



February 24, 2021

## **FACT SHEET - REVISED**

### **ELECTION NOVEMBER 2020 IN MICHIGAN**

In November 2018, 2020, the League of Women Voters of Michigan, ACLU of Michigan, NAACP Detroit Branch, NAACP MI State Conference, and the Michigan League for Public Policy spearheaded a ballot initiative to add new voting policies to the Michigan Constitution. The voters passed the Promote the Vote ballot proposal, Proposal 18-3, by 68% to 32%.<sup>i</sup> It passed in 80 of the 83 counties.

The new changes took effect immediately and the November 2020 election was the largest election held since the changes were adopted. Please note, if changes in the constitutional amendment were proposed, a majority of MI voters would have to approve them.<sup>ii</sup>

The major changes implemented with passage of Promote the Vote amending the Michigan Constitution and new laws passed by the Michigan Legislature and signed by the Governor include:

1. Protect the right to vote a secret ballot.
2. Ensure military service members and overseas voters get their ballots at least 45 days before the election.
3. Provide voters with the option to vote straight party.
4. Automatically register citizens to vote when interacting with the Secretary of State's office unless citizen declines.
5. Allow a citizen to register to vote by mail until 15 days before an election,
6. Provide that eligible persons can register to vote in person at a clerk's office during the final 14 days before the election and on election day.
7. Provide all registered voters access to an absentee ballot for any reason for 40 days prior to the election.
8. Ensure the accuracy and integrity of elections by auditing election results.
9. Provide on-line voter registration if you have a valid driver's license or personal identification card. (PAs 603-607 of 2018)
10. Require 15% of the signatures on a ballot petition to be counted from a single congressional district and other requirements on petition drives. (PA 608 of 2018)
11. Allow the return envelope for absentee ballots to be removed the day before the election in certain jurisdictions. (PA 177 of 2020)
12. Allow the establishment of Absent Voter (AV) Counting Boards in certain jurisdictions. (PA 95 of 2020)<sup>iii</sup>

## The November 2020 Election

On Tuesday, November 3, 2020, 5,579,317 million citizens voted in Michigan's election out of 8.1 million registered voters. Approximately 68% of Michigan residents aged 18 and older voted in the election, 51% in Detroit. All but one of the 83 counties saw an increase in voting.<sup>iv</sup> The results showed 2,804,040 or 50.6% voted for Biden and 2,649,852 or 47.8% voted for Trump.

In November 2016, 4,874,619 ballots were cast out of 7.5 million registered voters. Approximately 63% of Michigan residents aged 18 and older voted in the election, 49% in Detroit. The vote for president was closer 2,279,543 or 47.5% for Trump and 2,268,839 or 47.27% for Clinton A difference of 10,704 in 2016 and of 154,188 in 2020.<sup>v</sup>

In Michigan, voter turnout in 2020 increased by 8.7%, compared to 2016. Nationally, about two-thirds of eligible voters voted, possibly the highest percentage since the 1960s.<sup>vi</sup>

**Voter Registration** Lawsuits were filed to challenge the number of qualified voters in Michigan. On December 10, 2019, the Public Interest Legal Foundation filed a lawsuit against the Detroit Clerk alleging the clerk is not purging voters that should be removed from the rolls. (*Public Interest Legal Foundation v Winfrey*). The League of Women Voters of Michigan and LWV of Detroit were granted the motion to intervene in the case in May. On June 30, 2020, the plaintiffs withdrew the case.<sup>vii</sup> On June 9, 2020, Daunt, filed a lawsuit (*Daunt v Benson*) alleging the Department of State and 16 counties were in violation of the National Voter Registration Act of 1993 by maintaining voter registration rolls that are unnaturally high. On September 14, 2020, the League of Women Voters of Michigan and five local Leagues (Grand Traverse, Leelanau, Ann Arbor, Copper Country, Oakland Area) filed to intervene in the case. On September 28, 2020, the court granted the League's motion to intervene. The case was dropped on February 12, 2021.<sup>viii</sup>

