

Legislative Analysis



SCHOOL BOARD ELECTION DATE

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Senate Bill 427 (S-1) as reported without amendment

Sponsor: Sen. Patrick J. Colbeck

(Enacted as Public Act 232 of 2011)

House Committee: Redistricting and Elections

Senate Committee: Local Government and Elections

First Analysis (11-1-11)

BRIEF SUMMARY: Together with House Bill 4005, which has already passed the House, the bill would require that school board elections be held at the general election in November of even-numbered years, effective January 1, 2012.

FISCAL IMPACT: The bill updates references to the Michigan Election Law in the Revised School Code. It would have no fiscal impact on the state or local units of government or school districts. (See *Fiscal Information* for the fiscal analysis of House Bill 4005, which is tie-barred to Senate Bill 427.)

THE APPARENT PROBLEM:

In 2003, the legislature worked in a bi-partisan manner to enact nine new laws that made comprehensive changes to Michigan Election Law, notably by establishing four regular election dates each year—in February, May, August, and November (with appropriate primary dates). The bills required that all elections be held on those days, with the exception of a very limited number of special elections.

Further, the election consolidation package required for the first time that school elections be conducted by local units of government and local clerks under the state election law, rather than by school boards and superintendents in school districts under the Revised School Code. The new laws also established the permissible dates for cities, villages, and townships to conduct their election of officers. See "2003 Election Consolidation" in *Background Information*.

Most of the provisions of the election consolidation package took effect January 1, 2005, although provisions allowing local units to choose among permitted election dates took effect September 1, 2004. Also during 2004, an additional 16 new laws were enacted (again, with a bi-partisan group of sponsors) to address technical issues remaining after the passage of the election consolidation package a year earlier.

As a result of election consolidation, Section 642(8) of the Michigan Election Law says that, with certain specified exceptions, as of September 1, 2004, a school district must hold its regular school board elections at the odd-year general November election.

However, under the election consolidation laws, if as of September 1, 2004, a school district held its regular election at another date, then the school board could choose to

switch its regular election date to any of the three following dates by adopting a resolution: (a) the odd-year May regular election date (the first Tuesday after the first Monday in May); (b) the November regular election date in both even and odd years (the first Tuesday after the first Monday in November); or (c) the May regular election date in both even and odd years.

According to the Michigan director of the elections in the Office of the Secretary of State, a summary of selected school election dates as of March 2011 is as follows:

November Odd Year: 38	November Annual: 109
May Odd Year: 24	May Annual: 328
November Even Year: 51	

Legislation has been introduced to require school board elections to be held at the even-year general November election, a change that a local school board would have to adopt by resolution after convening a public hearing. See ***Background Information***.

THE CONTENT OF THE BILL:

Senate Bill 427 (S-1) would amend the Revised School Code to require that school board elections be held at the general election in November of even-numbered years.

It reflects changes made to the Michigan Election Law in House Bill 4005, which has already passed the House (and it is identical to House Bill 4006, which has also passed the House, and which was originally tie-barred to House Bill 4005). Senate Bill 427 is tie-barred to House Bill 4005, and both bills would take effect January 1, 2012.

Currently, Michigan law generally requires a school district to hold its regular election for the office of school board member at the odd year general election. ("Odd year general election" means the election held on the November regular election date in an odd-numbered year.)

If, however, as of September 1, 2004, a school district held its regular election at other than the odd year general election, the school board can choose to hold its regular election on one of the following dates: the odd year May regular election date, the November regular election date in both even and odd years, or the May regular election date in both even and odd years.

Under Senate Bill 427 and House Bill 4005, school board elections could only be held at the general election in November of even-numbered years.

(Note: Under the Election Law, the term "school board" means the governing body of a school district, including the board of trustees of a community college. The term "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, or a community college district under the Community College Act of 1966.)

MCL 380.4, 380.5, & 380.614

HOUSE COMMITTEE ACTION:

The House Redistricting and Elections Committee reported out the Senate-passed version of the bill without amendments.

FISCAL INFORMATION:

Current school board elections cost between \$25,000 and \$50,000 for a stand-alone election and \$5,000 to \$10,000 when added on to an existing millage election. Restricting board elections to November would create savings to school districts by eliminating those costs and eliminating the need for elections in years when the districts do not have a millage election. When a school board election is added to a November election, the other relevant local units would incur the minimal costs of adding school board elections to the local ballot. Local school districts may still incur costs for millage elections, which are usually held in May.

