

In answer to your inquiry, then, it is the opinion of the Attorney General that Article V, section 29 of the Revised Constitution is self-executing and confers upon the Civil Rights Commission plenary power within its sphere of authority which includes securing equal protection of civil rights in the fields of employment, education, housing and public accommodations.

FRANK J. KELLEY,
Attorney General.

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ELECTIONS: Board of Canvassers, bipartisan membership required by the 1963 Constitution.

CONSTITUTIONAL LAW: Article II, Sec. 7, Constitution of 1963.

WORDS AND PHRASES: "Any board of Canvassers"

The requirements of Article II, Section 7 of the 1963 Constitution are applicable to every board of canvassers which under statutory or charter provision is charged with the duty of canvassing the votes cast at any election.

No. 4189

July 24, 1963.

Honorable Russell H. Strange
Chairman, Elections Subcommittee
Legislative Interim Committee on
Implementation of the Constitution
R.F.D. No. 1
Clare, Michigan

Your letter dated July 9, 1963, cites Article II, Section 7 of the Revised Constitution, which reads:

"A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party."

Referring to the last sentence of said section, you request my opinion:

"* * * as to the scope of the word 'any'—i.e. does it include boards of canvassers in counties, cities, villages, townships, school districts, etc?"

Resort has been had to the record of the Proceedings of the 1961 Constitutional Convention as a means of determining the intent of the delegates.¹ Section 7 originated as section h of Committee Proposal No. 58,

¹ *Holland vs. Clerk of Garden City*, 299 Mich. 465, 470. *Kearney vs. Board of State Auditors*, 189 Mich. 666, 671, 673, quoted with approval in *School District of City of Pontiac vs. City of Pontiac*, 262 Mich. 338, 346 and in *City of Jackson vs. Commissioner of Revenue*, 316 Mich. 694, 720.

and read as introduced by the Committee on Declaration of Rights, Suffrage and Elections,² as follows:

"A board of state canvassers consisting of 4 members shall be established by law. No candidate for an office to be canvassed by the board shall be eligible to serve as a member of said board. A majority of the board shall not be composed of adherents of the same political party."

The committee comment³ with respect thereto read:

"This section adopts without change the language of Article III, section 9.⁴ The Committee considered Delegate Proposals to increase the membership of the Board of State Canvassers, but in view of the general satisfaction with the work of the Board as presently constituted, has concluded that no change is needed."

During consideration of this section by the Committee of the Whole, motion was made to amend by striking out all of section h upon the ground that the establishment and composition of the board of state canvassers could well be left to the legislature, and would not require constitutional provision.⁵ That amendment was defeated. Thereupon a second amendment was offered by the same delegate to substitute the following in lieu of section 2 of Committee Proposal No. 58:

"No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers; nor shall a majority of any board of canvassers be composed of adherents of the same political party."⁶

During the debate upon this amendment a substitute therefor was adopted which retained the first sentence of section h as reported by the committee and inserted the language last above quoted in lieu of the balance of the section.⁷ The substitute amendment was adopted.⁸

Following consideration of this section by the Committee of the Whole, the same was referred in accordance with the rules of the convention to the Committee on Style and Drafting. As reported to the convention by that

² Official Record, Constitutional Convention 1961, Sixty-ninth day, January 31, 1962, p. 724, referring to one hundred sixteenth day, April 6, 1962, p. 2213, et seq., at which the Committee Proposal and its comments with respect thereto are printed.

³ Official Record, Constitutional Convention 1961, one hundred sixteenth day, April 6, 1962, p. 2215.

⁴ Originally certain state administrative officers served ex-officio as a board of state canvassers. Article VI, Section 20, of the 1908 Constitution. This section was amended and Article III, Section 9, was added by an amendment ratified at the election held on April 4, 1955.

⁵ Official Record, Constitutional Convention 1961, one hundred eighteenth day, April 10, 1962, p. 2267.

⁶ Official Record, Constitutional Convention 1961, one hundred eighteenth day, April 10, 1962, p. 2269.

⁷ Official Record, Constitutional Convention 1961, one hundred eighteenth day, April 10, 1962, p. 2270.

⁸ Official Record, Constitutional Convention 1961, one hundred eighteenth day, April 10, 1962, p. 2271.

Committee⁹ minor changes had been made in the wording and with one further minor change it was adopted as Article II, Section 7 of the 1963 Constitution, first above quoted.