**Absentee Voting** Perhaps necessitated by the COVID pandemic, Michigan voters took advantage of the access to no-reason absentee ballots available 40 days prior to the election in record numbers. In May 2020, Secretary of State Benson announced she would mail all registered voters an absentee ballot application prior to the primary and general elections. Three lawsuits (*Davis v Secretary of State, Cooper-Keel v Secretary of State and Black v Secretary of State*) were filed in the Michigan Court of Claims to stop the mailing and seeking a preliminary injunction. The cases were consolidated. On June 18, 2020, Judge Cynthia Diane Stephens denied a preliminary injunction that the cases requested.<sup>ix</sup> She later ruled the mailing was legal, that decision was upheld by the Court of Appeals. The MI Supreme Court said it would not take the case. Secretary of State Benson mailed every registered voter an absentee ballot application.<sup>x</sup>

In 2020, about 3.3 million, or 57% of total ballots cast were absentee. 3,480,651 mail-in ballots were requested and 3,263,852 mail-in and early in-person ballots were returned, over 90%. In 2016, 1.3 million, or 26% of total ballots cast were absentee.<sup>xi</sup>

Although the Legislature passed PA 177 of 2020 allowing the return envelope for absentee ballots to be removed the day before the election, the huge increase in absentee ballots cast created processing problems despite the new law allowing more AV Boards. Of the 1520

jurisdictions in Michigan, 51 of 72 eligible jurisdictions removed the return envelope on Monday prior to the election day, including Detroit, Lansing, Ann Arbor, Flint and Kalamazoo. PA 177 allowed cities with 25,000 or more residents to preprocess the absentee ballots but only for the November 2020 election.<sup>xii</sup>

According to the Secretary of State, 15,300 of the 3.3 million absentee ballots were rejected for a variety of reasons. 3,328 were rejected because the ballot arrived after 8 p.m. on election day, November 3, 2020.<sup>xiii</sup> Earlier in May of 2020 following the May 5, 2020 election, the League of Women Voters of Michigan and others filed a lawsuit (*League of Women Voters of Michigan, Deborah Bunkley, Betsy Cushman, and Sue Smith and ACLU*) against SOS Benson to support ballots postmarked on election day should be counted when they are received. In July of 2020, the Court of Appeals ruled that the Legislature would have to make that change.<sup>xiv</sup>

**Same Day Registration** On election day, more than 28,000 registrations were reported across the state out of over 8.1 million registered voters.<sup>xv</sup>

**Audit** The state also completed risk-limited random audits of the 5.5 million voters by randomly selecting 18,000 ballots from the 1520 jurisdictions and hand-counting them. In addition, 200 local procedural audits were conducted.<sup>xvi</sup>

**Overview** There is no statewide data available by gender or race yet. At the national level there was a slight increase in the gender gap with women voting 56–43 for Biden, and 57% of whites voting for Trump and African Americans, Latinos and Asian Americans voting for Biden.<sup>xvii</sup>

**Costs** Election costs rose for election jurisdictions in Michigan, primarily because of the need to hire more people to process absentee ballots. In March 2020, the federal government allocated \$400 million to states for additional election costs due to COVID. The Center for Tech and Civic Life of Chicago, funded by Mark Zuckerberg and Priscilla Chan, donated \$350 million to help ensure they have the critical resources they needed to safely serve every voter in 2020.<sup>xviii</sup> The Center gave grants to 473 Michigan elections departments and 2,500 nationwide.<sup>xix</sup>

**Election Lawsuits** Of the over 60 lawsuits filed nationally claiming fraud or misconduct in the elections, Michigan had more than its share of lawsuits. One case is still pending. Below is a list of major Michigan lawsuits.

- 1) *Donald J. Trump for President, Inc. et al. v Benson* – claimed lack of access for Republican poll watchers and unlawful denial of access to video recordings of absentee ballot drop boxes to stop election count. Rejected by the MI Supreme Court.
- 2) *Stoddard et al. v City Election Commission et al.* – claimed that Democratic Party inspectors at the TCF Center improperly duplicated ballots. Rejected by the Wayne County Circuit Court
- 3) *Costantino et al v. City of Detroit et al* – argued that widespread election fraud and misconduct took place at the TCF Center. Rejected by Wayne County Circuit Court and MI Court of Appeals and MI Supreme Court refused to reverse.

