.

Sec. 880. Any elector in this state who believes that there has been fraud or error committed by the inspectors of election in the return made by said inspectors or of any county canvassing board in the canvass of votes cast upon the question of a proposed amendment to the constitution or any other question or proposition, the votes for which are canvassed by the board of state canvassers, may, not later than 2 days after final certification and determination by the board of state canvassers of the canvass of votes cast at an election, present to and file with the secretary of state a written or printed petition which shall be sworn to by the elector presenting the same and which shall set forth as nearly as may be the nature and character of the fraud or error of which the complaint is made and the counties, cities or townships or the precincts thereof in which it is believed that the fraud or error occurred, and such petition shall contain a prayer that a correction thereof be made by a recount of the votes cast therein.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.880a Recount of votes; grounds; notice to candidates; elections involving propositions procedures.

Sec. 880a. (1) A recount of all precincts in the state shall be conducted at any time a statewide primary or election shall be certified by the board of state canvassers as having been determined by a vote differential of 2,000 votes or less. This section shall not apply to partisan offices to which more than 1 person is to be elected.

(2) If the election is an election involving candidates, the board of state canvassers forthwith shall notify all candidates whose vote could be affected by the recount that a recount shall be conducted and of the time and place the board of state canvassers will meet to determine recount procedures.

(3) If the election involves a proposition, the board of state canvassers shall meet on the seventh day following certification at the office of the secretary of state for the purpose of determining procedures. Persons or groups interested in being authorized to have challengers and observers at the recount shall petition



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the board at that meeting to be considered interested parties for such purpose. The board at that meeting shall determine which persons or groups shall be considered interested parties for the recount of the proposition.

**History:** Add. 1969, Act 268, Eff. Mar. 20, 1970.

**Popular name:** Election Code

### 168.881 Recount petition; deposit; refund; disposition of sum deposited.

Sec. 881. (1) A person filing a recount petition pursuant to section 879 or 880 shall file the petition with the state bureau of elections. At the time of filing the petition, the petitioner shall deposit the sum of $10.00 for each precinct in which a recount of the votes is demanded in cash or by check or other negotiable instrument made payable to the state of Michigan.

(2) If, by reason of the recount, the petitioner establishes fraud or mistake as set forth in his or her petition and receives a certificate of election or establishes sufficient fraud or mistake to change the result, upon an amendment or proposition, the votes for and against, which were recounted, the state bureau of elections shall refund the money deposited to the petitioner. The secretary of state shall refund the money deposited to a petitioner who is a chairperson of a state political party if the results of the race for which a recount was petitioned for under section 879 are changed. If a refund is not made as required by this section, then the secretary of state shall pay to the treasurer of each county its proportionate share of the deposit based upon the number of precincts in the county in which the votes were recounted.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 200, Imd. Eff. July 18, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.882 Notice of recount petition; filing counter petition; refund of deposit money; filing objections to recount petition; notice; hearing; ruling.

Sec. 882. (1) If a candidate has filed a recount petition and paid the deposit under sections 879 and 881, the secretary of state shall give notice of the recount petition to each opposing candidate within 48 hours after the filing of the petition by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the secretary of state may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence.

(2) A candidate may file a counter petition in the same manner as the original petition under section 881 not later than 4 p.m. of the seventh day after the original recount petition has been filed with the secretary of state. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 881 for the original petitioner. The secretary of state shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 881, an opposing candidate may file objections to the recount petition with the board of state canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of state canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of state canvassers to consider the objections. The board of state canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of state canvassers shall rule on the objections raised to the recount petition. The board of state canvassers shall not begin a recount unless 2 or more business days have elapsed since the board ruled on the objections under this subsection, if applicable.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 188, Imd. Eff. Aug. 5, 1969;—Am. 1980, Act 61, Imd. Eff. Apr. 1, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.883 Recount petition; notice to county clerk; preservation of ballots; investigation and recount by state canvassers.

Sec. 883. The secretary of state, upon receipt of any such petition for recount, shall immediately notify the county clerk of each county in which are located any precincts included in such petition for recount that a petition for such recount by the board of state canvassers has been filed and the ballots for such precincts shall be carefully preserved. Ballots and boxes shall remain in the possession of city or township clerks until requisitioned by the canvass board. The board of state canvassers, at as early a date as possible after the receipt of such petition and the deposit required, shall investigate the facts set forth in said petition and cause



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

a recount of the votes cast in the several precincts included in the petition.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.884 Boards of county canvassers; clerks and assistants for conduct of recount.

Sec. 884. The boards of county canvassers shall employ such assistants and clerks as shall be deemed necessary for the conduct of any such recount.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.885 Boards of state and county canvassers; right to subpoena witnesses; noncompliance, penalty.

Sec. 885. The board of state canvassers or any member or representative thereof and the county boards of canvassers shall each have the right to subpoena any inspector of election, county officer or other person to appear before it or him for any purpose as may be desired in connection with the matter of such recount. Whoever being so subpoenaed shall fail to obey same shall be deemed guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.886 Witnesses; compensation and mileage.

Sec. 886. The persons who are subpoenaed to appear as herein required shall receive the same compensation and mileage therefor as is prescribed by law for witnesses in the circuit courts of this state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.887 Recount of votes; misconduct of employees, felony.

Sec. 887. Any officer, assistant, clerk or employee engaged in the conduct of a recount who shall wilfully commit any act which shall interfere with a fair and impartial recount of the votes cast for a contested office, amendment or proposition shall be deemed guilty of a felony and subject to penalties thereof.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.888 Board of state canvassers; return of ballot boxes, poll books, tally sheets, and statements of votes; concurrent recount.