BACKGROUND INFORMATION:

2003 Election Consolidation. The analysis of the nine-bill package to consolidate elections that was enacted into law in 2003 noted that high rates of voter registration and voter turnout at the polls on election day are key indicators of a broadly participatory democracy, and both registration and turn-out signal that democracy's overall health and vitality. At the time in Michigan, there were about 6,807,837 registered voters, and the voter turnout in general elections during presidential election years was slightly above the national average, a rating generally attributed to the fact that Michigan is often a 'battleground' or 'swing' state in high-profile elections where the outcome is close and the campaign hotly contested. For example, nationwide, roughly 49 percent of eligible voters cast ballots for president in 1996, the lowest turnout since 1924. In Michigan, however, the turnout in 1996 was about 56 percent—3,848,844 voters. However, overall the percentage turnout in Michigan declined substantially between 1960 and 1992.

The 2003 analysis continued: In addition to the overall decline for national and statewide offices, there is a steep fall-off in the election turnout for local elections, when voters go to the polls to select the officials who serve on city and village councils or school boards. For example, when the Education Policy Center obtained information from 477 of Michigan's 555 school districts—ranging in size from 52 to 118,483 registered voters—they reported that average turnout during school board elections in 2000 was 7.8 percent. However, the turnout ranged from .3 percent to 60 percent of registered voters, depending upon the district.

Further: In almost half of Michigan school districts, fewer than 5 percent of eligible voters participated in the 2000 school board election, and in three-quarters of districts, the turnout was 10 percent or less. The percentage of voter turnout was generally lower in larger districts—4.8 percent in the large districts versus 11.7 percent in small districts, on average. And, citizens living in poverty districts appear to be slightly more involved in choosing their district's school board members than citizens in affluent districts.

During the bi-partisan election consolidation debate, many who express concern about low election turnouts that continued to trend downward, criticized Michigan's election system—saying there are too many elections. They pointed out that there was a hodgepodge of election dates at various levels of government, and local election officials were relatively permissive about scheduling special elections. Critics noted that there then existed two parallel election systems in the state—one system run by school districts for school elections, and a second system involving local, county and state election officials who manage all others. Critics of the excess and duplication said those factors contributed to the very low turnouts, and also created a suspicion among some potential voters that elections were designed and scheduled to stay "low key" or "under the radar" in an effort to achieve a desired outcome rather than to invite broad participation.

For that reason, legislators and state and local election officials—all keen that citizens exercise their right of suffrage—worked on proposals to consolidate state and local elections. The questions they raised were three: How many elections should there be each year? On what dates should they be scheduled? And, who should run them?

Overall, the consolidation effort focused on reducing the number of election dates so as to provide more consistency and predictability for potential voters, and to bring the administration of all elections under the city, township, and county clerks whose primary obligation is to the Michigan Election Law.

School Board Resolution and Hearing. Section 168.642 of the Michigan Election Law—which sets the dates for city and village regular elections, regular election primaries, and the dates for school district regular elections—requires that before adopting a resolution to set election dates, local officials hold at least one public hearing. Further, the law requires that the notices of all public hearings be designed to reach the largest number of the jurisdiction's qualified electors in a timely fashion, and that the notices state the issue under consideration, in detail. Then, the council or school board may vote on the resolution on a record roll call vote. If a majority adopts the resolution, it is filed with the secretary of state.

ARGUMENTS:

For:

Proponents of the bills (SB 427 and HB 4005) offer two arguments in support of the legislation. First, those in favor of the bills argue that this legislation is good for democracy, since the bills will result in more voter participation. Scheduling school board elections on the date of the even-year November general election will assure that education board members are elected at the elections where voter turnout is highest.

A decade ago, before election consolidation, the Education Policy Center obtained information from 477 of Michigan's 555 school districts—ranging in size from 52 to 118,483 registered voters—and reported that average turnout during school board elections in 2000 was 7.8 percent (ranging from .3 percent to 60 percent of registered voters, depending upon the district). In almost half of Michigan school districts, fewer than 5 percent of eligible voters participated in the 2000 school board election, and in three-quarters of districts, the turnout was 10 percent or less. The percentage of voter

turnout was generally lower in larger districts—4.8 percent in the large districts versus 11.7 percent in small districts, on average. Further, citizens living in poverty districts appeared to be slightly more involved in choosing their district's school board members than citizens in affluent districts. In contrast, average turnout in November general elections is customarily between 55 and 56 percent.

