Michigan Election Reform Alliance.org – Testimony (Revised)

Statement to the House Committee on Redistricting and Elections
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Regarding S 751 QVF File Management
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S 751 QVF File Management

Legislation should improve the management of the Qualified Voter File, not further complicate it. SB 751 fails this basic test.

If SB 751 offers solutions, we would like to know what the problem is. Legislation that does not solve a demonstrated problem simply wastes the taxpayers' money and very importantly, wastes the time of local election administrators who already have a complex system of rules to implement.

The authors of this legislation apparently do not know that the Qualified Voter File already permits a local clerk to obtain a count of "active" voters. The report module allows one to remove records marked "cancelled," "rejected" or "verify address" from the total. If the concern is to allow local clerks to more accurately identify the size of their voting population, for the legal purposes of staffing the polls, drawing precinct lines, and ordering proper supplies of ballots, then all the legislature has to do is authorize the use of the current system for these purposes.

Is there a problem with fraudulent votes for dead voters or those who have moved out of state? To fraudulently vote is already a five year felony in Michigan. Our surveys have found absolutely no reports or prosecutions for such crimes for the past ten years.

The bill's provision to "automatically challenge" a ballot from a voter classified "inactive," also shows ignorance of how the current system works. The National Voter Registration Act (NVRA) prescribes a specific process for cancelling a voter when that elector appears to have moved. Any provision such as this one that preempts the NVRA process and prematurely denies or limits the right to vote would violate federal law.

The whole idea of a challenge without foundation is inimical to Michigan law and both Constitutions. Under Michigan Election Law, challenges may only be based on residency, age, or citizenship. SB 751 cites none of these—only a lull of six years in the voter's history. The precinct chair is the only person with authority to hear a challenge and agree with it if adequate evidence is presented.

A "challenged" ballot is marked permanently with an identifying number in red pen in the header area and is no longer anonymous. The fact of the challenge must be written in the poll book and the voter's listed name identified with the "challenge number." For a qualified voter, this violates the State Constitution's guarantee of a secret ballot. A recount or lawsuit that contests the election would eventually result in such a ballot being traced to the voter.

- SB 751 Violates Michigan Constitution Article II, Sec 4: The legislature shall… preserve the secrecy of the ballot… .
- Violates the Michigan Constitution's Article I, Section 2: No person shall be denied equal protection of the laws.
- Violates the U.S. Constitution's 14th Amendment Guarantee of Equal Protection under the Law by singling out non-voting voters and taking away their right to vote in privacy.

"Challenging" ballots adds nothing to the purity or security of elections. Ballots do not suddenly appear from voters. Any voter must first apply to vote, whether in person or absentee. A local Clerk who receives an AV application from a voter undergoing the NVRA cancellation countdown would currently be authorized to remove the voter's "verify address" code and countdown status, since the attestation on the signed AV application itself serves to confirm that the voter is still a resident and a qualified elector. The same applies to such a voter who votes at the polling place.

What problem is going to be solved by authorizing the Bureau of Elections to conduct the NVRA process ("send notices," etc.) instead of the local Clerks who are the sole managers of voter registration records under Michigan Election Law? MERA conducted a thorough study of the Bureau's attempted purge of voters in 2006-2009, during which they spent $1.9 million in a highly flawed process. (See the online report at http://www.michiganelectionreformalliance.org/2006MIVoterPurge.pdf)

MERA's research showed that not only did the Bureau create confusion and large numbers of errors, and fail to uniformly process returned mail as the NVRA

requires, but also that the cost per voter cancelled under the Bureau's purge was far higher than in a project in which local clerks were assisted in this process. ($16.31 vs. $1.58 per cancelled record.)

Is there a problem with the Qualified Voter File holding too many obsolete "inactive" voter records? Reportedly, Michigan has more voter names than voting age adults, but there are no national standards for this ratio. Given the mobility of the population, we could legitimately have as many as 20-25% of voters in transition. Simply labeling them as inactive won't do much.

Without the need of any legislation, the Secretary of State (SOS) could and should identify those jurisdictions having problematic backlogs, and assist them with the correct procedures for cancellation under the National Voter Registration Act. There will soon be another opportunity to identify voters who have moved. In 2012, after redistricting, every jurisdiction will send out new voter identification cards. The cards that are undeliverable (and shall not be forwarded) form the basis for the NVRA postcard process.

Proper maintenance of the local jurisdiction's voter file would prevent the need for special rules on precincting, etc.

MERA recommends a number of file management improvements that would require only minimal legislative action:

1. The SOS should publish formal policies on Michigan's voter registration list maintenance. There should be a regular report on file maintenance problems and solutions, with documented statistics on the size and turnover of records in the QVF. The reports should give prominence to local clerks who have conducted efficient, effective, and creative programs.
2. Voter registration activities should be much more closely tied into ongoing governmental data gathering so as to raise the frequency of voter information updating. For example, the voter renews a Driver's License only every four years. During this period, the typical Michigan resident has already moved at least once. Instead, tie voter registration to high school and college registration, employment registration, auto insurance and vehicle license registration, and registration for governmental benefits. These efforts could and should be combined with much more thorough compliance with NVRA requirements to provide voter registration at government agencies.
3. The SOS can provide training to clerks in the conduct of a Master Card Audit. This process compares electronic records to physical records

(signature Master Cards) and efficiently prompts investigation and correction of possibly obsolete registration records.

4. The Legislature should provide local clerks with the authority to access state Department of Community Health death records. Currently, Clerks get a monthly report of death certificates from their county clerk, but the report does not permit information on deaths out of state or deaths in prior years.
5. The Legislature should fund a major upgrade of the Qualified Voter File software. Currently, the system is online but not in real time. The QVF and the Driver's License files are still separate, resulting in many duplicate registrations as DL branch staff input new applications to vote that may have minute discrepancies in name, address, etc. These two systems should be merged into one online, real time database.