Sec. 888. The board of state canvassers shall have the right and authority to demand and cause the ballot boxes, poll books, tally sheets, the statement of votes returned in connection with any such election, and such other documents and reports as may be deemed necessary, to be brought before the several boards of county canvassers, and shall order that a concurrent recount of the votes upon any office or proposition petitioned for under the provisions of sections 861 et seq. hereof, where such votes appear upon the same ballots as those which are to be recounted by the board of state canvassers, be conducted, which concurrent recount shall be under the exclusive jurisdiction and control of the said board of state canvassers. All ballots, poll lists, tally sheets, returns and reports shall be safely guarded and when no longer required shall be delivered to the officials charged with the custody thereof.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.889 Board of state canvassers; time and place, rules and regulations for recounts in counties.

Sec. 889. All recounts provided for in sections 878 et seq. of this act shall be conducted in the several counties wherein the votes to be counted were cast by the respective boards of county canvassers in each of the several counties, subject to the direction, supervision and control of the said board of state canvassers. The said board of state canvassers shall prescribe the time and the place in each county where the recount of any votes shall be conducted, which recount shall be in public. Said board shall provide each board of county canvassers with such rules and regulations as in the opinion of the said board of state canvassers shall be necessary to conduct such recount in a fair, impartial and uniform manner in the said several counties. Observance of such rules and regulations shall be enforced by said board or its representatives hereinafter provided for.

**History:** 1954, Act 116, Eff. June 1, 1955.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

**Administrative rules:** R 168.901 et seq. of the Michigan Administrative Code.

### 168.890 Board of state canvassers; authority of members as to supervision of recounts in counties.

Sec. 890. It is not necessary for all of the members of the board of state canvassers to be present in order to direct, supervise, or control the recount in a county. A member of the board of state canvassers or state officer, state employee or member of the board of county canvassers may direct, supervise, and control the recount if designated by the board of state canvassers, so that fairness, impartiality, and uniformity in the conduct of the recount may be obtained and the result of the election determined at the earliest possible moment. A member of the board of state canvassers or other representative designated by the board of state canvassers under this subsection has the same authority as the board of state canvassers to enforce and carry out the rules and regulations provided for the recount by the board.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

**Administrative rules:** R 168.901 et seq. of the Michigan Administrative Code.

### 168.891 Recounts; manner of conduct under board of state canvassers.

Sec. 891. Any recount conducted under the direction, supervision and control of the state board of canvassers, unless otherwise herein provided, shall be conducted in the same manner as is provided in sections 861 et seq. for the conduct of recounts by county boards of canvassers, so far as the provisions thereof are applicable.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.892 Board of state canvassers; recounts in counties, certification of results.

Sec. 892. Whenever a recount in any county shall be completed, it shall be the duty of the county boards of canvassers to return forthwith the results of such recount to the board of state canvassers, which board shall compile said returns and certify the result. The returns made by the said boards of county canvassers of any recount shall be deemed to be correct, anything in the previous return of any board of election inspectors or any county canvassing board to the contrary notwithstanding. The final report on the results of any recount shall be open to public inspection immediately following its certification by the board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.893 Discontinuance of recount; original return deemed correct.

Sec. 893. If the person petitioning for such recount shall withdraw his petition or discontinue the recount before the completion thereof, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of such recount.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.894 Recounts in counties; expenses, payment.

Sec. 894. All expenses incurred in the conduct of the recount of such votes in any county shall be paid by the county. All expenses in connection with the direction, supervision and control of such recount by the board of state canvassers shall be paid from the general fund of the state on vouchers to be approved and audited by the state board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XXXIV
## CAMPAIGN EXPENSES

### 168.901-168.929 Repealed. 1974, Act 272, Eff. Apr. 1, 1975;—1975, Act 121, Eff. Sept. 1, 1975;—1975, Act 227, Eff. Mar. 31, 1976;—1976, Act 388, Eff. June 1, 1977.

**Compiler's note:** Section 191 of Act No. 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W. 2d 193 (1976), held Act No. 227 of the Public Acts of 1975 unconstitutional for being in



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

violation of Mich. Const., Art. 4, § 24.

Former MCL 168.928a repealed enacting sections 2 and 3 of Act 272 of 1974 and enacting sections 2 and 3 of Act 18 of 1975.

**Popular name:** Election Code

## CHAPTER XXXV
## OFFENSES AND PENALTIES

### 168.931 Prohibited conduct; violation as misdemeanor; "valuable consideration" defined.

Sec. 931. (1) A person who violates 1 or more of the following subdivisions is guilty of a misdemeanor:

(a) A person shall not, either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a candidate or ballot question, or as a reward for refraining from voting.

(b) A person shall not, either before, on, or after an election, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for 1 or more of the following:

(*i*) Voting or agreeing to vote, or inducing or attempting to induce another to vote, at an election.

(*ii*) Refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting at an election.

(*iii*) Doing anything prohibited by this act.

(*iv*) Both distributing absent voter ballot applications to voters and receiving signed applications from voters for delivery to the appropriate clerk or assistant of the clerk. This subparagraph does not apply to an authorized election official.

(c) A person shall not solicit any valuable consideration from a candidate for nomination for, or election to, an office described in this act. This subdivision does not apply to requests for contributions of money by or to an authorized representative of the political party committee of the organization to which the candidate belongs. This subdivision does not apply to a regular business transaction between a candidate and any other person that is not intended for, or connected with, the securing of votes or the influencing of voters in connection with the nomination or election.

(d) A person shall not, either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee's vote at an election.

(e) A priest, pastor, curate, or other officer of a religious society shall not for the purpose of influencing a voter at an election, impose or threaten to impose upon the voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.

(f) A person shall not hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election.

(g) In a city, township, village, or school district that has a board of election commissioners authorized to appoint inspectors of election, an inspector of election, a clerk, or other election official who accepts an appointment as an inspector of election shall not fail to report at the polling place designated on election morning at the time specified by the board of election commissioners, unless excused as provided in this subdivision. A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than $10.00 or imprisonment for not more than 10 days, or both. An inspector of election, clerk, or other election official who accepts an appointment as an inspector of election is excused for failing to report at the polling place on election day and is not subject to a fine or imprisonment under this subdivision if 1 or more of the following requirements are met:

(*i*) The inspector of election, clerk, or other election official notifies the board of election commissioners or other officers in charge of elections of his or her inability to serve at the time and place specified, 3 days or more before the election.

