

HOUSE BILL REPORT

HB 2319

*As Reported By House Committee on:
State Government*

Title: An act relating to election administration.

Brief Description: Improving election administration.

Sponsor(s): Representatives McLean, Anderson, R. Fisher, Chandler, Winsley, J. Kohl, Bowman and Pruitt.

Brief History:

Reported by House Committee on:
State Government, January 29, 1992, DPS.

**HOUSE COMMITTEE ON
STATE GOVERNMENT**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 9 members: Representatives Anderson, Chair; Pruitt, Vice Chair; McLean, Ranking Minority Member; Bowman, Assistant Ranking Minority Member; Chandler; R. Fisher; Moyer; O'Brien; and Sheldon.

Staff: Kenneth Hirst (786-7105).

Background: The state's chief elections officer is the secretary of state. The secretary may adopt rules under a variety of election laws to facilitate and implement those laws. That authority will be broadened considerably on July 1st of this year when legislation regarding filing for office, ballot displays, ballot equipment and other election procedures becomes effective.

Federal, state, and most local elections are conducted in this state by the county auditors.

Summary of Substitute Bill: Election Board. An Election Administration and Certification Board is created. It is composed of: the secretary of state; the state's director of elections; four county auditors appointed by the state's Association of Auditors; four legislators, one from each of the four principal caucuses of the Legislature; and one representative of each major political party.

The board must elect a chair from its members; however, the secretary and the director cannot serve as chair. The members of the board serve without compensation. Nonlegislative members are to be reimbursed by the secretary for travel expenses; legislative members are to be reimbursed as provided by laws governing the Legislature. Staffing and support services are to be provided to the board by the secretary of state.

Joint Rules. The board and the secretary of state must jointly adopt rules governing: (1) the training of political party observers and the training and certification of election administrators and personnel; (2) policies and procedures for conducting reviews of election-related policies, procedures, and practices in counties; and (3) policies to be used by the board in considering appeals of findings and recommendations resulting from a review conducted in a county. Initial policies for considering appeals must be adopted at the same time that initial policies for conducting election reviews are adopted.

Election Training. Each person, other than a precinct election officer, having responsibility for the administration and conduct of elections must receive general training regarding elections and specific training regarding the person's duties. This training must be secured within 18 months of undertaking those responsibilities or within 18 months of the effective date of this requirement, whichever is later. Among the persons expressly required to receive training are state election personnel, county assistant or deputy election personnel, canvassing board members, and political party observers. Other persons may be added to this list by the secretary of state by rule.

The secretary of state must establish and administer a training program for political party observers and a training and certification program for all other election officials and personnel. The program for state and county election officials and personnel is to include testing and the issuance of certificates to those completing the training and passing the tests. The training and certification requirements are not conditions for seeking or holding elective office or for carrying out constitutional duties. The secretary must reimburse political party observers for travel expenses incurred in receiving their training.

Election Reviews. Reviews of election-related policies, procedures, and practices in a county must be conducted if the unofficial returns of a primary or general election indicate that a mandatory recount is likely for a state legislative position or a federal office or in a statewide

election. Reviews are also to be conducted periodically in a county after a primary or election at the direction of the secretary or at the request of the county's auditor.

Election reviews are conducted by the staff of an election review section in the elections division of the Office of the Secretary of State and must be conducted in conformity with the rules adopted for such reviews by the board and the secretary. The staff must issue the county's auditor and canvassing board a report of its findings and recommendations. No review may include an evaluation, finding, or recommendation regarding the validity of any canvass of returns or of the outcome of a primary or election.

Each county must be reviewed at least once every four years. Notice that a review is to be conducted must be provided to the county auditor and the chair of each major political party's state central committee.

Appeals. The county auditor or a member of the canvassing board of the county reviewed in this manner may file an appeal with the board regarding the findings or recommendations of the election review staff. A decision of the board regarding such an appeal must be supported by not less than a majority of the members appointed to the board and is final. A decision by the secretary to deny training certification is appealable to the board and subsequently to superior court.

Election Assistance and Clearinghouse. The secretary must establish an election assistance and clearinghouse program to provide regular communication with local election officials, and political parties. This clearinghouse information is to be on newly enacted election legislation and on relevant judicial decisions and opinions of the attorney general. The program must also respond to inquiries from election administrators, political parties, and others regarding election information.

Other. Certain actions to be performed by county and state election officials and personnel during a review are specified. A Division of Elections is expressly created within the Office of the Secretary of State. The division is headed by the director of elections who is appointed by and serves at the pleasure of the secretary. An election review section is created within the division. County auditors are expressly granted authority to appoint election assistants and deputies. The minimum qualifications of such personnel are specified.

Substitute Bill Compared to Original Bill: Added by the substitute bill are provisions permitting election-related complaints to be filed with the secretary of state and declaring that the training and certification requirements of the bill do not constitute conditions for holding elective office or performing constitutional duties.

Fiscal Note: Requested January 14, 1992.

Effective Date of Substitute Bill: Sections 1-4 and 11-13 of the bill establishing the Division of Elections and the Election Administration and Certification Board, providing for joint rules by the secretary of state and the board, requiring the clearinghouse program, and authorizing county election assistants and deputies and establishing their qualifications take effect 90 days after the session in which the bill is enacted. Sections 5-10 take effect on July 1, 1993.

Testimony For: (1) The secretary of state and the county auditors share the desire to provide fair and efficient elections. This bill provides well-defined roles for each in ensuring such elections. (2) The administration of elections has become very complex; a training program is needed.

Testimony Against: None.

Witnesses: Gary McIntosh, Office of the Secretary of State (in favor); and Sam Reed, County Auditors Association (in favor).