

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

State

2. Bureau:

Elections & Campaign Finance

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Use of Electronic Pollbook

5. Rule numbers or rule set range of numbers:

168.41 – R 168.51

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The purpose of these rules is to clarify rules regarding the electronic pollbook, given technological advances, the introduction of early voting and the early voting pollbook, and the security benefits of real time connection with the Qualified Voter File.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 168.31(1)(a) provides that the secretary of state shall “issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.”

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 168.31.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 168.31(1)(a) provides that the secretary of state shall “issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.” Because these rules pertain to the use of the electronic pollbook--a vital tool in conducting elections in Michigan--they fall under this section.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with any similar rules, requirements, or standards. The proposed rules do not explicitly duplicate any similar rules, compliance requirements, or other standards but they do update the interpretation of the electronic pollbook download in MCL 168.668b of the Michigan Election Law to account for technological and security advances and the use of live connectivity for the early voting pollbook in 2024.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The early voting subject matter is in the Bureau publication Early Voting Electronic Poll Book (EV EPB) Manual.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rules are not listed on the department's 2024 annual regulatory plan.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

Yes. Following the success of the EV EPB during the 3 elections for which it was used in 2024, the Bureau of Elections convened a Lean Process Improvement (LPI) workshop to identify successes, opportunities for improvement, and ways the Election Day EPB (ED EPB) could more closely align with the EV EPB. Prior to the LPI, a survey was sent to clerk staff and over 350 stakeholders responded. The LPI also included 13 expert participants who serve as clerks, deputy clerks, and clerk staff in cities and townships around Michigan. The recommendation of the LPI, supported overwhelmingly by survey responses, was that all EPBs have live connectivity like the EV EPB.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The proposed rules do not amend existing rules.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, there are no changes or developments because the rules do not amend existing rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.