(*ii*) The inspector of election, clerk, or other election official is excused from duty by the board of election commissioners or other officers in charge of elections for cause shown.

(h) A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election.

(i) A delegate or member of a convention shall not solicit a candidate for nomination before the convention for money, reward, position, place, preferment, or other valuable consideration in return for support by the delegate or member in the convention. A candidate or other person shall not promise or give to a delegate money, reward, position, place, preferment, or other valuable consideration in return for support by or vote of the delegate in the convention.

(j) A person elected to the office of delegate to a convention shall not accept or receive any money or other valuable consideration for his or her vote as a delegate.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(k) A person shall not, while the polls are open on an election day, solicit votes in a polling place or within 100 feet from an entrance to the building in which a polling place is located.

(*l*) A person shall not keep a room or building for the purpose, in whole or in part, of recording or registering bets or wagers, or of selling pools upon the result of a political nomination, appointment, or election. A person shall not wager property, money, or thing of value, or be the custodian of money, property, or thing of value, staked, wagered, or pledged upon the result of a political nomination, appointment, or election.

(m) A person shall not participate in a meeting or a portion of a meeting of more than 2 persons, other than the person's immediate family, at which an absent voter ballot is voted.

(n) A person, other than an authorized election official, shall not, either directly or indirectly, give, lend, or promise any valuable consideration to or for a person to induce that person to both distribute absent voter ballot applications to voters and receive signed absent voter ballot applications from voters for delivery to the appropriate clerk.

(2) A person who violates a provision of this act for which a penalty is not otherwise specifically provided in this act, is guilty of a misdemeanor.

(3) A person or a person's agent who knowingly makes, publishes, disseminates, circulates, or places before the public, or knowingly causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, either orally or in writing, an assertion, representation, or statement of fact concerning a candidate for public office at an election in this state, that is false, deceptive, scurrilous, or malicious, without the true name of the author being subscribed to the assertion, representation, or statement if written, or announced if unwritten, is guilty of a misdemeanor.

(4) As used in this section, “valuable consideration” includes, but is not limited to, money, property, a gift, a prize or chance for a prize, a fee, a loan, an office, a position, an appointment, or employment.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1984, Act 113, Imd. Eff. May 29, 1984;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate “straight party” vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

## 168.932 Prohibited conduct; violation as felony.

Sec. 932. A person who violates 1 or more of the following subdivisions is guilty of a felony:

(a) A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state.

(b) A person not duly authorized by law shall not, during the progress of any election or after the closing of the polls and before the final results of the election have been ascertained, break open or violate the seals or locks of any ballot box or voting machine used or in use at that election. A person shall not willfully damage or destroy any ballot box or voting machine. A person shall not obtain undue possession of that ballot box or voting machine. A person shall not conceal, withhold, or destroy a ballot box or voting machine, or fraudulently or forcibly add to or diminish the number of ballots legally deposited in the box or the totals on



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the voting machine. A person shall not aid or abet in any act prohibited by this subdivision.

(c) An inspector of election, clerk, or other officer or person having custody of any record, election list of voters, affidavit, return, statement of votes, certificates, poll book, or of any paper, document, or vote of any description, which pursuant to this act is directed to be made, filed, or preserved, shall not willfully destroy, mutilate, deface, falsify, or fraudulently remove or secrete any or all of those items, in whole or in part, or fraudulently make any entry, erasure, or alteration on any or all of those items, or permit any other person to do so.

(d) A person shall neither disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballots were seen by the person, nor in any manner obstruct or attempt to obstruct any elector in the exercise of his or her duties as an elector under this act.

(e) A person who is not involved in the counting of ballots as provided by law and who has possession of an absent voter ballot mailed or delivered to another person shall not do any of the following:

(*i*) Open the envelope containing the ballot.

(*ii*) Make any marking on the ballot.

(*iii*) Alter the ballot in any way.

(*iv*) Substitute another ballot for the absent voter ballot that the person possesses.

(f) A person other than an absent voter; a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment; a clerk or assistant of the clerk; a member of the immediate family of the absent voter including father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild; or a person residing in the absent voter's household shall not do any of the following:

(*i*) Possess an absent voter ballot mailed or delivered to another person, regardless of whether the ballot has been voted.

(*ii*) Return, solicit to return, or agree to return an absent voter ballot to the clerk of a city, township, village, or school district.

(g) A person who assists an absent voter who is disabled or otherwise unable to mark the ballot shall only render his or her assistance by showing the absent voter how to vote the ballot as the absent voter desires or by marking the ballot as directed by the absent voter. A person who assists an absent voter who is disabled or otherwise unable to mark the ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote or allow any other person to do so.

(h) A person present while an absent voter is voting an absent voter ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(i) A person shall not plan or organize a meeting at which absent voter ballots are to be voted.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 220, Eff. Sept. 27, 1957;—Am. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.932a Violations as felony; penalty.

Sec. 932a. A person who does any of the following is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both:

(a) A person shall not, at an election, falsely impersonate another person, or vote or attempt to vote under the name of another person, or induce or attempt to induce a person to impersonate another person or to vote or attempt to vote under the name of another person.

(b) A person shall not assume a false or fictitious name to vote or to offer to vote by that name, enter or cause to be entered upon the registration book in a voting precinct a false or fictitious name, or induce or attempt to induce another person to assume a false or fictitious name in order to vote, by that name, vote, or offer to or enter or cause to be entered upon the registration book of a voting precinct, a false or fictitious name.

(c) A person who is not a qualified and registered elector shall not willfully offer to vote or attempt to vote at an election held in this state. A person shall not aid or counsel a person who is not a qualified and registered elector to vote or offer to vote at the place where the vote is given during an election.

