Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 773 (Substitute S-2 as passed by the Senate)
Senate Bills 774 and 775 (as passed by the Senate)
Sponsor: Senator Glenn D. Steil (S.B. 773)
Senator George A. McManus, Jr. (S.B. 774)
Senator Loren Bennett (S.B. 775)
Committee: Government Operations

Date Completed: 7-10-96

RATIONALE

The Michigan Election Law provides for the regulation of State and local elections and prescribes the powers and duties of State and local election officials in conducting elections. School elections are conducted under the Election Law *and* the School Code; the School Code contains provisions for the administration and operation of elections by school districts. Under the School Code, schools may conduct their own elections if they choose to do so (without contracting with local units of government for use of their facilities and personnel) and establish polling places other than those used during general elections. Currently, though most school board elections are held in June, the School Code does not specify when a school election must be held.

Some people believe that the current system has the potential to confuse the voters, and has resulted in school districts' holding more elections than are needed. Further, it has been pointed out that since the adoption of Proposal A the number of millage questions has been reduced, resulting in many annual school elections at which the ballot only contains candidates for school board, thus decreasing voter interest. It has been suggested that the school election provisions be recodified into the Michigan Election Law in an effort to consolidate all elections; and be modified so as to transfer the administration of school elections to local units, limit the number of school elections, and combine annual school elections with the general November election.

CONTENT

Senate Bill 773 (S-2) would amend the School Code to repeal, on January 1, 1999, parts of the Code that provide for the administration and operation of elections by school districts; specify that a school district's annual election or a special election would be administered and conducted as provided in the Michigan Election Law (meaning that school elections would be conducted by local units of government according to the powers and duties prescribed in the Election Law, and not by school districts); specify that annual school elections would have to be held in November; and provide that school bond questions submitted to the voters for approval would have to include an estimate of the cost of repaying the bonds. Senate Bill 774 would amend the Michigan Election Law to place in the Election Law provisions for conducting school elections, including provisions regarding the canvassing of school elections by local officials, filling vacancies on a school board, and submitting election questions to a district's voters; limit the dates upon which school elections could be held; and prescribe the payments that school districts would have to make to local units for conducting a school election. Senate Bill 775 would amend the Michigan Election Law to provide for the conduct of school elections by local units of government, and to revise requirements for the election of members of the State Board of Education.

The three bills are tie-barred to each other. In addition, the bills are tie-barred to House Bill 4373. (House Bill 4373, as introduced, would amend the Michigan Election Law to provide that after December 31, 1995, a school board candidate's petition to fill a vacancy created by a recall would have to be filed with the clerk of the local governmental unit in which the school district was located.) Senate Bills 773 (S-2), 774, and 775 would take effect January 1, 1999. Following is a detailed description of each bill.

Senate Bill 773 (S-2)

The bill provides that a school district, local act school district, or intermediate school district annual or special election would have to be administered and conducted as provided in the Michigan Election Law. A district could use general operating funds to reimburse local units of government involved in administering and conducting an election.

The bill would repeal parts of the School Code that currently govern school elections, including provisions regarding notification of elections; voter challenges; ballot applications; the casting of ballots; duties of the individual board of school canvassers; recounts; special elections; determination of voter qualification; use of local unit registration records; payment of expenses; voter registration deadlines; school board-appointed election inspectors; nominating petitions; candidate withdrawal; notification of election results; acceptance of office by a person elected to a school board; and board vacancies and the filling of vacancies.

The bill provides that the board of a general powers school district would have to hold its annual school election on the first Tuesday after the first Monday of November each year. (Currently, there is no requirement for when a school election must be held.)

The members of the board of a general powers school district would have to be elected by the school electors for terms of four years. At each annual school election held in an odd-numbered year, members of the board would have to be elected to fill the positions of those whose terms would expire. The term of office would begin January 1, and continue until a successor was elected and qualified. The board of a general powers school district could submit to the school electors of the school district a measure, proposition, or question that was within the scope of the powers of the school electors and that the board considered "just and proper for the proper management or conduct of the school system or the advancement of education in the schools of the school district". Upon the board's adoption of a measure or question, the board would have to submit the measure or question to the electors of the school district at the next ensuing annual school election or at a special election. A special election could be called by the board as provided in the Michigan Election Law (as described in Senate Bill 774).