- 4) *Bally et al v Whitmer et al.* - alleged voter fraud and tried to get votes from Wayne, Washtenaw and Ingham blocked from certification. Voluntarily withdrawn.
- 5) *Donald J. Trump for President, Inc. et al v Benson et al* – alleged campaign fraud with over 100 affidavits to prevent certification. Voluntarily withdrawn.
- 6) *Johnson et al v Benson et al (U.S. District Court for Western District)* – alleged SOS had violated her authority by mailing out applications for absentee ballots and misconduct at TCF Center. Voluntarily withdrawn.
- 7) *Bailey v Antrim County* – alleged Antrim County’s election equipment was compromised. Forensic imaging done on tabulators. Pending before 13<sup>th</sup> Circuit Court Judge.<sup>xx</sup>
- 8) *King et al v. Whitmer et al* – requested court to force Governor Whitmer to overturn election results and award the state to Trump. U.S. District Judge Parker denied and appealed to the U.S. Appellate Court for the 6<sup>th</sup> Circuit. On January 11, 2021, the U.S. Supreme Court denied motion to expedite consideration. On February 22, 2021, the U.S. Supreme Court denied the petition.<sup>xxi</sup>
- 9) *Johnson et al v Benson et al* – petitioned MI Supreme Court to require an audit, seize ballots, investigate fraud and an injunction from certification. Requests denied by the MI Supreme Court.
- 10) *Leaf et al v. Whitmer et al* – sued in U.S. District Court in Grand Rapids alleging fraud and asking for restraining order so election orders not deleted. Chief District Judge denied the request and case was voluntarily withdrawn.<sup>xxii</sup>
- 11) *State of Texas v Commonwealth of Pennsylvania, State of Georgia, State of Michigan and State of Wisconsin* – sued in federal court to stop certification in swing states, including Michigan. Four MI Republican Congressman and 15 members of the Michigan House of Representatives joined the lawsuit.<sup>xxiii</sup> Rejected by the U.S. Supreme Court.

On January 28, 2021, Attorney General Nessel filed motions on behalf of Governor Whitmer and Secretary of State Benson for sanctions against the attorneys who brought some of the lawsuits to overturn the elections.<sup>xxiv</sup>

**Fact Checks** The Secretary of State has provided a site with Fact Checks available at [SOS - Fact Checks \(michigan.gov\)](https://sos.michigan.gov). The site has information about claims of “dead people voting” and other issues.<sup>xxv</sup>

**Summary** While there was much controversy about the presidential election, there was almost none about the statewide or local races. U. S. Senator Gary Peters (D) won re-election, the U. S. Representatives split with seven Republicans and seven Democrats. The Michigan Supreme Court became Democratic and the State Board of Education, MSU Board of Trustees, Wayne State University Board of Governors, U of M Board of Regents are a majority Democratic. Of the 110 races in the Michigan House of Representatives, 58 were won by the Republicans and 52 by the Democrats. Both statewide ballot proposals passed, Proposal 1- revising the formula for how state and local park funds from trusts can be spent and Proposal 2 -requiring a search warrant to access a person’s electronic data.<sup>xxvi</sup>

The League of Women Voters of Michigan Education Fund (LWVMIEF) provided nonpartisan election information through voter guides and VOTE411. Over 613,000 Michigan people used

VOTE411 more than 800,000 times from the January special elections through the November general election, an increase of 51% since 2018. LWVMIEF also distributed over 110,000 printed voter guides, and some local Leagues distributed local voter guides. In addition, LWVMI developed an observer program that covered half of the county Board of Canvassers' election certification process and more than 250 people participated. <sup>xxvii</sup>

Three of the four Michigan Board of Canvassers voted to certify the election results on November 23, 2020. Later, on January 19, 2021, the Republican Canvasser, Aaron Van Langefeld, who voted to certify the election was removed and replaced with Tony Daunt. <sup>xxviii</sup>