(d) A qualified and registered elector shall not offer to vote or attempt to vote in a voting precinct in which the elector does not reside, except as otherwise provided in this act. A person shall not procure, aid, or counsel another person to go or come into a township, ward, or voting precinct for the purpose of voting at an election, knowing that the person is not qualified or registered to vote in that township, ward, or voting precinct.

(e) A person shall not offer to vote or attempt to vote more than once at the same election either in the



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

same or in another voting precinct. A person shall not give 2 or more votes folded together.

**History:** Add. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.933 Perjury; definition.

Sec. 933. A person who makes a false affidavit or swears falsely while under oath under section 848 or for the purpose of securing registration, for the purpose of voting at an election, or for the purpose of qualifying as a candidate for elective office under section 558 is guilty of perjury.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 1999, Act 217, Eff. Mar. 10, 2000;—Am. 2003, Act 119, Imd. Eff. July 29, 2003.

**Popular name:** Election Code

### 168.934 Misdemeanor; penalty.

Sec. 934. Any person who shall be found guilty of a misdemeanor under the provisions of this act shall, unless herein otherwise provided, be punished by a fine of not exceeding $500.00, or by imprisonment in the county jail for a term not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.935 Felony; penalty.

Sec. 935. Any person found guilty of a felony under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.936 Perjury; penalty.

Sec. 936. Any person found guilty of perjury under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.937 Forgery; penalty.

Sec. 937. Any person found guilty of forgery under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.938 Candidate convicted of felony; election void quo warranto.

Sec. 938. If any candidate for any public office at any election in this state shall be convicted of a felony, as defined in this act, the election of such candidate, if he has been elected, shall be void; and if he shall enter into the office for which he was elected, an information in the nature of a quo warranto to oust him from such office may be filed in the supreme court or the proper circuit court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.939 Election inspector; duty to furnish information to prosecuting attorney.

Sec. 939. It shall be the duty of every inspector of election, knowing, or having reason to believe, that an offense punishable under the provisions of this act has been committed, to give information thereof to the prosecuting attorney without delay, and such prosecuting attorney shall adopt effective measures for the prosecution of all persons believed to be guilty of such offense.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.940 Prosecuting attorney; duty to prosecute.

Sec. 940. It is hereby made the duty of every prosecuting attorney, whenever he shall receive credible



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

information that any such offense has been committed, to cause the same to be prosecuted.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.941 Peace officers; duty to institute proceedings.

Sec. 941. It is hereby made the duty of any police, sheriff or other peace officer, present and having knowledge of any violation of any of the provisions of this act, to forthwith institute criminal proceedings for the punishment of such offender.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.942 Prosecution; time limitations; fraudulent registrations; immunity of witnesses.

Sec. 942. An offense under this act other than fraudulent registration shall not be prosecuted unless the prosecution is commenced within 2 years after the date of the registration, primary, or election in connection with which the offense is alleged to have been committed. Fraudulent registration under this act shall not be prosecuted unless the prosecution is commenced within 3 years after the time the offense is discovered. The complaining witness or any other person who is called to testify in behalf of the people in a proceeding under this section shall not be liable to criminal prosecution under this act for an offense in respect to which he or she is examined or to which his or her testimony relates, except to prosecution for perjury committed in the testimony.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### 168.943 Recorder's court; jurisdiction; circuit courts, jurisdiction.

Sec. 943. The recorder's court in the city of Detroit shall have cognizance and jurisdiction of all offenses under this act committed within the limits of said city, and the offender may in all cases be there proceeded against by information, as provided by the charter of said city or any other statute applicable thereto. In all other cases, the circuit court for the proper county shall have cognizance of such offenses committed within the county, and in cases where the punishment is by such fine or such imprisonment, 1 or both, as the justice's court may impose. The proper justice's court shall have cognizance and jurisdiction thereof.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.944 False designation of incumbency; misdemeanor.

Sec. 944. Any person who advertises or uses in any campaign material, including radio, television, newspapers, circulars, cards, or stationery, the words incumbent, re-elect, re-election, or otherwise indicates, represents, or gives the impression that a candidate for public office is the incumbent, when in fact the candidate is not the incumbent, is guilty of a misdemeanor punishable as provided in section 934.

**History:** Add. 1959, Act 109, Eff. Mar. 19, 1960;—Am. 1963, Act 155, Eff. Sept. 6, 1963;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

### 168.945 Inducing improper applications to vote as absentee voter; misdemeanor.

Sec. 945. Any person who induces or attempts to induce another to make an application to vote as an absent voter, knowing that the person is not qualified to so vote is guilty of a misdemeanor punishable as provided in section 934.

**History:** Add. 1967, Act 113, Eff. Nov. 2, 1967.

**Popular name:** Election Code

### 168.947 Possession of master keys for voting machines; misdemeanor; master keys, definition.

Sec. 947. A person who has a master key for any voting machine or device in his possession is guilty of a misdemeanor. As used in this section, “master key” means a key which is designed to open locks on more than 1 voting machine or device, but excludes keys supplied with the voting machine or device by the manufacturer or dealer or the exact duplicate of such keys, and excludes keys supplied with replacement locks or the exact duplicate of such keys.

**History:** Add. 1967, Act 56, Eff. Nov. 2, 1967.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

CHAPTER XXXVI
RECALL

## 168.951 Officers subject to recall; time for filing recall petition; performance of duties until result of recall election certified.

Sec. 951. Every elective officer in the state, except a judicial officer, is subject to recall by the voters of the electoral district in which the officer is elected as provided in this chapter. A petition shall not be filed against an officer until the officer has actually performed the duties of the office to which elected for a period of 6 months during the current term of that office. A petition shall not be filed against an officer during the last 6 months of the officer's term of office. An officer sought to be recalled shall continue to perform duties of the office until the result of the recall election is certified.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1993, Act 45, Imd. Eff. May 27, 1993.

**Popular name:** Election Code

## 168.952 Recall petitions; requirements; submission to board of county election commissioners; determination; notice; meeting; presentation of arguments; appeal; validity of petition.

