

The “Local Government Election Budget Restoration Act”
A Proposal for Legislation

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Recent changes in state election law have created an unfunded mandate that, along with a lack of constraints on election scheduling, has ballooned election costs for local governments.

We propose restoring responsibility to this out of control budget situation. The principles of the legislation needed are as follows.

1. The biannual state primary and state general election dates should remain the financial responsibility of local government.
2. For any other election date, the first governmental body to cause an election on that date should have responsibility for the entire cost of that election. If other units of government join issues or races to the same ballot, then they must be responsible for incremental expenditures for publications and notices specific to their races or ballot issues. The cost of changing voting locations, including printing and mailing notices to voters, should be the responsibility of the jurisdiction that decided or legislated the change.
3. In advance of setting an election date, two or more units of government may enter into a voluntary cost-sharing agreement that would distribute the total cost of an election differently than in #2.
4. Reimbursed expenses must include all categories of direct, out of pocket, election-related costs. These costs should be tracked and reported in an official format by each jurisdiction. The reimbursing jurisdiction should have the authority to conduct audits.
5. All labor costs should be included as election costs, including administrators, regular staff, part-time and temporary employees. For audit purposes, signed logs of employee time should be required as documentation of time, tasks, and pay.

Background on the new budget-buster: problems in election cost responsibility and reimbursement

The establishment of four standard dates for elections, by bills passed in 2003 by the Michigan Legislature, has created a vacuum in fiscal responsibility for the costs of elections held on these new regular election dates.

What were the rules prior to 2003? According to the SOS publication, "Laws Relating to Elections," the rules were set out in two provisions:

Sec. 168.670 Local primaries and elections; ballots, forms, stationery and supplies. For all local primaries and elections, the election commissioners of the ...[local jurisdiction]...shall furnish, at the expense of their respective [jurisdiction], all ballots, forms, stationery and supplies required for the proper conduct of such primaries and elections...

Sec. 168.624g Cost of conducting presidential primary election; reimbursement. This provision details how the state reimburses jurisdictions for the cost, which is then billed to the major political party holding an open primary.

How did the rules change for 2005? Fifteen laws passed in 2003-2004 that modified election responsibility. Public Acts 298-306 of 2003 addressed school election costs.

In PA 302 of 2003 new cost allocation provisions amended Act 116 of 1954, taking election authority from schools, expanding the number of precincts used for school elections, and mandating cost reimbursement by schools to other units of government. The reimbursement language is similar to that for presidential primaries. There appears to be nothing in this amendment that clarifies provisions for reimbursement by entities other than schools.

The cost reimbursement rules currently in place leave major gaps in cost responsibility, create serious fiscal inequity among government jurisdictions, and place an unfunded mandate by the state onto local governments.

Staff "overtime" is listed as reimbursable, but it is not defined. Some have interpreted the word strictly in its FLSA meaning under Wage and Hour regulations. Does it only apply to "hourly" staff? What about overtime by salaried staff? Does reimbursement apply to part-time workers who normally would only work 20 hours per week, but in preparation for an election must now work 40 hours? The "overtime" definition problem particularly penalizes small clerk's offices that function with only part-time workers or employees on stipends.

Clerk's offices with full time employees are also penalized. The normal work hours of full time office staff are specifically excluded from reimbursement, even though election work may not comprise their usual or only assignment at all four seasons of the year. The loss of their services on other critical tasks represents a hidden cost to that local unit of government. Due to the booking of an election date, temporary employees may actually have to be hired to handle legally required non-election work.

Administrators' overtime is also excluded from reimbursement even though election directors are often forced to put in 20-hour days before, during, and after an election. Many elected clerks are only paid for part-time positions, from which they must also conduct all of their other administrative responsibilities. These may include such

deadline-driven tasks as paying the bills, keeping accounts, publishing legal notices, producing meeting notices and minutes, preparing ordinances, sending letters and mailings, managing documents, and responding to FOIA requests. An extra election may force that part-time clerk to work many unpaid hours.

One unintended consequence of the current reimbursement rules, which do count the cost of hiring temporary workers, is to discourage the use of experienced regular staff in the conduct of elections. This certainly is a disincentive to improving the quality of election management.

The most serious issue is not addressed by any of the current rules. It appears that anyone at the state or county level can cause any standard election date to be booked for an election, and since they are not a school district, they take no responsibility for the cost. With each voting precinct costing \$1000-1600 per election, that burden will fall upon the local unit of government, which has no authority over whether or when the vote will be scheduled.

As a result of the lack of connection between authority and financial responsibility, the number of elections is proliferating. Instead of paying for two elections every two years in a typical township, or two every year in some cities, local governments are potentially obligated to conduct up to 5 completely unreimbursed elections, and two incompletely reimbursed elections, every year. This unfunded, uncontrollable state mandate is causing havoc for local budget planning and a needless burden for taxpayers.

The Michigan Legislature needs to move quickly to remedy this lack of accountability.