

# HOUSE BILL No. 4367

March 5, 2013, Introduced by Reps. Schor, Zemke, Abed, Driskell, LaVoy, Brown and Lane and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 559, 561, 562, 570, 572, 575, 576, 582, and 795 (MCL 168.559, 168.561, 168.562, 168.570, 168.572, 168.575, 168.576, 168.582, and 168.795), section 561 as amended by 2002 PA 163, section 570 as amended by 1985 PA 160, section 576 as amended by 1996 PA 213, section 582 as amended by 1980 PA 160, and section 795 as amended by 2004 PA 92; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 559. ~~It shall be the duty of the~~ **THE** board of election  
2       commissioners of each county in this state ~~to~~ **SHALL** prepare and  
3       furnish the necessary official primary election ballots, except

1 for city offices, ~~which~~ **THAT** may be required for use by the  
2 electors ~~of any political party~~ at the August primary.

3       Sec. 561. (1) The ballots prepared by the board of election  
4 commissioners in each county for use by the electors ~~of a~~  
5 ~~political party~~ at a primary election shall include the name of  
6 each candidate of ~~the~~ **EACH** political party for the office of  
7 governor, United States senator, and district offices; for the  
8 county, the name of each candidate of ~~the~~ **EACH** political party  
9 for county offices; and for each township, the name of each  
10 candidate of ~~the~~ **EACH** political party for township offices.

11       (2) If, in a district that is a county or entirely within 1  
12 county, 2 or more candidates, including candidates for  
13 nonpartisan offices, for the same office have the same or similar  
14 surnames, a candidate may file a written request with the board  
15 of county election commissioners for a clarifying designation.  
16 The request shall be filed not later than 3 days after the last  
17 date for filing nominating petitions. Not later than 3 days after  
18 the filing of the request, the board of county election  
19 commissioners shall determine whether a similarity exists and  
20 whether a clarifying designation should be granted. In a district  
21 located in more than 1 county, the board of state canvassers  
22 shall make a determination whether to grant a clarifying  
23 designation upon the written request of a candidate who files  
24 nominating petitions with the secretary of state. The request  
25 shall be filed with the ~~state~~ board of **STATE** canvassers not later  
26 than 5 days after the last date for filing nominating petitions.  
27 The board of state canvassers shall make its determination at the

1 same time it makes a declaration of the sufficiency or  
2 insufficiency of nominating petitions in compliance with section  
3 552.

4 (3) In each instance, the determining board shall  
5 immediately notify each candidate for the same office as the  
6 requester that a request for a clarifying designation has been  
7 made and of the date, time, and place of the hearing. The  
8 requester and each candidate for the same office shall be  
9 notified of the board's determination by first-class mail sent  
10 within 24 hours after the final date for the determination. A  
11 candidate who is dissatisfied with the determination of the board  
12 of county election commissioners may file an appeal in the  
13 circuit court of the county where the board is located. A  
14 candidate who is dissatisfied with the determination of the board  
15 of state canvassers may file an appeal in the Ingham county  
16 circuit court. The appeal shall be filed within 14 days after the  
17 final date for determination by the board. The court shall hear  
18 the matter de novo. Except as provided in subsection (4), in the  
19 case of the same surname or of a final determination by the board  
20 or by the court before the latest date that the board can arrange  
21 the ballot printing of the existence of similarity, the board  
22 shall print the occupation, date of birth, or residence of each  
23 of the candidates on the ballot or ballot labels under their  
24 respective names. The term "occupation" includes a currently held  
25 political office, even though it is not the candidate's principal  
26 occupation, but does not include reference to a previous position  
27 or occupation.

1           (4) If there are 2 candidates with the same or similar  
2 surnames and 1 of the candidates is entitled to an incumbency  
3 designation by section 24 of article VI of the state constitution  
4 of 1963, no other designation shall be provided for the other  
5 candidate with the same or similar surname. If there are more  
6 than 2 candidates with the same or similar surname and 1 of the  
7 candidates is entitled to an incumbency designation by section 24  
8 of article VI of the state constitution of 1963, a clarifying  
9 designation may be given to the other candidates with the same or  
10 similar surname. Except for an incumbency designation under  
11 section 24 of article VI of the state constitution of 1963, if 2  
12 or more candidates with the same or similar surnames are related,  
13 the board shall only print the residence or date of birth of each  
14 of the candidates as a clarifying designation. As used in this  
15 subsection, "related" means that the candidates with the same or  
16 similar surnames are related within the third degree of  
17 consanguinity.

18           (5) The board of state canvassers shall issue guidelines to  
19 ensure fairness and uniformity in the granting of **CLARIFYING**  
20 designations and may issue guidelines relating to what  
21 constitutes the same or similar surnames. The board of state  
22 canvassers and the boards of county election commissioners shall  
23 follow the guidelines.

24           Sec. 562. The ~~said~~ **PRIMARY ELECTION** ballots shall also  
25 contain as many lines as there are delegates to be elected to the  
26 county convention by ~~the~~ **EACH** particular political party. ~~Such~~  
27 **THE** lines shall be printed under the title "Delegates to county

1 convention", and ~~no~~ **A PRIMARY ELECTION** ballot for a delegate to a  
2 county convention ~~of any political party~~ shall **NOT** be counted  
3 unless prepared and voted under authority of this act.

