

Legislative Analysis



VOTERS WITH PLACEHOLDER BIRTHDATE OR WHO HAVE NOT VOTED

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4127 as enrolled
Sponsor: Rep. Matt Hall

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4128 as enrolled
Sponsor: Rep. Julie Calley

Committee: Elections and Ethics
Complete to 4-12-22

(Vetoed by the Governor 4-1-22)

SUMMARY:

House Bills 4127 and 4128 would amend the Michigan Election Law to require the Michigan Secretary of State (SOS) to cancel the voter registrations of voters who do not respond to a mailing notifying them that they have “placeholder” birthdates in the qualified voter file (QVF) or that they have not voted since the 2000 general November election.

House Bill 4127

Section 510 of the Election Law requires the county clerk to forward a list of adults who have died in the county to city and township clerks, who then cancel the registration of deceased electors.

The bill also would require the SOS, within 90 days of the bill’s effective date, to send both of the following to each registered elector who has been assigned a placeholder date of birth on the QVF because the actual date of birth is unknown:

- A postage prepaid return card preaddressed to the elector’s city or township clerk on which the elector may verify his or her birthdate. He or she would have to sign the card and attach a copy of his or her original birth certificate or current driver’s license or state personal ID card as proof of date of birth.
- A notice that the elector must complete, sign, and return the enclosed card, including the date of birth and proof of date of birth, at least 15 days before the next election; that he or she may otherwise be required to affirm the date of birth in writing before being allowed to vote; and that failure to do so will result in the cancellation of his or her registration following the second general November election after the notice.

An elector returning the completed and signed card in person would also have to provide proof of date of birth.

Until an elector returned the completed and signed return card, and the signature was verified by the city or township clerk using the QVF, the elector’s registration would be identified as challenged. The clerk would have to notify the elector of the challenged status and the steps necessary to resolve the issue. Likewise, if the mailings were returned as undeliverable, the bill would require the SOS to identify that elector’s registration record as challenged. Then, if the elector did not vote or engage in voter-initiated activity or verify the birthdate within two

general November elections, the SOS would have to cancel the elector's registration and notify the applicable city or township clerk of the cancellation.

MCL 168.510

House Bill 4128

Currently, the Election Law provides that an elector's voter registration may not be canceled based solely on a failure to vote.

The bill instead would require the SOS to cancel the elector's registration if he or she did not reply to the notice described below or engage in voter-initiated activity by the second general November election after the notice.

The notice would state that the SOS's records indicate that the voter has not voted since the 2000 general November election and that the voter must fill out, sign, and return the enclosed card to the applicable city or township clerk if he or she wishes to remain registered to vote at that address. Further, it would indicate that the voter would have to do so at least 15 days before the next election; that he or she may otherwise be required to affirm his or her current address before being allowed to vote; and that failure to do so will result in his or her registration being canceled following the second general November election after the notice

Then, as under HB 4127, if the notice was returned as undeliverable or if the signature did not match the QVF, the bill would require the SOS or clerk, respectively, to identify that elector's registration record as challenged. The clerk would also have to notify the elector of a challenged status based on a non-matching signature and inform the elector of the steps needed to resolve it. Then, if the elector did not vote or engage in voter-initiated activity within two general November elections, the SOS would have to cancel the elector's registration and notify the applicable city or township clerk of the cancellation.

MCL 168.509bb

BACKGROUND:

The Michigan Office of the Auditor General (OAG) conducts periodic performance audits of state government operations. In December 2019, the OAG released its most recent performance audit¹ of the Bureau of Elections, which included three *reportable conditions*,² or less severe issues, and one *material condition*,³ or more severe issues. The bills aim to address the finding described below.

¹ <https://audgen.michigan.gov/wp-content/uploads/2019/12/r231023519.pdf>

² The OAG defines a *reportable condition* as a matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.

³ The OAG defines a *material condition* as a matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program. The assessment of materiality is in relation to the applicable audit objective.

Finding #1: BOE should improve control procedures over QVF to help decrease the risk of ineligible electors voting in Michigan.

The auditor general identified 230 registered electors who had an age that was greater than 122 years, the oldest officially documented person to ever live. Specifically, the OAG noted:

With regard to individuals recorded in the QVF with an age greater than 122 years, BOE notes that in most of these cases, further follow-up is needed with the voter to confirm his/her actual date of birth; and thus these individuals do not actually have “an age greater than 122 years.” It is impossible to have a “blank” in the QVF date of birth field. Individuals with no recorded date of birth have been deliberately coded with an implausible birth date (such as 5/5/1850) to more clearly indicate records needing further follow-up.

HBs 4127 and 4128 would require the SOS to remove voters with a “placeholder” birthdate and those who have not voted since 2000 if they do not respond to the required mailing or participate in voter-initiated activity within two general November elections.

BRIEF DISCUSSION:

In House committee testimony, some who had formerly supported the bills as proper implementation of the OAG’s recommendations questioned the inclusion in H-1 substitutes to HBs 4127 and 4128 of a signature requirement and additional documentation requirements. They argued that birthdate discrepancies addressed in HB 4127 are generally due to clerical errors and are not the voter’s fault; it is unfair to require the voter to submit a copy of a birth certificate, when some do not have them readily available, in order to avoid going on challenged status. Additionally, they argued that the signature requirement is unnecessary, as the signature is already checked on a person’s absentee ballot. Moreover, it represents another hurdle for voters and another time-consuming step for clerks.

In response, supporters argued that the additional requirements were necessary to ensure voter confidence in the election.

H-2 substitutes to HBs 4127 and 4128 were reported from committee and enrolled. As described above, those versions of the bills would require the local clerk to notify a voter if the signature on the return card does not match and the elector has accordingly been placed on challenged status and of the steps the elector can take to be removed from challenged status.

FISCAL IMPACT:

House Bills 4127 and 4128 would result in additional administrative costs for the Department of State (DOS) related to the expense of mailing return cards with prepaid and preaddressed postage. As of March 2021, DOS reported that there are 304,792 registered electors in the QVF who have not voted since 2000 and 547 registered electors who have unknown, or placeholder birthdates. Of the electors with placeholder birthdates, 416 have not voted since 2000, bringing the total number of mailings required by the bill to 304,923.

Data on department printing and mailing costs of prepaid and preaddressed postage was not available from DOS at the time of this analysis. As of March 2021, the Department of

Technology, Management, and Budget reported the mailing service rate for presorted mail to be 32 cents per piece. This is also the reported cost to DOS of mailing informational postcards to voters during the 2020 election cycle. Assuming mailing costs to be the same under the bill for estimating purposes, the bill is estimated to cost approximately \$100,000 with the cost of printing added. However, the cost of prepaid return cards is likely greater than 32 cents per piece, and final costs would likely exceed this estimate.

Vetoed 4-1-22:

In her veto message, Governor Whitmer said that the bills would not improve Michigan elections, but instead would burden clerks and voters and increase costs to Michigan residents.

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Michael Clossen

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