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Senate Bills 275 and 276 (as introduced 3-24-21)
Sponsor: Senator Jim Runestad
Committee: Elections

Date Completed: 5-19-21

CONTENT

Senate Bill 275 would amend the Michigan Election Law to do the following:

- Allow individuals from each political party to attend and observe, and to bring their own video recording devices to record, election audit proceedings.
- Prohibit an individual observing an election audit from interfering with or disrupting the audit.
- Allow the tabulation of absentee ballots by an absent voter counting board (AVCB) or a combined AVCB to be recorded via live video coverage, beginning at 8 PM on election day.
- Allow a county, city, or township clerk to provide video coverage of the custody of ballots for any election involving a statewide, legislative, or county office, while those ballots were present in the tabulation room of a precinct, AVCB, or combined AVCB.
- Require the clerk of a county, city, or township to make the recording available for 40 days on the county, city, or township website.
- Allow the Secretary of State (SOS) to make the recordings available on the Secretary of State website.
- Require the clerk of a county, city, or township to retain the recordings of the live video coverage from each precinct, AVCB, and combined AVCB as a public record for 40 days after the election.
- Specify that any disruption in the live video coverage would not affect or prevent the continued tabulation of ballots.

Senate 276 would amend the Michigan Election Law to do the following:

- Authorize an election inspector, election challenger, or poll watcher to use a camera or video camera to photograph or video tape the tabulation of votes at a precinct, AVCB, or other location.
- Prohibit an individual from photographing or videotaping an elector entering, leaving, or voting at a precinct or other location, or the personal identification of an elector.
- Prohibit an individual from threatening, intimidating, impeding, or preventing an election inspector, election challenger, or poll watcher while he or she was photographing or videotaping the tabulation of votes.
- Prescribe misdemeanor penalties for violations of the bill.

Senate Bill 275

Observation of Election Audits

The Law allows the SOS to audit election precincts after each election to ensure compliance with the Law's provisions. The SOS must prescribe the procedures for audits that include reviewing the documents, ballots, and procedures used during the election. An election audit must include an audit of the results of at least one race in each precinct elected for an audit. A statewide election audit must include an audit of the results of at least one statewide race of ballot question in a precinct selected for an audit. An audit conducted under this provision is not a recount and does not change any certified election results.

Under the bill, at each precinct that was randomly selected for an election audit, individuals from each political party could attend and observe the election audit proceedings and those individuals would be authorized to bring their own video recording devices to record the proceedings. An individual who attended, observed, or recorded the audit could not interfere with or disrupt the audit. An individual who interfered with or disrupted the audit would be subject to removal from the auditing location. However, the sole act of recording the election audit would not be considered sufficient grounds to remove an individual from the location where the election audit was being conducted

Tabulation of Ballots; Live Video Coverage

The AVCBs and combined absent voter count boards must process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballots precincts. The poll book may be combined with absent voter list or record, and the applications for absentee ballots may be used as the poll list. The processing and tallying of absentee ballots may commence at 7 AM on the day of the election. Under the bill, beginning at 8 PM on election day, the tabulation of absent voter ballots by an AVCB or combined AVCB would be subject to the provisions described below.

For any election involving a statewide office, a legislative office, or a county office, the county, city, or township clerk could provide live video coverage of the custody of all ballots while the ballots were present in the tabulation room of a precinct, AVCB, or combined AVCB. If live video coverage were provided by a county, city, or township, the coverage would have to be recorded and include date and time indicators. The county, city, or township clerk would have to make the recording available for 40 days on the county, city, or township website. Additionally, the SOS could make the recording of any live video coverage available on the SOS website. The county, city, or township clerk would have to retain the recordings of the live video coverage from each precinct, AVCB, and combined AVCB as a public record for 40 days after the election.

If the feed of the live video coverage were disrupted or disabled, the county, city, or township clerk would not be liable for the disruption, but the clerk would have to attempt to reinstate the video coverage as soon as practical. Any disruption in the live video coverage would not affect or prevent the continued tabulation of the ballots in that precinct AVCB, or combined AVCB.

Senate Bill 276

The bill would amend the Law to allow, at any precinct, AVCB, or other location where votes were tabulated for an election, an election inspector, election challenger, or poll watcher, only when votes were being tabulated, to use a camera or video camera to photograph or video tape, or both, the tabulation of votes at that precinct, AVCB, or location.

An election inspector, election challenger, or poll watcher would be authorized to use a camera or video camera only to photograph or videotape the tabulation of votes at a precinct, AVCB, or other location, and would not be authorized to photograph or videotape any of the following:

- An elector entering, leaving, or voting at a precinct or other location.
- The personal identification of an elector.

The bill also would prohibit an individual from threatening, intimidating, impeding, or preventing an election inspector, election challenger, or poll watcher while photographing or videotaping the tabulation of votes. An individual who did any of the above would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$1,000, or both.

MCL 168.31a et al. (S.B. 275)
Proposed MCL 168.801a (S.B. 276)

Legislative Analyst: Dana Adams

FISCAL IMPACT

Senate Bill 275

The bill could have an indeterminate negative fiscal impact on local units of government. City and township clerks who chose to provide live video coverage of the custody of all ballots and who were not already in possession of video recording equipment could incur additional costs. Cities and townships likely would incur additional administrative costs associated with these efforts. Additionally, local units of government could be required to upgrade or replace existing equipment if they chose to provide live video coverage. The magnitude of the fiscal impact would depend upon the costs associated with the equipment.

Senate Bill 276

The bill would have a negative fiscal impact on State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Fiscal Analyst: Joe Carrasco

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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.