4 Sec. 570. Paper ballots shall be numbered consecutively and  
5 identified by use of the words "official primary ballot" on the  
6 upper right hand corner upon the front of the ballot with a  
7 perforated line across the corner and underneath the number and  
8 identification so that the corner with the number and  
9 identification may be torn off. The detachable corner stub shall  
10 serve for the several party tickets and the ballot number shall  
11 be printed upon the stub on 1 side only. A political party  
12 designation shall not appear upon a ballot corner so numbered and  
13 identified. After the ballots are trimmed and wrapped in sealed  
14 packages, they shall be distributed for use at the primary  
15 election in the same manner as is now provided by law for the  
16 distribution of ballots to be used at general elections. Ballots  
17 shall be prepared in substantially the following form:

18 OFFICIAL PRIMARY BALLOT

19 No. ....

21 OFFICIAL PRIMARY ELECTION BALLOT

22 Primary election to be held ..... 1920....  
23 in the county of .....

24 .....party.

25 (Vignette)

26 You ~~cannot~~ **MAY** split your ticket. ~~If you~~ **YOU MAY** vote  
27 for candidates **FOR SEPARATE OFFICES** on more than 1 party  
28 ticket. ~~, your ballot will be rejected.~~

1 Make a cross or a check mark in the square to the left of  
2 not more than the number of names for each office as may be  
3 indicated under the title of each office.

4 =====

5 State. Legislative.

6 \_\_\_\_\_  
7 Governor. State Senator.

8 ..... District.

9 Vote for not more than one. Vote for not more than one.

10 \_\_\_\_\_  
11 [ ] 1 John Doe [ ] 7 John Doe

12 \_\_\_\_\_  
13 [ ] 2 Richard Roe [ ] 8 Richard Roe

14 \_\_\_\_\_  
15 [ ] [ ]

16 =====

17 Congressional. Representative in State  
18 \_\_\_\_\_ Legislature.

19 United States Senator..... District.

20 Vote for not more than one. Vote for not more than one.

21 \_\_\_\_\_  
22 [ ] 3 John Doe [ ] 9 John Doe

23 \_\_\_\_\_  
24 [ ] 4 Richard Roe [ ] 10 Richard Roe

25 \_\_\_\_\_  
26 [ ] [ ]

27 =====

28 Representative in Congress. County.  
29 ..... District. Prosecuting Attorney.

30 Vote for not more than one. Vote for not more than one.

31 \_\_\_\_\_  
32 [ ] 5 John Doe [ ] 11 John Doe

33 \_\_\_\_\_  
34 [ ] 6 Richard Roe [ ] 12 Richard Roe

35 \_\_\_\_\_  
36 [ ] [ ]

1 =====

2       Sec. 572. The **OFFICIAL PRIMARY ELECTION** ballots shall be  
3 prepared in ~~such~~**A** manner that the electors of ~~each political~~  
4 ~~party~~**AT THE PRIMARY** may write, print, or paste the name of a  
5 candidate ~~thereon~~**ON A BALLOT**.

6       Sec. 575. After the polls are opened at a primary election,  
7 ~~any~~**AN** elector who is legally registered and qualified, ~~shall,~~  
8 before entering the booth or voting compartment, **SHALL** be  
9 furnished a ~~party ballot, together with any other ballot or~~**ALL**  
10 ballots to be voted at that primary election.

11       Sec. 576. (1) An elector, after having received a ~~ballot or~~  
12 **THE OFFICIAL PRIMARY ELECTION** ballots, shall enter a booth or  
13 voting compartment and, while there concealed from view, shall  
14 vote the ballot or ballots by making a cross or a check mark in  
15 the square at the left of the names of those candidates for whom  
16 the elector desires to vote, but ~~in no case~~**SHALL NOT VOTE** for  
17 more candidates for any office than is indicated under the title  
18 of each office. However, an elector may vote for a person whose  
19 name is not printed on the ballot by inserting the name in a  
20 manner that will substitute it for any name that is printed on  
21 the ballot or where no candidate's name appears upon the ballot.

22       (2) ~~The elector shall indicate his or her choice of~~  
23 ~~candidates on 1 party ticket only and, after~~**AFTER** marking the  
24 ballot **OR BALLOTS**, the elector shall fold ~~it~~**EACH BALLOT** for  
25 deposit ~~pursuant to the provisions of~~**AS PROVIDED IN** this act. A  
26 ~~ballot on which more than 1 party ticket has been voted is void.~~

27       (3) This section is subject to section 736a.

