

Legislative Analysis



REMOVING PARTY VIGNETTES FROM BALLOTS

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House Bill 4177 (reported from committee w/o amendment)
Sponsor: Rep. Hank Vaupel

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

House Bill 4178 (reported from committee w/o amendment)
Sponsor: Rep. Edward J. Canfield, D.O.

Committee: Elections and Ethics *(Enacted as Public Acts 113 & 114 of 2017)*
Complete to 4-14-17

BRIEF SUMMARY:

House Bill 4177 would amend Michigan Election Law (MCL 168.283 et al) to remove the requirement that party vignettes be printed with a political party's name on a ballot, and would remove references to vignettes throughout the Election Law.

FISCAL IMPACT: The bills would have no fiscal impact on the state or local governments.

THE APPARENT PROBLEM:

House Bills 4177 and 4178 are identical to House Bills 5723 and 5724 of the 2015-2016 legislative session. Those bills were introduced to address an issue presented by Senate Bill 13 (Public Act 268 of 2015), a bill eliminating straight ticket voting, which was signed into law by Governor Snyder in December 2015. SB 13 made no mention of vignettes, which are typically utilized in order to facilitate straight ticket voting. There was concern that the elimination of the straight ticket voting option without the removal of the vignettes would result in voter confusion—that voters, left without the option of voting straight party for the first time, would simply circle the party vignette, believing they were casting a vote.

A preliminary injunction, issued by federal district judge Gershwin A. Drain, blocked implementation of the straight party voting ban. The Sixth Circuit Court of Appeals declined to stay the injunction, meaning that straight ticket voting was an option in the November 2016 presidential election. Appeals court judge Ronald Lee Gilman noted in his concurring opinion that "[t]he continued presence of vignettes on the ballot certainly appears to be a legislative oversight...."

THE CONTENT OF THE BILL:

The bill would remove the current requirement that party vignettes appear alongside candidates on ballots, and remove mentions of vignettes from the Election Law.

According to Section 684, which would be repealed under the bill, "vignettes" are currently adopted by each political party to be a distinctive and characteristic representation of the party on the ballot. They may be no larger than 1.5 inches square, and must set forth legibly

the name of the political party. (Vignettes for Michigan political parties are pictured below.)

House Bill 4177 would also repeal Section 775 of the Law, which provides that vignettes be printed on ballot labels. Also under the bill, a petition to form a new political party submitted after the bill takes effect would no longer need to contain a proposed vignette.

House Bill 4178 would amend the Michigan Campaign Finance Act (MCL 169.220) to remove the requirement that a candidate be nominated by a party that qualifies to have its party vignette on the ballot under Section 685 of the Election Law. The bill is tie-barred to House Bill 4177, meaning that it could not take effect unless HB 4177 is also enacted. Both bills would take effect 90 days after enactment.

BACKGROUND INFORMATION:

According to the Michigan Secretary of State website, the following vignettes, displayed in the following order (and shown at the maximum size they would appear on the ballot—1.5 inches square), applied to ballots produced through the 2016 cycle:

http://www.michigan.gov/documents/sos/OrderPoliticalPartyVignettes_482646_7.pdf



ARGUMENTS:

For:

With one of the longest ballots in the nation, any space on the Michigan ballot is precious. Because of this, while vignettes may be as large as 1.5 inches square, they are often much smaller to account for the other information which must appear on the ballot. Many people have never even noticed them on the ballot.

For:

Additionally, proponents argue, vignettes simply are not as useful as they once were. In 1891, the Michigan legislature adopted the Australian ballot, a standard ballot provided to voters at the polling location (prior to that time, voters brought their own ballots, often provided by their respective political parties), filled out by the voter, and organized in one of two ways. One of those versions, the "Massachusetts ballot," aligned candidate names under office blocs; the "Indiana ballot" version adopted by Michigan aligned the candidate for each office under the respective party column. The party vignette, at the top of each column, clearly identified all candidates below as members of that political party.

Today, the vignette is only displayed under the option for voting a straight party ticket (shown below). The "Massachusetts ballot" utilized means that candidates are grouped by office, and an illiterate or less literate voter is not aided in making selections for individual races by its presence. If straight ticket voting is eliminated, as was attempted in PA 268 of 2015, the vignette would cease to serve any purpose.