Sec. 952. (1) A petition for the recall of an officer shall meet all of the following requirements:

(a) Comply with section 544c(1) and (2).

(b) Be printed.

(c) State clearly each reason for the recall. Each reason for the recall shall be based upon the officer's conduct during his or her current term of office. The reason for the recall may be typewritten.

(d) Contain a certificate of the circulator. The certificate of the circulator may be printed on the reverse side of the petition.

(e) Be in a form prescribed by the secretary of state.

(2) Before being circulated, a petition for the recall of an officer shall be submitted to the board of county election commissioners of the county in which the officer whose recall is sought resides.

(3) The board of county election commissioners, not less than 10 days or more than 20 days after submission to it of a petition for the recall of an officer, shall meet and shall determine whether each reason for the recall stated in the petition is of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct that is the basis for the recall. Failure of the board of county election commissioners to comply with this subsection shall constitute a determination that each reason for the recall stated in the petition is of sufficient clarity to enable the officer whose recall is being sought and the electors to identify the course of conduct that is the basis for the recall.

(4) The board of county election commissioners, not later than 24 hours after receipt of a petition for the recall of an officer, shall notify the officer whose recall is sought of each reason stated in the petition and of the date of the meeting of the board of county election commissioners to consider the clarity of each reason.

(5) The officer whose recall is sought and the sponsors of the petition may appear at the meeting and present arguments on the clarity of each reason.

(6) The determination by the board of county election commissioners may be appealed by the officer whose recall is sought or by the sponsors of the petition drive to the circuit court in the county. The appeal shall be filed not more than 10 days after the determination of the board of county election commissioners.

(7) A petition that is determined to be of sufficient clarity under subsection (1) or, if the determination under subsection (1) is appealed pursuant to subsection (6), a petition that is determined by the circuit court to be of sufficient clarity is valid for 180 days following the last determination of sufficient clarity under this section. A recall petition that is filed under section 959 or 960 after the 180-day period described in this subsection is not valid and shall not be accepted pursuant to section 961. This subsection does not prohibit a person from resubmitting a recall petition for a determination of sufficient clarity under this section.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982 ;—Am. 1993, Act 45, Imd. Eff. May 27, 1993;—Am. 1993, Act 137, Eff. Jan. 1, 1994.

**Popular name:** Election Code

## 168.952a Recall petitions; blank forms; substantial compliance.

Sec. 952a. The county clerk shall retain blank forms of recall petitions for use by the electors in the county. A person may print his or her own recall petitions if those petitions comply substantially with the form prescribed by the secretary of state and the requirements of section 544c(2).

**History:** Add. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1993, Act 137, Eff. Jan. 1, 1994.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Election Code

### 168.953 Repealed. 1976, Act 66, Imd. Eff. Apr. 2, 1976.

**Compiler's note:** The repealed section pertained to modifying form of recall petition.

**Popular name:** Election Code

### 168.954 Recall petitions; eligibility of signers.

Sec. 954. A recall petition shall be signed by registered and qualified electors of the electoral district of the official whose recall is sought. Each signer of a recall petition shall affix his or her signature, address, and the date of signing. A person who signs a recall petition shall be a registered and qualified elector of the governmental subdivision designated in the heading of the petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.955 Recall petition; number of signatures; certification.

Sec. 955. The petitions shall be signed by registered and qualified electors equal to not less than 25% of the number of votes cast for candidates for the office of governor at the last preceding general election in the electoral district of the officer sought to be recalled. Upon written demand, the county clerk, within 5 days, shall certify the minimum number of signatures required for the recall of an officer in the governmental unit in which recall is sought.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1967, Act 188, Eff. July 1, 1967;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978.

**Popular name:** Election Code

### 168.956 Repealed. 1976, Act 66, Imd. Eff. Apr. 2, 1976.

**Compiler's note:** The repealed section pertained to signatures on recall petition.

**Popular name:** Election Code

### 168.957 Recall petitions; qualifications and certificate of circulator; false statement; penalty.

Sec. 957. A person circulating a petition shall be a qualified and registered elector in the electoral district of the official sought to be recalled and shall attach thereto his certificate stating that he is a qualified and registered elector in the electoral district of the official sought to be recalled and shall state the city or the township wherein he resides and his post-office address; further, that signatures appearing upon the petition were not obtained through fraud, deceit, or misrepresentation and that he has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; that all signatures to the petition were affixed in his presence; and that to the best of his knowledge, information, and belief, the signers of the petition are qualified and registered electors and the signatures appearing thereon are the genuine signatures of the persons of whom they purport to be. A person who knowingly makes a false statement in the certificate hereby required is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976.

**Popular name:** Election Code

### 168.958 Recall petition sheet; signature of qualified and registered electors; location for signing; signature of person not qualified and registered elector.

Sec. 958. A petition sheet shall contain only the signatures of qualified and registered electors of the city or township listed in its heading. For recall of a village officer the petition shall be signed by qualified and registered electors of the village. A qualified and registered elector may sign the petition sheet in any location at which the petition sheet is available. A petition is not invalid if it contains the signature of a person who is not a qualified and registered elector of the appropriate city, township, or village listed in the heading of that petition sheet.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978
.

**Popular name:** Election Code

### 168.958a Separate petitions required.

Sec. 958a. A separate petition shall be circulated for each officer sought to be recalled.

**History:** Add. 1976, Act 66, Imd. Eff. Apr. 2, 1976.

**Popular name:** Election Code

### 168.959 Recall of senators, representatives, elective state officers, county officials, or



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**secretary of state; filing petitions.**

Sec. 959. Petitions demanding the recall of United States senators, members of congress, state senators and representatives in the state legislature, elective state officers except the secretary of state, and county officials except county commissioners, shall be filed with the secretary of state. Petitions for the recall of the secretary of state shall be filed with the governor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976.

**Popular name:** Election Code

### 168.960 Recall of elective county commissioner or township, city, village, or school official; recall of elective district board member; filing petition.

