

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

State

Bureau name:

Elections & Campaign Finance

Name of person filling out RIS:

Alessa Boes

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Rule Set Information:

ARD assigned rule set number:

2024-35 ST

Title of proposed rule set:

Board of State Canvassers Procedures

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards.

A. Are these rules required by state law or federal mandate?

Yes. MCL 24.233(1) states in relevant part: "An agency shall promulgate rules describing its organization and stating the general course and method of its operations."

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The rules do not exceed a federal standard or law.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The agency did not compare the proposed rules to standards in other states given that the laws and regulations are specifically tailored to the State of Michigan's Board of State Canvassers and its operating procedures. Any differences between the proposed rules and those in other states are not affected by geographic location, topography, natural resources, commonalities, or economic similarities, as those are not relevant to the organization and operation of the Board of State Canvassers.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The agency did not compare the proposed rules to standards in other states given that the laws and regulations are specifically tailored to the State of Michigan's Board of State Canvassers. The agency is not aware of a similarly situated state that operates a Board of State Canvassers the same way Michigan does. Accordingly, the rules do not exceed standards in any other state.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The proposed rules do not duplicate, overlap, or conflict with any laws, rules, or other legal requirements.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The rules have not been coordinated with other federal, state, and local laws as there are none applicable to the same activity or subject matter.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules are intended to explain the organization and operating procedures of the Board of State Canvassers. The only potential impact on behavior stemming from the proposed rules is that the rules specify a deadline for submission of materials to the board. Application of a deadline is not designed to alter the frequency of any behavior; however, it might alter behavior in that it is intended to alter the timing of when materials are submitted to the board.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The department does not estimate that the frequency of material submission will be changed, but it does estimate that materials will be submitted to the board no later than 48 hours before the relevant meeting in response to the proposed rule's addition of that deadline.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, there is no clear deadline for the submission of materials to the board and once the proposed rules are adopted materials will be submitted no later than 48 hours before the relevant meeting.

C. What is the desired outcome?

The desired outcome is submission of materials on a timeline that allows for adequate review and consideration of materials. Once the proposed rules are adopted, the rules will require materials to be submitted in a timeframe that makes it possible for the board to adequately review any relevant material before meeting to address it. This will ensure accurate and informed decisions by the board and provide clarity to individuals who want to present material to the board for its consideration.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The current rules do not include a deadline for submission of materials and the harm this causes is that sometimes material will be presented to the board so close to the meeting at which the subject matter that is relevant to the material is being discussed that the board is unable to adequately review and respond to the material. Without a clear deadline for presentation of material, untimely material is likely to continue to be submitted. Further, the current rules do not reflect current technology or accurate contact information for the board, and without amendment the rules will continue to reflect old technology and inaccurate contact information.

A. What is the rationale for changing the rules instead of leaving them as currently written?

As described in number 5, the current rules reference old technology, inaccurate contact information, and lack a necessary deadline for material submission.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules would reflect current technology, contact information, and alleviate the possibility of confusion and conflict by clearly explaining the board's processes and material deadline. The rules do not address health and safety, but it promotes citizens' welfare to have accurate rules and clear guidelines.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The proposed rules amend sections of the ruleset to reference current technology and accurate contact information instead of rescinding them.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

It is not expected that the promulgation of rules will have a fiscal impact on the agency promulgating the rules or the Department of State.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made, and no funding source has been provided, as it is not anticipated that the Department of State will have any expenditures associated with the proposed rules.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are necessary to update technological references, contact information, and board procedures and are not expected to place any additional fiscal or administrative burdens on individuals.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There are no identified burdens.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no estimated increases or decreases in revenue to other state or local governmental units. There are no estimated increases or reductions in cost to other state or local governmental units. The estimated cost of equipment, supplies, labor, and administrative costs in either the initial imposition or any ongoing monitoring is zero – there are no anticipated costs.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not change any program, service, duty or responsibility imposed upon any city, county, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

It is not anticipated that governmental units would need to take any additional actions under the proposed rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

An appropriation has not been made because additional expenditures associated with the rules are not anticipated.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules should have no impact on public or private interests in rural areas.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will not have an impact on the environment.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules do not apply to small businesses.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules do not apply to small businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The proposed rules do not apply to small businesses.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed rules do not apply to small businesses and will not have an impact on their reporting requirements.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses as the proposed rules do not apply to small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules do not apply to performance, design, or operation standards.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules do not apply to small businesses.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no costs of compliance as the proposed rules do not apply to small businesses.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no estimated costs to the agency for administration or enforcement against small businesses as the proposed rules do not apply to small businesses.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules do not apply to small businesses so there should be no impact on the standards of compliance.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The agency has not involved small businesses in the development because the proposed rules do not apply to small businesses.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved because the proposed rules do not apply to small businesses.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

It is not anticipated that there will be any statewide compliance costs on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The Board of State Canvassers is directly affected by, bears the cost of, and directly benefits from the proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There will be no costs imposed as a result of the proposed rules. It is anticipated that the rules can be followed with the current funding.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

It is not anticipated that there will be any actual compliance costs of the proposed rules on individuals or the public.

A. How many and what category of individuals will be affected by the rules?

Any individual who interacts with the Board of State Canvassers will be affected by the rules since they set out that board's operating procedures and contact information.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The qualitative impact is that the rules will accurately reflect the board's contact information, reference current technology, and provide greater clarity about the board's operation. There will be no quantitative impact.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The direct benefits of the proposed rules are that the rules will accurately reflect the board's contact information, reference current technology, and provide greater clarity about the board's operation. The agency assumes that secondary or indirect benefits will be greater confidence in the board and greater understanding of the board's operations. All benefits are qualitative, the agency does not anticipate any quantitative benefits as the rules do not affect the quantity of anything.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not impact business growth and job creation or elimination in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

It is not anticipated that any individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The agency relied upon the current practices of the Board of State Canvassers, as well as comments provided by the board members and members of the public at board meetings. The agency relied upon agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The agency relied upon agency staff and its regulatory and administrative experience to determine the impact of the proposed rules. The proposed rules mainly update objective items that did not require assumptions such as new technology that is available and new contact information for the board. The agency relied on its experience with material submission to determine the appropriate material submission deadline. No reports or other specific information from outside associations or organizations were utilized.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

In order to accurately convey the board's operations and current contact information, there is no reasonable alternative to achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments may be necessary. The only way to achieve the same or similar goals of accurately conveying the board's operations and contact information is to amend its procedural rules.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

A regulatory program established by a private third-party is not feasible because the subject of the rules concerns the Board of State Canvassers and its administration of elections. The agency is not aware of a private market-based system, as opposed to a state regulatory body for these purposes, utilized in other states.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

Due to the nature of regulating the manner of elections and the operation of the Board of State Canvassers, no significant alternatives to reasonable regulation were considered during the development of the proposed rules.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules explicitly inform persons of requirements and methods of compliance.