We are here primarily concerned with the reasons prompting the delegates to adopt the above quoted language restricting the composition of boards of canvassers. I quote from the statement¹⁰ made by the author of the original amendment at the time the same was offered.

“MR. HUTCHINSON: Mr. Chairman, I offer this amendment in the form of a substitute to section h because the committee this morning determined very decisively that there is room in the constitution for some rules relative to boards of canvassers. The trouble with section h as it stands is that it applies only to a state board of canvassers and I can see that the principles, the restrictions, the guides that are written in there are valid ones, that the board of canvassers should not be composed of adherents of a political party; that is, that the 2 major parties, at least, should have equal representation on such a board. I also think it is a sound proposition that a candidate for office should not be eligible to serve as a member of the board of canvassers canvassing the vote at which he is elected. I also believe that it would be a sound proposition to say that an election inspector, one who sits on a board of election inspectors, ought not to, on the day following, sit as a member of the board of canvassers.

“Now, these principles we recognize to be sound insofar as the state board of canvassers is concerned. They should be equally sound for a county board of canvassers *or a local board of canvassers*. Therefore, my present amendment, as a substitute for the present section h, is to extend these principles *to all the canvassing activity in the state* and not simply to write it so far as the state board is concerned, but to make these same principles apply to county boards and *to local boards*. For that reason, I would ask the support of the amendment now before you.” (Emphasis supplied)

It will be noted that after referring specifically to certain principles set forth in Article II, Section 7, the delegate observed that such principles were then recognized as being sound insofar as the board of canvassers was concerned, and expressed the opinion that:

“* * * They should be equally sound for a county board of canvassers or a local board of canvassers. * * *”

The purpose of the amendment, said he, was:

“* * * to extend these principles to all the canvassing activity in the state and not simply to write it so far as the state board is concerned, but to make these same principles apply to county boards and to local boards. * * *”

⁹ Official Record, Constitutional Convention 1961, one hundred twenty-ninth day, April 26, 1962, p. 2892.

¹⁰ Official Record, Constitutional Convention 1961, one hundred eighteenth day, April 10, 1962, p. 2269.

In addition to the board of state canvassers and the several boards of county canvassers¹¹ there are presently bodies which are designated to serve as a board of canvassers in a township,¹² city,¹³ and village¹⁴ elections and at least in registration districts, in school elections.¹⁵ As provided by the above cited statutory provisions membership upon a board of canvassers is frequently ex-officio to another office to which the incumbent has been either elected or appointed. In some instances election to the latter office is had at a nonpartisan election. This would be true in the case of a school district, as well as in various cities and villages. However, there is nothing in either the language of section 7 or the record of the Proceedings of the 1961 Constitutional Convention with respect thereto indicative of an intention to exempt any such board of canvassers from the limitations prescribed by that section. On the contrary, the use of the adjective "any" which precedes and modifies the term "board of canvassers" negates any such intention.

"* * * 'any' means 'every,' 'each one of all.' * * *"16

"* * * *Any* court of record means *every* court of record. * * *"17

It is the opinion of the Attorney General that the term "any board of canvassers" should be construed as referring to *every* board of canvassers, which under the applicable statutory or charter provision is charged with the duty of canvassing the votes cast at any election. Therefore, your question is answered in the affirmative.

FRANK J. KELLEY,
Attorney General.

¹¹ Sections 24a to 24f, inclusive, of Act No. 116, P.A. 1954, the Michigan election law, as added by Act No. 237, P.A. 1963, effective September 6, 1963, by which section 24, being Mason's 1961 Supp. § 168.24, M.S.A. 1956 Rev. Vol. § 5.1024 was repealed and superseded.

¹² Mason's 1961 Supp. § 168.26, M.S.A. 1956 Rev. Vol. § 6.1026.

¹³ M.S.A. 1961 Cum. Supp. § 6.1025.

¹⁴ M.S.A. 1961 Cum. Supp. § 6.1027.

¹⁵ M.S.A. 1961 Cum. Supp. § 15.3537.

¹⁶ *Hopkins vs. Sanders*, 172 Mich. 227, 237, quoted with approval in *Harrington vs. Inter-State Business Men's Accident Ass'n.*, 210 Mich. 327, 330.

¹⁷ *Attorney General ex. rel. Danhof vs. Renihan*, 184 Mich. 272, 279, likewise quoted with approval in *Harrington*, supra.