Sec. 960. (1) A petition demanding the recall of an elective county commissioner or township, city, village, or school official shall be filed with the county clerk of the county in which the largest portion of the registered voters in the electoral district reside.

(2) A petition demanding the recall of an elective district library board member shall be filed with the clerk of the largest county. For the purposes of this subsection, the term "largest" has the meaning ascribed to it in section 2 of the district library establishment act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1989, Act 26, Imd. Eff. May 22, 1989.

**Popular name:** Election Code

### 168.961 Recall petition; filing; receipt; duties of filing official; duties of city or township clerk; certificate; duties of village clerk; use of qualified voter file.

Sec. 961. (1) A recall petition shall be filed with the filing officer provided in section 959 or 960. The filing official shall give a receipt showing the date of filing, the number of petition sheets filed, and the number of signatures claimed by the filer. This shall constitute the total filing, and additional petition sheets for this filing shall not be accepted by the filing official.

(2) Within 7 days after a recall petition is filed, the filing official with whom the petition was filed shall examine the recall petition. The filing official shall determine if the recall petition is in proper form and shall determine the number of signatures of the petition. In determining the number of signatures, the filing official shall not count signatures on a petition sheet if 1 or more of the following apply:

(a) The execution of the certificate of circulator is not in compliance with this act.

(b) The heading of the petition sheet is improperly completed.

(c) The reasons for recall are different than those determined by the board of county election commissioners to be of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct which is the basis for this recall.

(d) The signature was obtained before the date of determination by the board of county election commissioners or more than 90 days before the filing of the petition.

(3) If the filing official determines that the form of the petition is improper or that the number of signatures is less than the minimum number required in section 955, the filing official shall proceed as provided in section 963(1).

(4) If the filing official determines that the number of signatures is in excess of the minimum number required in section 955, the filing official shall determine the validity of the signatures by verifying the registration of signers pursuant to subsection (6) and may determine the genuineness of signatures pursuant to subsection (7) or shall forward each petition sheet to the clerk of the city or township appearing on the head of the petition sheet. However, the petition shall not be forwarded to the secretary of a school district.

(5) The city or township clerk shall determine the validity of the signatures by verifying the registration of signers pursuant to subsection (6) and may determine the genuineness of signatures pursuant to subsection (7). Within 15 days after receipt of the petition, the city or township clerk shall attach to the petition a certificate indicating the number of signers on each petition sheet that are registered electors in the city or township and in the governmental unit for which the recall is sought. The certificate shall be on a form approved by the secretary of state and may be a part of the petition sheet. If the recall petition is for the recall of a village official, the county clerk shall forward the petition to the clerk of the village, and the duties and responsibilities of the city or township clerk as set forth in this section shall be performed by the village clerk.

(6) The qualified voter file shall be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

invalid.

(7) The qualified voter file shall be used to determine the genuineness of a challenged petition signature appearing on a recall petition. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, the official with whom the recall petition was filed shall compare the challenged signature to the signature on the master card.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982;—Am. 1999, Act 219, Eff. Mar. 10, 2000;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.961a Notice to officer whose recall is sought; challenge; checking signatures; verifying challenged signature; use of qualified voter file.

Sec. 961a. (1) Not later than the business day following the filing of a recall petition, the official with whom the recall was filed shall notify in writing the officer whose recall is sought that the recall petition has been filed.

(2) An officer whose recall is sought may challenge the validity of the registration or the validity and genuineness of the signature of a circulator or person signing the recall petition. A challenge shall be in writing, specifying the challenged signature, and shall be delivered to the filing official within 30 days after the filing of the petitions. The officer whose recall is sought shall have not less than 8 days after the clerk has examined the signatures to check signatures on the original registration records.

(3) Subject to subsections (4) and (5), a challenged signature shall be verified by the official with whom the recall was filed.

(4) The qualified voter file may be used to determine the validity of a challenged petition signature appearing on a recall petition by verifying the registration of the signer. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid.

(5) The qualified voter file shall be used to determine the genuineness of a challenged petition signature appearing on a recall petition. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, the official with whom the recall petition was filed shall compare the challenged signature to the signature on the master card.

**History:** Add. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982;—Am. 1999, Act 220, Eff. Mar. 10, 2000;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.962 Repealed. 1978, Act 533, Imd. Eff. Dec. 21, 1978.

**Compiler's note:** The repealed section pertained to insufficiency of recall petitions.

**Popular name:** Election Code

### 168.963 Sufficiency or insufficiency of recall petition; determination; notice; special election.

Sec. 963. (1) Within 35 days after the filing of the recall petition, the filing official with whom the recall petition is filed shall make an official declaration of the sufficiency or insufficiency of the petition. If the recall petition is determined to be insufficient, the filing official shall notify the person or organization sponsoring the recall of the insufficiency of the petition. It is not necessary to give notification unless the person or organization sponsoring the recall files with the filing official a written notice of sponsorship and a mailing address.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(2) Immediately upon determining that the petition is sufficient, but not later than 35 days after the date of filing of the petition, the county clerk with whom the petition is filed shall call the special election to determine whether the electors will recall the officer whose recall is sought. The election shall be held on the next regular election date that is not less than 95 days after the date the petition is filed.

(3) If a petition is filed under section 959, the filing official with whom the petition is filed shall call the special election. The election shall be held on the next regular election date that is not less than 95 days after the petition is filed.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978 ;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982;—Am. 1999, Act 220, Eff. Mar. 10, 2000;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. 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, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### 168.964 Recall election; procedure; notice; ballots; election supplies; assignment of precinct election officials.