The bill provides that in an intermediate school district (ISD) that elected its board members, members would have to be elected at an election held in an odd-numbered year, and every two years thereafter for those members whose terms were to expire. The bill would eliminate current provisions that: allow an ISD to hold its annual election at other times; prescribe the content and the timing of filing ISD nominating petitions; provide for the distribution of ballots to constituent school districts; provide for the filling of vacancies on an ISD board; provide for the submission of questions at a special ISD election; and prescribe the conduct of an ISD in administering an election regarding a school's consolidation question. Currently, an ISD board must meet each year on or before the fourth Monday in July. The bill would require the meeting to be held on or before the fourth Monday in January.

The bill provides that a school district or ISD could not issue bonds under the Code unless the language on the ballot, used in submitting the question of issuing the bonds, included the estimated annual cost to the school district or ISD of repaying the bonds, expressed in amounts of both per pupil and per classroom costs affected by the project for which the bonds were to be issued. The State Board of Education would have to develop and distribute to school districts guidelines on calculating the amounts.

Senate Bill 774

The bill would recodify in the Michigan Election Law several provisions proposed to be repealed from the School Code (by Senate Bill 773 (S-2)), regarding school district elections; and provides that the provisions of the Election Law applicable to the conduct of elections would have to be "as near as possible in all respects" to a general or special election conducted under the bill, unless otherwise specifically provided. Further, the bill would require that at least one school board

member in each school district be elected in each "November school election", that is, the election held to elect members to school boards and the State Board of Education, to be held on the first Tuesday following the first Monday in November of each odd-numbered year. A school board could, by resolution adopted at least 90 days prior to a general November election, choose to hold an election to elect school board members at the general November election.

Special and General Elections

Currently, Sections 1031 and 1032 of the School Code prescribe the powers and duties of a school board in holding a special election, including requiring a special election if 10% of the district's electors petition the school board to vote upon a question; and provide three dates (in April, June, or November) that a district may hold its annual or biennial regular election. (Senate Bill 773 (S-2) would repeal these provisions and require a district to hold an annual school election in November.) The bill would require a school board to submit a question to the vote of the district's electors upon receipt of petitions signed by 5% or more of the registered electors of the district, but not less than 25 electors. Further, the bill would allow a school board to submit a question to a vote of the electors. Upon a decision to submit a question to the vote of the registered electors of the district, or a determination by the school board that a petition met the lawful signature requirements, the question would have to be submitted at a special election held on the first Tuesday following the first Monday in April; the first Tuesday following the first Monday in August; or the first Tuesday following the first Monday in November.

A school board could not submit a question to the electors of the district unless the question to be voted upon was within the lawful authority of the qualified electors of that school district to decide. A school board could not submit a question unless the question was stated in the notice of the election.

If a school board called a special election to submit a question to the electors, the school district would have to pay to each county, city, and township conducting the election an amount determined as follows: If the special election were held in conjunction with another election held in the county, city, or township, the school district would have to pay to the county, city, or township 100% of the actual costs of conducting the election called by the school board. If the special election called by the school board were not held in conjunction with any other election held in the county, city, or township, the school district would have to pay to the local units 105% of the actual costs of conducting the special election. The county, city, or township would have to present to the school district a verified account of actual costs of conducting the special election, by the 90th day following the date of the election. The school board would have to pay or disapprove all or a portion of the verified account before the expiration of 90 days after the school district received the verified account of actual costs.

If the school board disapproved all or a portion of the verified account, the board would have to send a notice of disapproval along with the reasons for the disapproval to the local unit. Upon request of the local unit whose verified account was disapproved, the school board would have to review the disapproved costs with the local unit. School boards and local units would have to use an agreement made pursuant to the Election Law, on what constitutes valid costs of conducting a Statewide special election, as a basis for preparing and evaluating verified accounts under the bill. The Secretary of State would have to assist school boards, counties, cities, and townships in preparing and evaluating verified accounts.

School Board Candidates/Affidavit and Petitions

The bill would place in the Election Law provisions that are similar but not identical to those proposed to be repealed in the School Code regarding candidates affidavits and petitions. To obtain the printing of the name of a person as a candidate for the office of school board member upon the official ballots in the various election precincts of a school district, the candidate would have to file an affidavit (as required under the Election Law), and nominating petitions signed by a number of registered electors residing in the school district equal to at least 1% but not more than 4% of the total number of votes cast in the district for the member who received the greatest number of votes at the last election in which a member was elected. The number of signatures on the petition could not be less than 20.