On December 14, 2020, in a closed Capitol, sixteen Democratic electors for the electoral college cast their votes for Biden. Republican electors tried to enter the Capitol from a side door and were blocked. <sup>xxix</sup>

Numerous demonstrations in Michigan took place starting with the "Stop the Vote" rallies outside of the TFC Center on November 4 and continuing through January 6 outside the state Capitol. These demonstrations took place after thirteen Michigan militia members were charged with a plot to kidnap Governor Whitmer on October 8. <sup>xxx</sup> On November 20, 2020, the House Speaker Lee Chatfield, Senate Majority Leader Mike Shirkey, and other Republicans met with President Trump at the White House. On December 5, 2020, demonstrations took place outside the home of Secretary of State Benson. <sup>xxxi</sup>

Following the aftermath of the pro-Trump insurrection at the U.S. Capitol on January 6, 2021, the U.S. Congress certified the election results declaring Biden as President in the early hours of January 7, 2021.

Despite the COVID pandemic, the problems with the postal service and the numerous lawsuits that were filed, Secretary of State Benson states Michigan's election was conducted fairly and securely, and the results accurately reflect the will of Michigan voters.

### **Secretary of State Legislative Agenda:**

On February 1, 2021, Secretary of State Jocelyn Benson announced her legislative agenda for elections, Advancing the Vote, Protecting Democracy, to expand voter accessibility and further strengthen the infrastructure and security of Michigan elections. <sup>xxxii</sup> [SOS - Advancing The Vote, Protecting Democracy \(michigan.gov\)](https://sos.michigan.gov/advancing-the-vote-protecting-democracy)

The Legislative Agenda includes:

- Require absentee ballot applications be mailed to registered voters every federal election cycle.
- Mandate ballots postmarked by Election Day and received shortly after are counted.
- Establish early in-person voting.
- Make Election Day a state holiday to facilitate voting and make it easier for citizens to serve as election workers.
- Allow overseas service members and spouses to return their ballots electronically.
- Require translated election materials where a significant non-English-speaking community lives.

- Provide funds to ensure voting locations are ADA-compliant and establish curbside voting.
- Allow processing of absentee ballots two weeks prior to Election Day.
- Prohibit deceptive election practices that deter or mislead voters.
- Prohibit open carry of firearms within 100 feet of a voting location.
- Mandate training standards for election challengers and election workers; and,
- Require a statewide risk-limiting audit of election results prior to state certification.

### **The Michigan House of Representatives Election Legislation**

In November and December, the Michigan House of Representatives Oversight Committee chaired by Representative Matt Hall held hearings on the November election. Three of the four meetings were held jointly with the Senate Oversight Committee to issue subpoenas for information from the Bureau of Elections, Clerk of Detroit, and Clerk of Livonia and to hear testimony from the Kent County, Ingham County and Antrim County Clerks. The December 2, 2020, meeting was a hearing with Rudy Giuliani from President Donald J. Trump’s legal team presenting testimony and various people testifying about election activities they saw.<sup>xxxiii</sup> No report was published.

On February 9 and 16, 2021, the House Elections and Ethics Committee posted a meeting on the following bills:

1. HB 4127 (Rep. Hall) Provide procedure to remove certain electors listed on the qualified voter file with unknown birth dates.
2. HB 4128 (Rep. Calley) Provide procedure to remove certain electors who have not voted since 2000 listed on the qualified vote file if they don’t respond to a post card asking for address verification.
3. HB 4129 (Rep. Marino) Post list of local clerks who are not current with continuing election education training on the SOS website.
4. HB 4132 (Rep. Wendzel) Would change penalty for knowingly providing false information on an absentee ballot application from a misdemeanor to a felony.
5. HB 4133 (Rep. Bollin) which is tie-barred to HB 4132, would classify all three violations added to the Election Law by HB 4132 as Class E felony offenses punishable by a statutory maximum of five years imprisonment.
6. HB 4134 (Rep Bollin) Allow precinct consolidation by increasing the maximum number of electors in a precinct from 2999 for certain elections.
7. HB 4135 (Rep. Bollin) Allow absent voting counting boards in cities and townships with more than one election precinct.