1           Sec. 582. A person who is voted for on a ~~party~~ **PRIMARY**  
2 **ELECTION** ballot for a state, district, township, county, city, or  
3 ward office or for the office of United States senator or  
4 representative in Congress whose name is not printed on the  
5 ballot and who has not filed a nominating petition for the office  
6 voted for, shall not be considered nominated as the candidate of  
7 the party for the office, nor be certified as a nominee unless  
8 the person receives a total vote equal to not less than .15 of 1%  
9 of the total population, as reflected by the last official  
10 federal census, of the district for which nomination is sought,  
11 but not less than 10 votes for the office, or a total vote equal  
12 to 5% of the greatest number of votes cast ~~by the party~~ for any  
13 office at the primary in the state, congressional, or other  
14 district, township, county, city, or ward, for a candidate or for  
15 all candidates for nomination for an office for which only 1  
16 person is to be nominated, whichever is greater. However, for an  
17 office to which more than 1 candidate is to be elected, the 5%  
18 limitation shall be based upon the greatest number of votes cast  
19 at the primary for any candidate for the same office.

20           Sec. 795. (1) An electronic voting system acquired or used  
21 under sections 794 to 799a shall meet all of the following  
22 requirements:

23           (a) Provide for voting in secrecy, except ~~in the case of~~ **FOR**  
24 voters who receive assistance as provided by this act.

25           (b) Permit each elector to vote at an election for all  
26 persons and offices for whom and for which the elector is  
27 lawfully entitled to vote; to vote for as many persons for an



1 office as the elector is entitled to vote for; and to vote for or  
2 against any question upon which the elector is entitled to vote.  
3 Except as otherwise provided in this subdivision, the electronic  
4 tabulating equipment shall reject all choices recorded on the  
5 elector's ballot for an office or a question if the number of  
6 choices exceeds the number that the elector is entitled to vote  
7 for on that office or question. Electronic tabulating equipment  
8 that can detect that the choices recorded on an elector's ballot  
9 for an office or a question exceeds the number that the elector  
10 is entitled to vote for on that office or question shall be  
11 located at each polling place and programmed to reject a ballot  
12 containing that type of an error. If a choice on a ballot is  
13 rejected as provided in this subdivision, an elector shall be  
14 given the opportunity to have that ballot considered a spoiled  
15 ballot and to vote another ballot.

16 (c) Permit an elector, at a presidential election, by a  
17 single selection to vote for the candidates of a party for  
18 president, vice-president, and presidential electors.

19 (d) Permit an elector in a primary election to vote for the  
20 candidates ~~in the party primary~~ of the elector's choice. ~~Except~~  
21 ~~as otherwise provided in this subdivision, the electronic~~  
22 ~~tabulating equipment shall reject each ballot on which votes are~~  
23 ~~cast for candidates of more than 1 political party. Electronic~~  
24 ~~tabulating equipment that can detect that the elector has voted~~  
25 ~~for candidates of more than 1 political party shall be located at~~  
26 ~~each polling place and programmed to reject a ballot containing~~  
27 ~~that type of an error. If a choice on a ballot is rejected as~~

1 ~~provided in this subdivision, an elector shall be given the~~  
2 ~~opportunity to have that ballot considered a spoiled ballot and~~  
3 ~~to vote another ballot.~~

4 (e) Prevent an elector from voting for the same person more  
5 than once for the same office.

6 (f) Reject a ballot on which no valid vote is cast.  
7 Electronic tabulating equipment shall be programmed to reject a  
8 ballot on which no valid vote is cast.

9 (g) Be suitably designed for the purpose used; be durably  
10 constructed; and be designed to provide for safety, accuracy, and  
11 efficiency.

12 (h) Be designed to accommodate the needs of an elderly voter  
13 or a person with 1 or more disabilities.

14 (i) Record correctly and count accurately each vote properly  
15 cast.

16 (j) Provide an audit trail.

17 (k) Provide an acceptable method for an elector to vote for  
18 a person whose name does not appear on the ballot.

19 (l) Allow for accumulation of vote totals from the precincts  
20 in the jurisdiction. The accumulation software must meet  
21 specifications prescribed by the secretary of state and must be  
22 certified by the secretary of state as meeting these  
23 specifications.

24 (m) Be compatible with or include at least 1 voting device  
25 that is accessible for an individual with disabilities to vote in  
26 a manner that provides the same opportunity for access and  
27 participation, including secrecy and independence, as provided

1 for other voters. The voting device shall include nonvisual  
2 accessibility for the blind and visually impaired.

3 (2) Electronic tabulating equipment that counts votes at the  
4 precinct before the close of the polls shall provide a method for  
5 rendering the equipment inoperable if vote totals are revealed  
6 before the close of the polls. Electronic tabulating equipment  
7 that tabulates ballots, including absentee ballots, at a central  
8 location shall be programmed to reject a ballot if the choices  
9 recorded on an elector's ballot for an office or a question  
10 exceed the number that the elector is entitled to vote for on  
11 that office or question ~~, OR if no valid choices are recorded on~~  
12 ~~an elector's ballot. , or if, in a primary election, votes are~~  
13 ~~recorded for candidates of more than 1 political party.~~

14 (3) Beginning January 1, 2006, each jurisdiction in this  
15 state conducting an election shall equip each polling place with  
16 at least 1 accessible voting device as required under subsection  
17 (1) (m).

18 Enacting section 1. Section 564 of the Michigan election  
19 law, 1954 PA 116, MCL 168.564, is repealed.