If the school district comprised more than one county, city, or township, the candidate would have to file the nominating petitions and affidavit with the county clerk of the county of that candidate's residence. If the school district comprised one city or township or less, the candidate would have to file the nominating petitions and affidavit with the

clerk of that city or township. The nominating petitions would have to be in a form prescribed in the Election Law. A county, city, or township clerk would have to receive nominating petitions for filing up to 4 p.m. of the 30th day before the date of the election. If the 30th day before the election fell on a Saturday, Sunday, or legal holiday, the clerk would have to receive petitions up to 4 p.m. of the next business day.

Canvassers

The bill would require the board of canvassers (as prescribed in the Election Code) to canvass the votes for candidates for the office of school board member in the November school election in each school district. The number of candidates for the office of school board member equal to the number of persons to be elected, who received the greatest number of votes cast at the election (as set forth in the report of the board of canvassers), based upon the returns from the various election precincts or as determined by the board of canvassers as a result of a recount, would have to be declared elected to the office of school board member. Upon completion of the canvass, the board of canvassers would have to make a statement of returns and certify the election of school board members to the appropriate filing official who received the nominating petitions in that school district. The official who received the certification of the board of canvassers would have to file in his or her office and preserve the original statement of returns and certification of the canvassers of the result of the election. The official immediately would have to execute and cause to be delivered to the persons declared elected a certificate of election, certified by the official.

School Board Vacancy

If a vacancy occurred in the office of school board member, it would have to be filled within 45 days by election of a qualified and registered elector of the school district, by a majority of the remaining members of the school board. The person elected by the school board would hold the office until the next November school election. The school board would have to cause the remainder of the term of the vacancy to be filled by special election held in conjunction with the November school election. The person elected at the November school election to fill the vacancy would hold the office of school board member for the full remainder of the term of the former member. If the remaining members of the school board failed to fill a vacancy as required, the board would have to cause the vacancy to be filled at the next November school election by special election held in conjunction with that election. The person elected to fill a vacancy in this manner would hold the office of school board member for the full remainder of the term of the former member. Until a vacancy was filled, the remaining members of the school board would have all of the powers and duties established by law.

Recount/Recall

The bill specifies that the votes cast for a candidate for school board member or a question submitted to the voters would be subject to a recount, as provided in the Election Law. A person elected to a school board would be subject to recall, as provided in the Election Law and the State Constitution.

Senate Bill 775

The bill would revise current provisions of the Election Law regarding the election of members to the State Board of Education. Currently, two members of the eight-member Board are elected for eight-year terms at each general November election held in an even-numbered year. The bill provides that two members of the Board would have to be elected for eight-year terms at the 1999 November school election, and in every November school election after 1999 (the first Tuesday following the first Monday in November of each odd-numbered year).

The bill provides that a township, city, or village board of election commissioners, in holding an election, would have to cause the ballots for any regular or special school election to be printed and delivered to the appropriate local unit at least 10 days before the election. Currently, the board of election commissioners must complete this task for any regular or special township, village, or city election.

Under the Election Law, recall petitions must be signed by registered electors of the electoral district of the official whose recall is being sought; however, in a school district where school electors are not required to be registered, persons who sign the petitions do not have to be registered electors. The bill would eliminate the provision regarding unregistered school electors, meaning that recall petitions for school board members would have to be signed by registered electors.

Currently, the Election Law provides for the filing of candidate petitions to fill a school board vacancy created by a recall, including a requirement that the petitions must be filed with the school board's secretary or in the board of education office. The bill would require that the petitions be filed with the appropriate county, city, or township clerk.

The Election Law allows a community college district or a school district that is wholly or partly within a city or cities to hold an election at times and in a manner specified. The bill would remove school districts from these provisions.

Currently, regarding the registration of electors, the clerk of a city or township must transmit to the secretary of a school district information on the registration application of persons residing in the district. The bill would eliminate this provision. Further, the bill would eliminate current provisions that allow a voter's registration card to be signed in a school district's or secretary's office; allow a school district or ISD to use a registration list instead of the precinct registration file when a file is required; require the clerk of a local unit to notify a school district of a voter's canceled registration; and require the Secretary of State to instruct school officials regarding voter registration procedures.

The Election Law prohibits a person from signing more nominating petitions for the same office than there are persons to be elected to the office. The bill provides that a person who violated this provision would be guilty of a misdemeanor.

