Testimony from State Representative Anthony G. Forlini (District 24)
Before the Senate Committee on Local Government & Elections
HB 4653 & HB 4656
Farnum Building Room 100
Wednesday, May 2, 2012

Good morning members. Mr. Chairman I would like to thank you for conducting a hearing on House Bills 4653 and 4656.

These bills would prevent elected and appointed officials from self-promotion through ballot materials mailed out from their community or displayed at the polling locations on Election Day. These are pro-election bills that help the clerks ensure the sanctity and the integrity of the ballot box as well as, polling locations

In some communities, you may notice that a local official's name not only appears on a variety of absentee ballot materials, but that name is frequently in a larger, bolder font than the rest of the text.

House Bill 4656 would prohibit the names of public officials from appearing on ballot-related materials. This includes the mailing envelope to voters, the materials inside the envelope (including any notes), and the return envelope for the absentee ballot.

There has been some confusion regarding the scope of the legislation. Some thought that the bill included all mailings done by the clerks. While some wanted to see it go that far, in fact, some of my colleagues in the house committee that heard testimony, thought it should have included things like voter registration cards and applications for absentee ballots.

But again, our focus is no different from the different Clerks Associations that endorse the bills : **Maintaining the integrity and sanctity of the ballot box and polling location.**

Along these same lines, HB 4653 would prohibit the names of public officials on any material that is temporarily posted, displayed or distributed at polling places on Election Day.

Right now, people campaigning for candidates have to stay 'outside the chalk line' to avoid being overly-aggressive with voters coming into the polls. But an incumbent official may have their name in bold-face type on the polling location sign right outside the door of the polling location.

Here in the Legislature, we have strict rules about when we are able to mail, call, or e-mail residents. Blackout periods are in place around election times to prevent folks from using their office budgets to inundate voters with mass mailings close to the time they will vote. I support these timing restrictions that prevent an unfair advantage to incumbent officials who may be on the ballot.

We restricted HB 4653 to only 'temporary' displays due to the issues that may arise when a poll is located within a government building where names of public officials may appear to mark office doors, or on plaques and other artwork that are on display on a permanent, year-round basis. I recognize that some bad players may attempt to get around a restriction on Election Day displays by attempting to have their name on something longer-term in a polling area. However, it is not my intent to add cost or inconvenience to municipalities by making them cover up all official names within a permanent structure being used on Election Day.

Elected and appointed officials have sufficient means to communicate with residents without using their names on materials directly related to Election Day. Absentee voter ballot envelopes can state "Office of the Clerk" without naming the official. It is sufficient to identify a polling location with "Superior Township Precinct 1" without naming any official. The rest of the year officials would be free to identify themselves in mailings and other communications.

I ask for your support of House Bills 4653 and 4656 to approve the provisions of these

bills to ensure fair elections.

When this bill was introduced, I heard from Oakland County's Director of Elections, who shared his experience with voter complaints about absentee ballot mailings. The ballots went out with a picture of the Clerk, contact information, and various things like the amount of postage that needs to go on the envelope. Basically that amounts to taxpayer paid advertising during the election period.

Testimony from State Representative Anthony G. Forlini (District 24)
Before the Senate Committee on Local Government & Elections
HB 5062
Farnum Building Room 100
Wednesday, May 2, 2012

HB 5062:

- Creates a continuing education program for clerks
- Requires semi-annual continuing education
- Permits post-election audits of individual precincts
- Requires poll books to be retained for 6 years and ballots and other materials be retained for at least 30 days after certification
- Prohibits voter intimidation and misinformation
- Unifies the statute of limitations for those who vote more than once in an election with the statute of limitations for fraudulent voter registration.

The H-2 substitute includes technical fixes, changes the post-election audit by county clerks from a "shall" to "may," reduces record retention requirements (of voter applications and registration cards) for clerks, and requires the Secretary of State to provide training without charge to locals.

HB 5062 (H-2) makes updates to Michigan's Election Law to improve the operation of elections in Michigan. From requiring continuing education for clerks, to ensuring uniform deadlines for keeping election-related materials and expanding certain prohibitions, HB 5062 makes common sense changes to the Election Law.

In a large number of cases, when there are recounts far too many precincts are not re-countable because of mistakes made in securing the ballots. This bill would set up procedures and

additional training to assist elections officials in this effort.

Currently, receiving boards are not required. This bill would require that local election commissions have receiving boards to make sure that ballot containers are properly secured and that the appropriate documentation is attached.

The bill also requires training for new clerks and continuing education. The post-election performance audit is intended to be educational and not punitive. Currently, the only time an elections jurisdiction is made aware of errors or mistakes with regard to securing ballots and election information is when a recount is called. These audits would allow the SOS or county clerks (if they wish) to conduct post-election reviews to make sure that the proper procedures were followed.

The bill also extends the time that ballots and voter applications must be kept. From 7 days to 30 days for ballots (this will make it consistent with the administrative rules) and for voter applications, the time is extended from 2 years to six years. This application retention extension preserves the records for a longer period if necessary to look back at records for potential voting irregularities.

The bill also expands the prohibitions on voter intimidation and voter misinformation. Under current law, voter intimidation can only occur between an election challenger and a voter. This would expand that to include voter intimidation by anyone.

Also, a prohibition against voter misinformation (purposely deceiving election) currently exists only in federal law and only applies to elections with federal candidates on the ballot. This bill would expand it to all other elections.

Finally, the bill makes the statute of limitations consistent for voter fraud and fraudulent registration.

BILL CONTENT:

HB 5062 (H-2):

- Requires Receiving Boards, which hold precincts accountable for ballot box integrity efforts by requiring that regular and standard practices be followed for the receipt of voted and counted ballots.

- Establishes a post-election performance audit program where the Bureau of Election or county clerks would be authorized to check that the election process was properly followed for a specific list of election duties.

- Requires newly elected clerk certification and continuing election education requirements every 2 years to be provided by the Secretary of State without charge to the local clerks.

- Clarifies the ballot container integrity process between administrative rules and conflicting statutory sections to require that containers/ballots be preserved for 30 days.

- Extends the time for which clerks must keep voter applications and absent voter applications (from 2 years to 6 years).

- Expands prohibitions on voter intimidation and voter misinformation.
- Lengthens the statute of limitations for voting more than once in the same election to the same as fraudulent voter registration.

Arguments in Support:

- Continuing education for clerks will improve the annual operation of elections.
- Requiring clerk certification will ensure a common standard of practice across all clerks.
- Permissive post-election auditing will allow the Secretary of State (and county clerks) to check determine compliance with Michigan law on an ongoing basis.
- Because of Michigan's many recounts, the provisions of the bill that: (1) require receiving boards, (2) require continuing education, and (3) permit ongoing audits of compliance with the election law, all help ensure the state's ability to successfully complete a statewide recount.
- Making county clerk audits permissive will allow local clerks to determine their available resources before auditing.

FISCAL IMPACT:

The Secretary of State contends that there will be no direct cost for certification or ongoing training (the H-2 substitute makes clear that the training shall be provided without charge. The H-2 substitute changed the material that is required to be kept in an effort to reduce the burden on local officials.

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