



Senate Bill 309 (as introduced 3-24-21)
Sponsor: Senator Jon C. Bumstead
Committee: Elections

Date Completed: 5-12-21

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Specify that each challenger would have the right to stand or sit behind the processing table.**
- **Allow a challenger to take certain actions while serving as a challenger, including observing the election process at a reasonable distance from the election inspectors and obtaining the vote results after the polls closed.**
- **Require an alleged infringement by the chairperson of the board of election inspectors, an election inspector, or a challenger, of any of the established rights of a challenger to be noted in the log for the precinct and reported to the clerk of the city or township where that precinct was located.**
- **Require the clerk of a city or township to prohibit an individual from overseeing or monitoring election activities for two years if that individual were found to have infringed on the rights of a challenger.**
- **Allow an entity that appointed a challenger that was expelled from a polling place or counting board to appoint a replacement challenger.**
- **Allow a poll watcher to engage in one or more of the actions specified in the bill.**

Challengers; Allowed Actions

A board of election inspectors must provide space for challengers within a polling place that enables the challengers to observe the election procedure and each individual applying to vote.

A challenger may do one or more of the following:

- Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors' names are entered in the poll book.
- Observe the manner in which the duties of the election inspectors are being performed.
- Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.
- Challenge an election procedure that is not being properly performed.
- Remain during the canvass of votes and until the statement of returns is duly signed and made.
- Examine without handling each ballot as it is being counted.
- Keep records of votes cast and other election procedures as the challenger desires.
- Observe the recording of absent voter ballots on voting machines.

Under the bill, with respect to the right of a challenger to challenge an individual's voting, "good reason to believe" would include witnessing any of the following:

- An elector was not present in the poll book.
- An individual was claiming the identity of another individual who had already voted.
- The identification for election purposes being used appeared invalid or fraudulent.

A challenger also may bring to an election inspector's attention any of the following:

- Improper handling of a ballot by an elector or election inspector.
- A violation of a regulation made by the board of election inspectors under Section 742.
- Campaigning being performed by an election inspector or other person in violation of Section 744.
- A violation of election law or other prescribed election procedure.

(Section 742 allows the board of inspector of elections to make regulations as it deems proper. Section 744 prohibits individuals from engaging in specified activities (e.g., persuade an individual to vote for or against a particular candidate or ballot questions, solicit donations or gifts) in or within 100 feet of an entrance to a building in which a polling place is located.)

Under the bill, each challenger would have the right to stand or sit behind the processing table. In addition to the allowed actions described above, a challenger could do any one or more of the following:

- Observe the election process at a reasonable distance from the election inspector; "reasonable distance" would mean a distance that allows the election inspectors sufficient room to perform their duties while still allowing challengers to clearly read and observe the poll books, tabulators, and other election documents and materials used at a polling place or count board.
- Observe (as is currently allowed) and challenge the manner in which the duties of the election inspectors were being performed.
- Observe the processing of electors, but in a manner that did not hinder or impede electors.
- Obtain the vote results generated in the precinct after the polls closed.
- Use a smart phone, tablet, laptop, or other electronic device in a polling place or at a counting board as long as the use of that device did not hinder or impede an elector's right to vote or right to vote a secret ballot.
- If a challenger were expelled from a polling place or a counting board, demand and be provided a written explanation for the expulsion from the chairperson of the board of election inspectors.

Currently, the board of election inspectors must provide space for each challenger, if any, at each count board that enables the challengers to observe the counting of the ballots and may do one or more of the actions listed above. Under the bill, each challenger would have the right to stand or sit behind the processing table.

Under the bill, if the chairperson of the board of election inspectors, an election inspector, or a challenger infringed on any of the established rights of a challenger, the alleged infringement would have to be noted in the log for the precinct and reported to the clerk of the city or township where that precinct was located. If the city or township clerk determined that the chairperson of the board, an election inspector, or a challenger had infringed on any of the established rights of a challenger, that clerk would have to prohibit that individual from overseeing or monitoring election activities for two years.

If a challenger were expelled from a polling place or counting board, the entity that appointed that challenger could appoint another challenger to replace him or her.

Poll Watchers

Under the bill, a poll watcher would be an individual who wished to observe an election, but who was not designated as a challenger. A poll watcher could do one or more of the following:

- Observe the poll book and election materials, but only if that observation did not delay the voting process.
- Use a smart phone, tablet, laptop, or other electronic device in a polling place or at a counting board as long as the use of that device did not hinder or impede an elector's right to vote or right to vote a secret ballot.
- Remain during the canvass of votes and until the statement of returns was duly signed and made.
- Obtain the vote results generated in the precinct after the polls close.

MCL 168.733 et al.

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill would have no fiscal impact on State or local units of government.

Fiscal Analyst: Joe Carrasco

SAS\S2122\s309sa

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.