MCL 380.3 et al. (S.B. 773)
Proposed MCL 168.16 et al. (S.B. 774)
MCL 168.30a (S.B. 775)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under the current system, school districts are allowed to conduct far too many elections, and can do so just about any time they want. This has resulted, in some areas of the State, in a proliferation of elections held at various times, and in places that may not be the same polling places voters use during a general election. The frequency of elections can have a negative effect on both the voters and a school district; too many elections can result in voter confusion and apathy, and cause school districts to spend far more on elections than is necessary. The bills would consolidate school elections with the general election and limit their number, thus streamlining the school election process and making it more cost effective. This means that money now spent on elections would be available for education, where it should be spent. Further, by requiring annual school elections to be held with the general November election, the bills would standardize the election process for schools and reduce voter confusion.

Supporting Argument

By moving from the School Code to the Election Law provisions that govern the administration and operation of school elections, the bills would, in effect, get school districts out of the election business. The bills would bring all elections under the Election Law, meaning that all elections would be conducted by local election officials under the guidance of the Election Law and State election officials. The bills would assist local election officials to standardize the election process, and increase the likelihood that voters will know what to expect and where to go on election day.

Supporting Argument

Prior to the passage of Proposal A, school districts had the option, or were often required by circumstances, to hold frequent elections to ask the voters for millage renewals or approvals. Now, school districts receive the bulk of their funding from per pupil foundation grants from the State and are, compared with previous times, quite limited in the amount of millage they can ask voters to approve. This has resulted in a reduction overall in the number of school district millage questions placed on the ballot. As a result, in many school elections, the only question on the ballot is the selection of a few school board candidates. This may cause low voter turnout for board elections. By requiring the election of school board members in November of each odd-numbered year, the bills would eliminate the problem.

Opposing Argument

The bills would reduce the autonomy and control of local school boards, coming on the heels of School Code revisions last year that purported to give local boards more control by granting school districts "general powers". By fixing the school elections to the general election, reducing the number of elections, and removing the control over school elections from school officials, the bills would reduce school district

flexibility. Local school officials know best what is needed in their districts. For instance, some committees may contain large numbers of people who commute to and from work, meaning that they are limited in the time during which they can vote on any particular day. Some school districts have experimented, to increase voter participation, with holding school elections on a Saturday. Under the bills, this option would be eliminated.

Further, forcing school elections to be held every November, which corresponds with other local and State elections, would eliminate any chance for school officials to focus voter attention on school issues. In turn, combining school elections with local elections could provide a scenario in which a ballot contained several different millage issues, addressing several different subjects. This could result in local units and their school districts competing for millage approvals on the same ballot. Requiring school questions to be added to the ballot, likely at the end of the ballot, could cause important school matters to be hidden amid larger general election questions or, worse yet, cause voters to quit before reaching and completing the school questions. The bills, instead of consolidating all elections, should perhaps allow for a time during the year when all education questions, both State and local elections, could appear on one ballot separate from other elections.

Opposing Argument

The bills would create several problems for school districts. First, requiring newly elected school board members to take office in January (as opposed to the current situation, in which most take office in July), means that members would be assuming their duties halfway through the school fiscal year and part way through the academic year. This could cause problems for schools, particularly if there were a substantial change in membership. Second, the bills would require a school district to pay 105% of the actual costs of holding a special election, if the local unit were not holding an election on that day. Why should school districts be punished for presenting questions to the voters? Finally, there are many technical concerns regarding the consolidation of elections. For instance, a school district may extend into several local units of government. Currently, a school in this situation can hold one election. Under the bills, each of the local units in the district would have to open polling places, regardless of how few voters were residents of both the school district and the local unit. Or, a single township could have more than one or two school districts within its boundaries. This could be quite confusing to the voters if one district were holding an election but the others were not.

Response: The bills would not take effect until January 1, 1999. While there may be some technical problems that need to be worked out, local election officials would have time to react to these matters. As for the argument that problems could arise because board members would assume office in the middle of the school year, one only needs to look at other elected officials. Many elected officials, including members of the Legislature, assume office part way through a fiscal year and do so without disruption.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills would have no fiscal impact on State government.

The bills could result in savings to school districts by requiring school board elections to take place at November general elections and coordinating special school elections with local units of government. Savings would depend on agreements between local units of government and school boards on what constituted valid costs of conducting elections compared with costs under the current system. Senate Bill 774 provides that if a special school election called by a school board were not held in conjunction with any other election held in the county, city, or township, the school district would have to pay 105% of the actual costs of conducting the election.

There are 555 K-12 school districts and 57 intermediate school districts in Michigan. There were 1,074 school millage elections in 1994 and 641 school millage elections in 1995.

Fiscal Analyst: B. Bowerman
E. Pratt

A9596\S773B

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.