Sec. 964. The procedure governing the election on the question of the recall of an officer shall be the same, so far as possible and unless otherwise provided in this act, as that by which the officer is elected to office. If the official with whom the petition is filed is not required to give public notice of an election concerning the office in question, the official shall give notice to the official or officials required by the general election, the school, or the library laws of this state or a city charter to give public notice of the election, cause the ballots to be printed, provide election supplies, and do all things necessary to conduct the election in the manner provided in this act. Fewer precinct election officials than the number otherwise required under the general election laws of this state may be assigned to duty if it appears that the votes to be cast will not necessitate the number of precinct election officials otherwise so required.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1989, Act 26, Imd. Eff. May 22, 1989.

**Popular name:** Election Code

### 168.965 Recall of officer with election duties; appointment of impartial public officer.

Sec. 965. In the event that a petition for the recall of an officer having duties to perform in connection with the election on such question is filed, the official with whom the petition is filed shall appoint some other impartial public officer having knowledge of the election laws involved and such officer thereupon shall discharge the election duties only of the officer sought to be recalled until the result on the question of the recall is finally determined; the public officer so appointed to act shall receive no additional compensation for his services.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.966 Recall ballot; contents.

Sec. 966. (1) The reason for demanding the recall of the officer as set forth in the petition shall be printed on the recall ballot used at the election in not more than 200 words. If the statement of reason set forth in the petition shall contain more than 200 words, then the statement shall be condensed by the sponsor of the petition for use on the ballot. If the sponsor fails to furnish the condensed statement within 48 hours following written demand, then the statement shall be condensed by the official preparing the ballots.

(2) The official preparing the ballot shall provide in writing the officer whose recall is sought the statement of reason which shall appear on the ballot. The officer whose recall is sought, in not more than 200 words, may submit a justification of conduct in office. The justification shall be submitted to the official preparing the ballot within 72 hours after receipt of the notification. If submitted in the prescribed time, the justification shall be printed on the ballot.

(3) The statement “Vote no on the recall” or “Vote yes on the recall” or words of similar import shall not be permitted on the ballot. A part of the reason for demanding the recall of the officer or the officer's justification of conduct in office shall not be emphasized by italics, underscoring, or in any other manner.

(4) There shall be printed on the recall ballot the following questions:

Shall (Name the person against whom the recall petition is filed) be recalled from the office of (title of the office)? Printed below the question in separate lines in easily legible type shall be the words “Yes[ ]” and “No[ ]”or in a form as may be prescribed by the secretary of state.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978.

**Popular name:** Election Code

### 168.967 Recall election; payment of expenses.

Sec. 967. The expenses of the recall election shall be payable in the same manner as are the costs of a regular election to fill the office in question.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.968 Canvass of recall election; certification of results; office vacant upon certification; notice.

Sec. 968. If a petition is filed under section 960, the board of county canvassers in the county where the petition is filed shall conduct the canvass of the recall election. The canvass of other recall elections shall be by the board of state canvassers. If a board of canvassers determines that a majority of the votes are in favor of recall, the board of canvassers immediately upon the determination shall certify the result to the officer with whom the recall petition was filed. Upon certification, the office is vacant. The officer with whom the recall petition was filed shall immediately upon receipt of the certification notify the clerk or secretary of the electoral district or, if the electoral district is a district library district, the district library board from which the official was recalled and the recalled official of the results of the recall election and the date and time of the certification.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1989, Act 26, Imd. Eff. May 22, 1989.

**Popular name:** Election Code

### 168.969 Further recall petition; filing, condition.

Sec. 969. After filing such recall petition and after such special election, no further recall petition shall be filed against the same incumbent of such office during the term for which he is elected unless such further petitioners shall first pay into the public treasury, which has paid such election expenses, the whole amount of election expenses for the preceding special election held for the recall of said incumbent.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.970 Recall of officer; vacancy.

Sec. 970. Upon the filing of the certificate of the canvassing board showing the recall of the officer as herein provided, the officer empowered by law to perform the duties of such recalled official, in the event of such officer's absence, death, illness or inability to act, shall perform and discharge the duties of the office so vacated until the successor to fill such vacancy is duly elected and qualified as herein provided or until the vacancy is temporarily filled. Where power to fill a vacancy by appointment exists, then in such case such office shall be filled in the same manner by temporary appointment effective until a successor shall be duly elected and qualified as herein provided, otherwise, the governor of the state may fill such vacancy until said recalled officer's successor is elected and qualified.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.971 Special election; appointment of review team; applicability of section.

Sec. 971. (1) If the recall is successful, a special election to fill the vacancy shall be held on the next regular election date. The provisions in section 964 for calling and conducting of the recall election govern the calling and conducting of the election to fill the vacancy created, except as otherwise provided in this section.

(2) If the governor appoints a review team under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, to perform the functions prescribed in that act relative to a city, township, or village and an elected official of the city, township, or village was the subject of a successful recall, the officer with whom the recall petition was filed does not have the authority to propose a date for a special election. If the review team described in this subsection is appointed after the officer submits a proposed special election date or the county election scheduling committee schedules the special election as required by subsection (1), but before the election is held, the officer's or county election scheduling committee's action becomes void when the review team is appointed. Within 5 days after the review team described in this subsection reports its findings to the governor as required by section 14 of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1214, the review team shall submit to the county election



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

scheduling committee a proposed date for the special election. A special election scheduled under this subsection is subject to all of the other provisions of subsection (1). This subsection applies to any special election scheduled but not yet held before April 9, 2002.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### 168.972 Nominating and voting for candidate for nonpartisan office; signing and filing nominating petition; election to fill vacancy for unexpired term; signing, contents, and filing of petition.

Sec. 972. (1) Except as provided in subsection (2), a candidate for a nonpartisan office shall be nominated and voted for in an election scheduled under section 971 by filing a nominating petition or paying a $100.00 nonrefundable fee not later than 4 p.m. on the fifteenth day after the clerk of the county where the petition was filed announces the official result of the recall election. The clerk shall publicly announce the result of the recall election at the conclusion of the meeting held by the board of county canvassers to certify the recall election. The nominating petition shall be filed with the clerk of the electoral district and signed by a number of qualified and registered electors of the electoral district as determined under section 544f. Instead of filing a nominating petition, an individual may become a candidate by paying a $100.00 nonrefundable fee with the clerk of the electoral district.