Response:

At least as long as straight ticket voting remains an option, it seems that the potential benefit—aiding voters in casting their votes—would outweigh space concerns. After all, if even one voter is better able to navigate the voting experience, and exercise a constitutional right to vote, the inclusion of pictures which take up minimal space and exist unnoticed by most voters, does not seem too high a price to pay.

Against:

Some voiced concern that vignettes are necessary to ensure that illiterate individuals, who may not be able to read the party names and the names of the candidates, are able to exercise their constitutional right to vote. Pictures of easily identifiable party leaders or symbols on the vignettes—Franklin D. Roosevelt and John F. Kennedy for the Democratic Party and Abraham Lincoln and Ronald Reagan for the Republican Party, for example—may aid those people in identifying their chosen political party.

The 13th, 14th, and 15th Amendments, enacted after the Civil War, were intended to extend voting rights to all men over the age of 21.¹ However, many states, especially in the southern U.S., instituted "literacy tests" which varied from reading tests to oral recitation, and interpretation and reasoning of advanced texts,² intended to disenfranchise African American would-be voters. The 1965 Voting Rights Act limited the use of literacy tests, and they were subsequently banned nationwide in 1970. Some argue that the removal of vignettes from the Michigan ballot would amount to a de facto literacy test and present a barrier to some voters.

Response:








The AutoMARK machine,³ which according to the Secretary of State's office is required at all Michigan precincts, provides assistance to voters with various disabilities. Among other functions, once the ballot is fed into the machine, it can read a ballot to a voter through

¹ Women gained the right to vote after enactment of the 19th Amendment in 1920, and the voting age was lowered to 18 by the 26th Amendment in 1971.

² For example, the 1965 Alabama literacy test: http://www.pbs.org/wnet/jimcrow/literacy_popup.html

³ <http://www.essvote.com/products/6/13/ballot-marking-devices/automark%C2%AE/>

a set of headphones, repeat choices, and read selections back to the voter at the end of the session to ensure the proper selection was made. It seems this would mitigate concerns of disenfranchisement due to illiteracy.

OFFICIAL BALLOT		
General Election		
Tuesday, November 8, 2016		
Alcona County, Michigan		
City of Harrisville, Ward 1, Precinct 1		
PARTISAN SECTION	STATE BOARDS	COUNTY
STRAIGHT PARTY TICKET Vote for not more than 1	MEMBER OF THE STATE BOARD OF EDUCATION Vote for not more than 2	CLERK Vote for not more than 1
 Republican Party	Tom McMillin <small>Republican</small>	Patricia Truman <small>Republican</small>
 Democratic Party	Nikki Snyder <small>Republican</small>	TREASURER Vote for not more than 1
 Libertarian Party	Ish Ahmed <small>Democratic</small>	Cheryl L. Franks <small>Republican</small>
 U.S. Taxpayers Party	John Austin <small>Democratic</small>	REGISTER OF DEEDS Vote for not more than 1
 Green Party	Scotty Boman <small>Libertarian</small>	Karen V. Healy <small>Republican</small>
 Natural Law Party	Bill Hall <small>Libertarian</small>	COUNTY ROAD COMMISSIONER Vote for not more than 1
 Working Class Party	Karen Adams <small>U.S. Taxpayers</small>	Theodore R. Somers <small>Republican</small>
	Douglas Levesque <small>U.S. Taxpayers</small>	COUNTY COMMISSIONER 2ND DISTRICT Vote for not more than 1
	Derek M. Grigsby <small>Green</small>	Craig M. Johnston <small>Republican</small>
	Sherry A. Wells <small>Green</small>	
	Mary Anne Hering <small>Working Class Party</small>	

POSITIONS:

A representative of the Michigan Secretary of State testified in support of the bills. (3-2-17)

The Livingston County Clerk testified in support of the bills. (3-2-17)

The Michigan Association of County Clerks supports the bills. (3-2-17)

Legislative Analyst: Jenny McInerney
 Fiscal Analyst: Michael Crossen

■ 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.