

Complete to 4-15-99

A SUMMARY OF HOUSE BILLS 4444 AND 4445 AS INTRODUCED 3-24-99

The bills would implement elections by mail (House Bill 4444) and add mail election felonies to the sentencing guidelines in the Code of Criminal Procedure (House Bill 4445).

House Bill 4444 would amend the Michigan Election Law (MCL 168.726) in the following ways.

-- On or after January 1, 2000, the governing body of a city, township, village, or school district could require that a local election be held by mail (but only in that city, township, village, or school district). If a local election was scheduled in a district comprising more than one local unit of government, the election could not be held by mail unless all participating units decided to conduct the election by mail no later than 60 days before the election. Such a local election by mail could not be held at the August primary, the November general election, an election at which a candidate for state or federal office or for the office of supreme court justice or judge of the court of appeals was nominated or elected, or a statewide special election.

-- On and after January 1, 2004, the secretary of state could conduct the elections cited above (as not available to local elections by mail) as elections by mail.

-- The secretary of state would be required to promulgate rules to provide procedures for the conducting of an election by mail.

-- After each local election by mail, the secretary of state would have to report to the House and Senate committees that handle election issues, with the report to include the cost of the election, the level of voter participation, and other relevant information.

Local Mail Elections. When a local governing body decided to conduct an election by mail, it would notify the local clerk, who would be required to conduct the election by mail. The secretary of state would have to cooperate with the local unit and, whenever possible, assist the local unit in conducting the election. The bill would require the local clerk (or school board secretary) to follow certain procedures, as specified below.

-- The board of election commissioners or local clerk would have to designate one or more places of deposit in the local unit for voters to return voted ballots. The places would have to be open on the date of the election from 7 a.m. to 8 p.m. The board or clerk would have to provide for the security of the ballots.

-- The clerk would have to send to each voter who was registered as of the 30th day before the date of the election, by non-forwardable mail, an official ballot with a pre-addressed, return identification envelope, a secrecy envelope, and instructions. For a local election, the official ballots and envelopes would be mailed during the period beginning on the 20th day before the election date and ending on the 14th day before the election date. For a statewide election, the secretary of state would prescribe in rules the date of mailing; however, the rules would have to provide for all ballots to be mailed by the 14th day before the election date. A local clerk would be required to handle the official ballots and envelopes in the manner prescribed for absent voter ballots for voters residing outside of the United States.

-- The clerk would include with a ballot all applicable instructions and warnings required for absent voter ballots. For a primary election, the ballot would have to contain a section for the selection of candidates from each participating political party. The instructions would have to state clearly that a voter could vote for the appropriate number of candidates of one party only and that a primary ballot on which candidates from more than one party were selected would not be counted.

-- A voter could obtain a replacement ballot if the original ballot was destroyed, spoiled, lost, or not received. The voter would have to sign a sworn statement. The clerk would have to keep a record of each replacement ballot. If an original ballot was returned and a replacement ballot was sought by the same voter, the clerk would mark the original ballot "canceled" and place it in the box with other canceled ballots. The clerk would have to designate his or her office or a central location in the local unit as the single place to obtain a replacement ballot. A clerk could mail replacement ballots 5 days or more before the date of the election. The clerk could issue a replacement ballot to a voter up until and including the date of the election.

-- For a voter who registered before the close of registration but was not listed on the registration records, the clerk would allow the person to vote following the procedure prescribed for such cases in the election law at Section 509y for other kinds of elections. If the voter met the requirements of that section, the clerk would make the official ballot, return identification envelope, the secrecy envelope, and instructions available at the clerk's office or other designated place.

-- To vote in an election by mail, the voter would mark the ballot, sign the return identification envelope, and comply with the instructions provided with the ballot. The ballot would have to be returned in the return identification envelope or it would not be counted. A ballot would have to be received at the office of the appropriate clerk or other place of deposit not later than 8 p.m. on the date of the election or the ballot would not be counted.

-- The voter would have to return the ballot by 1) placing the necessary postage on the return envelope and depositing it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier; or 2) delivering the envelope personally to the office of the clerk, to the clerk, to an authorized assistant of the clerk, or to a place of deposit designated by the clerk. A person authorized by the clerk to accept ballots would

have to carry credentials issued by the clerk and the credentials would have to be shown to a voter upon request.

-- A member of the immediate family of the voter, including an in-law, a grandparent, a grandchild, or a person residing in the voter's household could mail or deliver a ballot to the clerk for the voter.

-- A ballot would only be counted if: 1) the ballot was returned in the return identification envelope; 2) the envelope was signed by the voter to whom the ballot was issued; 3) the signature was verified; 3) the ballot was received on or before 8 p.m. on the date of the election at the appropriate place; and 4) for a primary election, if the voter had voted for the appropriate number of candidates of one party only.

-- The clerk or an authorized designee would be required to verify the signature of each voter on the return identification envelope with the signature of the voter contained in the official voter registration file. The clerk, or an authorized designee, would process election-by-mail ballots in the same manner as is required for absent voter ballots in that precinct under the election law and as prescribed by rules.

-- A person who knowingly voted more than once at an election by mail or a person who attempted to vote more than once would be guilty of a felony. A clerk or other election official who became aware of a person voting or attempting to vote more than once would have to report the information to the county prosecuting attorney and the secretary of state.

-- An election-by-mail ballot or a voter casting a ballot at an election by mail, or both, would be subject to challenge as prescribed in the election law.

House Bill 4445, which is tie-barred to House Bill 4444, would amend the Code of Criminal Procedure (MCL 777.11) to add the felonies proposed under House Bill 4444 to the sentencing guidelines in the code.

Analyst: S. Ekstrom

■ 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.