Among the reasons given for the lack of voter participation in school elections was the hodgepodge of election dates. Before the legislature's efforts to consolidate elections during 2003 and 2004, elections were held on a wide variety of dates. Indeed, according to testimony before the House Redistricting and Elections Committee during the 2001-2002 legislative session, in 1999 school millage elections were held on 30 different dates, and in 2001 on 34 different dates throughout the year. Sometimes special elections were held within weeks of a regularly scheduled election. These single issue special elections—sometimes called stealth elections—escaped widespread public notice because they were held on isolated or unusual dates. Some people complained that such tactics were manipulative and led to public cynicism.

Over time, scheduling nearly all regular and special elections on just four dates each year has arguably helped to provide greater awareness of school elections among voters. Now, reducing those four possibilities to one option will focus attention of education issues even more. Voters will know when elections are to be held, and they will also know where, because with consolidation, precinct polling locations will be identical.

Second, proponents say the bills are cost-effective, and will save school districts the cost of stand-alone elections which run between \$25,000 and \$50,000.

Today, most school districts hold their elections annually in May or November. In all, 328 of the 550 school districts in Michigan have selected May annual school elections, and 109 school districts hold elections in November annually. So, nearly 80 percent of all Michigan school districts have annual school elections (presumably with staggered terms for board members), scheduled either in May or November. Further, November even-year elections are the preference of 51 school districts, November odd-year elections are preferred by 38 school districts, and May odd-year elections are held in 24 school districts.

These bills would further consolidate election dates for schools. Fully 90 percent of all districts will be required to change their election dates, and those that now hold annual elections—437 in all—will save the cost of one election, a savings that ranges from \$5,000 to \$50,000 depending on the manner in which the election is undertaken.

Against:

It is not at all certain that moving the date of all school elections to the even-year November general election cycle is desirable. Perhaps not as many voters turn up for school elections, but those who do are well informed and have a keen interest in educational issues. Combining elections might lead to more voters, but many will have no connection to or knowledge about school district issues. Moreover, it could be argued that when an issue is alone on the ballot, it will be the subject of greater public scrutiny, not less: that is, when an issue heats up, voters tend to turn up. In contrast, on a long,

complex ballot, a local school district issue will get lost in the "noise." Further, voter "apathy" can be sometimes a sign of satisfaction with the work being done by elected officials, or it can reflect a decision to leave certain issues (such as educational leadership and school policies) to those who are better informed about and more deeply invested in them; for example, to those parents who have children in the school system.

Against:

Opponents of the bills have advanced three arguments in opposition to their enactment. First, they argue that the bills could well end up costing some local jurisdictions more money, rather than saving money. That is because many local school districts now schedule their school board election to coincide with the city or village council election, a significant number of which are scheduled for August and November in odd-numbered years. Opponents note that an amendment to allow local school boards the option to coordinate their elections with other local jurisdictions in order to eliminate duplication and avoid higher costs failed in a vote of the House Redistricting and Elections Committee, despite the fact that this flexibility would save local school districts money. Second, some opponents of the bills say that Detroit—the largest school district in Michigan (and as a result the only district designated as a district of the first class)—should be exempt from these bills. In order to save money, Detroit currently holds its school elections in August and November of odd-numbered years, when the members of the city council are also elected to office. Opponents of the bills note that an amendment to exempt Detroit, and allow it to continue its current cost-saving practice of odd-year elections, was also defeated in the Redistricting and Elections Committee.

Third, this change unsettles the current practice of 90 percent of all Michigan school districts, and it weakens local control by eliminating the school districts' statutory "general powers" decision-making capacity.

POSITIONS:

The Secretary of State supports the bill. (10-25-11)

The Oakland County Clerk's Office supports the bill. (10-25-11)

The following additional positions were advanced when an identical bill, House Bill 4006, was reported from committee earlier in the legislative session.

The Michigan Association of County Clerks supports the bills. (5-10-11)

The Michigan Association of Municipal Clerks supports the bills. (5-10-11)

The Kent County Clerk supports the bills. (3-15-11)

The Macomb County Clerk supports the bills. (3-15-11)

The Wayne County Clerk supports the bills. (3-14-11)

The Michigan Association of School Boards opposes the bills. (5-10-11)

The Michigan Association of School Administrators and the Michigan Association of Intermediate School Administrators oppose the bills. (3-15-11)

The Michigan Education Association opposes the bills. (3-15-11)

Oakland Schools opposes the bills. (3-15-11)

Macomb Intermediate School District opposes the bills. (3-15-11)

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