The League of Women Voters of MI will monitor the bills and keep members informed.

### **The Michigan Senate Oversight Committee**

Since November, the Michigan Senate Oversight Committee chaired by Senator Ed McBroom held nine meetings on the November election, three were joint with the House Oversight Committee to issue subpoenas and to hear testimony from the Kent County, Ingham County and Antrim County Clerks.

The committee heard testimony about absentee ballot counting at the TFC Center from individuals and Chris Thomas, former Director of MI Election Bureau and Senior Elections Advisor for the City of Detroit. Representatives from the Dominion Voting Systems and Election Systems and Software testified. An Ingham County Board of Canvasser and a Wayne County Board of Canvasser provided testimony. Clerks from Ingham County, Kent County, who had previously testified, and the City of Lansing and Grand Rapids also testified at the last hearing.

The Senate Oversight Committee plans to issue a report in a couple of months with recommendations for reform.<sup>xxxiv</sup>

### **The Republican State Leadership Commission (RSLC) on Election Integrity**

On February 17, 2021, the national RSLC announced a commission to restore confidence in the integrity of their elections by convening policymakers to share and discuss current law and future reforms that “make it easier to vote and harder to cheat.” The commission is co-chaired by Alabama Secretary of State John Merrill and Michigan State Senator Ruth Johnson. The key principles are empowering states, ensuring voter roll accuracy, securing absentee/mail-in voting, increasing transparency for in-person voting, streamlining the canvassing process.<sup>xxxv</sup> Over 165 restrictive voting bills have been introduced in thirty-three states according to the Brennan Center for Justice.<sup>xxxvi</sup>

### **League of Women Voters of Michigan**

The League of Women Voters of Michigan’s Advocacy Committee Chair is monitoring the Oversight and Election Committees and will be reviewing legislative proposals as they are introduced. If the League votes to take action on the proposals, members will be contacted, and further information will be distributed.

Judy Karandjeff, LWVMI Advocacy Chair

*If anyone has corrections or additions, please let me know – [jkarandjeff44@aol.com](mailto:jkarandjeff44@aol.com)*

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<sup>i</sup> Michigan Department of Secretary of State

<sup>ii</sup> MI Constitution

<sup>iii</sup> Michigan Legislature

<sup>iv</sup> Mlive, 11/5/2020

<sup>v</sup> Michigan Department of Secretary of State

<sup>vi</sup> Pew Research Center

<sup>vii</sup> Brennan Center

<sup>viii</sup> Brennan Center

<sup>ix</sup> Detroit Free Press 7/18/20

<sup>x</sup> Detroit Free Press 9/7/20 and 12/29/20

<sup>xi</sup> New York Times, Updated 11/12/20

<sup>xii</sup> Michigan Legislature

<sup>xiii</sup> Michigan Department of Secretary of State

<sup>xiv</sup> ACLU website

<sup>xv</sup> Detroit Free Press 11/4/2020

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- xvi Michigan Department of Secretary of State
  - xvii The Guardian 11/5/2020
  - xviii Center for Tech and Civic Life of Chicago
  - xix Bridge Magazine 1/4/21
  - xx MI Attorney General 1/11/2021
  - xxi U.S Supreme Court
  - xxii Detroit Free Press 12/11/20
  - xxiii CNBC 12/8/20
  - xxiv Gongwer News Service 1/28/2021
  - xxv Michigan Department of Secretary of State
  - xxvi Michigan Department of Secretary of State
  - xxvii LWVMI League Links
  - xxviii FOX 2 News
  - xxix Gongwer
  - xxx CNN
  - xxxi Mlive
  - xxxii Michigan Department of Secretary of State
  - xxxiii MI House of Representatives
  - xxxiv MI Senate
  - xxxv Republican State Leadership Commission
  - xxxvi Brennan Center for Justice