(2) This subsection applies to an election to fill a vacancy for an unexpired term created by a recall of a school board member, if the election is scheduled to be held on the same date as a general election. A nominating petition filed by a candidate shall be signed by a number of qualified and registered electors of the school district as determined under section 303. The nominating petition shall clearly state that it relates to the filling of a vacancy for an unexpired term and shall be filed with the school district election coordinator, as designated by section 301, not later than 4 p.m. on the fifteenth day after the clerk of the county where the petition was filed announces the official result of the recall election. The clerk shall publicly announce the result of the recall election at the conclusion of the meeting held by the board of county canvassers to certify the recall election. Instead of filing a nominating petition, an individual may become a candidate by paying a $100.00 nonrefundable fee to the school district election coordinator.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 107, Imd. Eff. Apr. 7, 1978;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1979, Act 2, Imd. Eff. Mar. 30, 1979;—Am. 1989, Act 26, Imd. Eff. May 22, 1989;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 298, Imd. Eff. July 23, 2004.

**Popular name:** Election Code

### 168.973 Election to fill vacancy; party candidates, nomination.

Sec. 973. Party candidates shall be nominated as follows: In case the vacancy to be filled be in a state office or that of United States senator, the state central committee of each political party shall nominate a candidate therefor; in case such vacancy be in a county office or in a district office within an electoral district of 1 county, the county committee of each political party shall nominate a candidate therefor; in case such vacancy be in a district office within an electoral district less than 1 county, the members of the county committee of each political party residing in such electoral district shall nominate the candidate therefor; if the office to be filled be a district office having an electoral district in more than 1 county, the members of the several county committees of each political party residing in those parts of such counties which are in such district shall nominate a candidate for the office; and if such vacancy be in a ward or township office, the committee of each political party thereof shall nominate a candidate for such office. All nominations by such committee shall be certified to the officer with whom the recall petitions were filed within 15 days after the calling of the special election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.974 Recall or resignation of officer as prohibiting candidacy or appointment to fill vacancy; effect of resignation of officer.

Sec. 974. (1) An officer who was recalled shall not be a candidate to fill the vacancy created by the recall nor be appointed to fill a vacancy in an elective office in the electoral district or governmental unit from which the recall was made during the term of office from which the officer was recalled.

(2) An officer who has resigned subsequent to the filing of a recall petition shall not be appointed to fill a vacancy in elective office in that electoral district or governmental unit during the term of the office from which the officer resigned.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) If an officer resigns subsequent to the filing of petitions to recall that officer from office, it shall not be necessary for the office with which the recall petitions have been filed to proceed under sections 961 and 963.

(4) If an officer whose recall is sought resigns after the calling of a recall election, the election shall not be held.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978 .

**Popular name:** Election Code

### 168.975 Candidate deemed elected.

Sec. 975. The candidate receiving the highest number of votes for the vacancy created on such recall should be considered duly elected for the remainder of the term.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.976 Recall election; laws governing.

Sec. 976. The laws relating to nominations and elections shall govern all nominations and elections under this act insofar as is not in conflict herewith.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

## CHAPTER XXXVII
## REPEALS AND MISCELLANEOUS

### 168.991 Repeals.

Sec. 991. The following sections and acts and all acts and parts of acts amendatory thereto, and all acts and parts of acts inconsistent with or contravening the provisions of this act, are hereby repealed, namely: Sections 4, 6, 12 and 13 of chapter 15 of the Revised Statutes of 1846, being sections 201.4, 201.6, 201.12 and 201.13, respectively, of the Compiled Laws of 1948; sections 11, 46 and 47 of chapter 16 of the Revised Statutes of 1846, being sections 41.11, 41.46 and 41.47, respectively, of the Compiled Laws of 1948; Act No. 159 of the Public Acts of 1851, being section 201.41 of the Compiled Laws of 1948; Act No. 79 of the Public Acts of 1871, being section 201.81 of the Compiled Laws of 1948; section 28 of Act No. 44 of the Public Acts of 1899, being section 24.28 of the Compiled Laws of 1948; Act No. 325 of the Public Acts of 1913, being sections 201.101 to 201.108, inclusive, of the Compiled Laws of 1948; Act No. 156 of the Public Acts of 1915, being sections 3.1 to 3.4, inclusive, of the Compiled Laws of 1948; section 40 of Act No. 314 of the Public Acts of 1915, being section 602.40 of the Compiled Laws of 1948; Act No. 211 of the Public Acts of 1917, being sections 200.81 to 200.86, inclusive, of the Compiled Laws of 1948; Act No. 3 of the Public Acts of 1919, being sections 200.91 to 200.102, inclusive, of the Compiled Laws of 1948; Act No. 400 of the Public Acts of 1921, being sections 200.31 to 200.44, inclusive, of the Compiled Laws of 1948; sections 2, 3, 4 and 6 of Act No. 199 of the Public Acts of 1923, being sections 201.32, 201.33, 201.34 and 201.36, respectively, of the Compiled Laws of 1948; Act No. 351 of the Public Acts of 1925, being sections 145.1 to 199.1, inclusive, of the Compiled Laws of 1948; Act No. 211 of the Public Acts of 1929, being sections 201.61 to 201.65, inclusive, of the Compiled Laws of 1948; Act No. 265 of the Public Acts of 1931, being sections 551.291 and 551.292 of the Compiled Laws of 1948; section 395 of Act No. 328 of the Public Acts of 1931, being section 750.395 of the Compiled Laws of 1948; Act No. 246 of the Public Acts of 1941, being sections 200.1 to 200.14, inclusive, of the Compiled Laws of 1948; and Act No. 65 of the Public Acts of 1951, being sections 11.131 to 11.134, inclusive, of the Compiled Laws of 1948.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### 168.992 Effective date of act.

Sec. 992. This act shall become effective on June 1, 1955.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov