

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

VOTING MACHINES

168.770 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to contracts between governing bodies as to use of voting machines.

Popular name: Election Code

168.770a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to petition for use of voting device.

Popular name: Election Code

168.771 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to purchase of voting machines.

Popular name: Election Code

168.771a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to criteria for selection of electronic voting system.

Popular name: Election Code

168.772 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to construction and operation of voting machine.

Popular name: Election Code

168.773 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to maintenance and custody of voting machine and uniform voting system.

Popular name: Election Code

168.774 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to contract for purchase of voting machine.

Popular name: Election Code

168.775 Repealed. 2017, Act 113, Eff. Oct. 25, 2017.

Compiler's note: The repealed section pertained to requirements relating to ballot labels.

Popular name: Election Code

168.776 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to supplies and equipment.

Popular name: Election Code

168.777 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to delivery of voting machine model.

Popular name: Election Code

168.778 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to control of voting machines by clerk.

Popular name: Election Code

168.779 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to qualifications of election inspectors.

Popular name: Election Code

168.780 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.

Compiler's note: The repealed section dispensed with all clerks and gatekeepers in any city, village or township where voting machines were used.

Popular name: Election Code

168.781 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to duties of election inspectors and poll clerks.

Popular name: Election Code

168.782 Repealed. 1966, Act 62, Imd. Eff. June 9, 1966.

Compiler's note: The repealed section pertained to irregular and emergency ballots.

Popular name: Election Code

168.782a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to voting for more write-in candidates than space on machine.

Popular name: Election Code

168.782b Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to emergency ballots.

Popular name: Election Code

168.783 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to challenge of voter right to vote.

Popular name: Election Code

168.784 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to casting of irregular ballot.

Popular name: Election Code

168.785 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to location of voting machines.

Popular name: Election Code

168.786 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to secrecy during voting and time limits.

Popular name: Election Code

168.787 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to concealment of keyboard.

Popular name: Election Code

168.788 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to locking and unlocking of voting machines.

Popular name: Election Code

168.789 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to instructions by inspector.

Popular name: Election Code

168.790 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to defacing or altering voting machines or labels.

Popular name: Election Code

168.791 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to reading and announcing vote.

Popular name: Election Code

168.791a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to printer type voting machines.

Popular name: Election Code

168.792 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to discrepancy in returns.

Popular name: Election Code

168.792a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to absent voters counting boards.

Popular name: Election Code

168.792b Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.

Compiler's note: The repealed section pertained to inapplicability of MCL 168.792a in presidential primary elections.

Popular name: Election Code

168.793 Repealed. 2018, Act 123, Eff. Dec. 31, 2018.

Compiler's note: The repealed section pertained to inspectors' statement forms.

Popular name: Election Code

168.794 Definitions used in MCL 168.794 to 168.799a.

Sec. 794. As used in sections 794 to 799a:

(a) "Audit trail" means a record of the votes cast by each voter that can be printed, recorded, or visually reviewed after the polls are closed. The record shall not allow for the identification of the voter.

(b) "Ballot" means a card, ballot label, paper ballot, envelope, or any medium through which votes are recorded.

(c) "Ballot label" means the display or material containing the names of offices and candidates or the questions to be voted on.

(d) "Counting center" means 1 or more locations selected by the board of election commissioners of the city, county, township, village, or school district at which ballots are counted by means of electronic tabulating equipment or vote totals are electronically received from electronic tabulating equipment and electronically compiled.

(e) "Electronic tabulating equipment" means an apparatus that electronically examines and counts votes recorded on ballots and tabulates the results.

(f) "Electronic voting system" means a system in which votes are recorded and counted by electronic tabulating equipment.

(g) "Escrow account" means a third party approved by the secretary of state for the purpose of taking custody of all source codes, including all revisions or modifications of source codes.

(h) "Source code" means the assembly language or high level language used to program the electronic voting system.

(i) "Voting device" means an apparatus that contains the ballot label and allows the voter to record his or her vote.

(j) "Voting station" means an enclosure provided to ensure ballot secrecy during the voting of the ballot.

(k) "Memory device" means a method or device used to store electronic data.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township,

village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

Popular name: Election Code

168.794b Electronic voting system; manner of payment.

Sec. 794b. If federal funding or state funding is not available, the board of commissioners of a county, the legislative body of a city, or the township board of a township, on the adoption and acquisition of an electronic voting system, shall provide for all or the balance of the payment for the system.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2018, Act 123, Eff. Dec. 31, 2018.

Popular name: Election Code

168.794c Applicability and construction of provisions; rules.

Sec. 794c. The provisions of sections 794 to 799a control with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose of the provisions. A provision of law relating to the conduct of elections that conflicts with sections 794 to 799a does not apply to the conduct of elections with an approved electronic voting system. The secretary of state shall promulgate rules to implement the provisions of sections 794 to 799a, in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable; equipping each polling place with accessible voting device.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a must meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Utilize a paper ballot for tabulating purposes.

(c) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment must reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question must be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector must be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(d) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(e) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment must reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party must be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is

rejected as provided in this subdivision, an elector must be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(f) Prevent an elector from voting for the same person more than once for the same office.

(g) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment must be programmed to reject a ballot on which no valid vote is cast.

(h) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(i) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(j) Record correctly and count accurately each vote properly cast.

(k) Provide an audit trail.

(l) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(m) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(n) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device must include nonvisual accessibility for the blind and visually impaired.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls must provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls. Electronic tabulating equipment that tabulates ballots, including absentee ballots, at a central location must be programmed to reject a ballot if the choices recorded on an elector's ballot for an office or a question exceed the number that the elector is entitled to vote for on that office or question, if no valid choices are recorded on an elector's ballot, or if, in a primary election, votes are recorded for candidates of more than 1 political party.

(3) Each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(n).

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004;—Am. 2018, Act 127, Imd. Eff. May 3, 2018.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

--Eliminate “straight party” vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.795a Electronic voting system; approval by board of state canvassers; conditions; approval of improvement or change; inapplicability of subsection (1); intent to purchase statement; instruction in operation and use; disapproval.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding

recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of \$1,500.00 for a new voting system and a fee of \$500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(i) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).

(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.

(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).

(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

(7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the "intent to purchase statement".

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.795b Printing or displaying ballot labels, questions, office titles, and names of candidates; columns, pages, and directional signs; ballot stub.

Sec. 795b. (1) Ballot labels must be printed or displayed in plain, clear, black type on white surface. Questions may be printed or displayed on red tinted surface and the names of candidates for nonpartisan offices on blue tinted surface. County questions may be printed or displayed on green tinted surface and local questions may be printed or displayed on buff surface. In a primary election to identify each political party, the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages or displays. The office title with a statement of the number of candidates to be voted for must be printed or displayed above or at the side of the names of the candidates for that office. The offices and candidates must be printed or displayed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the county, city, village, township, or school district. If there are more candidates for an office than can be printed or displayed in 1 column or on 1 page or display, the ballot label must be clearly marked that the list of candidates is continued on the following column, page, or display, and so far as possible, the same number of names must be printed or displayed on each column, page, or display. Arrows or other directional signs may be used to indicate the place to vote for each candidate or question.

(2) Except for ballots used for early voting that are produced by an on-demand ballot printing system, ballots that are processed through electronic tabulating equipment after the elector has voted must have an attached, numbered, perforated stub.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

Popular name: Election Code

168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day; partisan elections; straight party ticket vote prohibited; appropriation.

Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan, and questions, must be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label must be clearly marked to indicate the ballot for each election. In partisan elections, the ballot label must include a position by which a voter may by a single selection record a straight party ticket vote for all the candidates of 1 party.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016;—Am. 2023, Act 269, Eff. Feb. 13, 2024.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.796 Sample ballots.

Sec. 796. Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be
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provided as required by law. At least 2 copies shall be posted in each polling place on election day. Sample ballots may be printed on a single page or on a number of pages stapled together.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.796a Electronic voting system; preparation for election; equipment and supplies; voting stations.

Sec. 796a. (1) Before an election at which an electronic voting system is used, the board of election commissioners of the county, city, village, township, or school district shall have the system prepared for the election. The board shall provide the election board of each voting precinct with the necessary equipment and supplies.

(2) Before an election, the board of election commissioners of a county, city, village, township, or school district shall provide a sufficient number of voting stations needed to ensure the orderly conduct of the election taking into consideration the projected turnout, the length of the ballot, and the number of voters the voting system can process per hour as determined under section 795a. As a minimum for each election, the board of election commissioners shall provide at least 1 voting station for each 400 registered voters in each precinct through August 31, 1998 and at least 1 voting station for each 300 registered voters on and after September 1, 1998. If counting centers are used, the board of election commissioners of the county, city, village, township, or school district shall establish 1 or more counting centers as needed before the election.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1987, Act 21, Imd. Eff. Apr. 24, 1987;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

Popular name: Election Code

168.796b Repealed. 1990, Act 109, Imd. Eff. June 18, 1990.

Compiler's note: The repealed section pertained to instruction of election inspectors.

Popular name: Election Code

168.797 Inspectors of election; duties; certification of equipment operation.

Sec. 797. Not less than 30 minutes before the opening of the polls, the inspectors of election shall arrive at the polling place and prepare the polling place for voting. The inspectors of election shall determine that the correct ballot has been provided to the precinct by comparing the ballot provided with the sample ballot and any other documents provided to the precinct. The inspectors of election shall complete required tests of the equipment of the electronic voting system and certify in writing that the equipment is operating properly. The written certification shall be on a form prescribed by the secretary of state and shall include pertinent information regarding seal numbers, counters, and the operation and use of the particular equipment.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

168.797a Instruction in method of voting on electronic voting system; use of ballot processed through electronic tabulating equipment; procedure; detached stub; spoiled ballot; processing of challenged voter ballot; removal of ballot.

Sec. 797a. (1) Before entering the voting station, each elector shall be offered instruction in the proper method of voting on the electronic voting system. If the elector needs additional instruction after entering the voting station, 2 election inspectors from different political parties may, if necessary, enter the voting station and provide the additional instructions.

(2) If the electronic voting system provides for the use of a ballot that is processed through electronic tabulating equipment after the elector votes, the elector shall transport the ballot to the ballot box, or other approved ballot container, without exposing any votes. Except as otherwise provided in this subsection, an election inspector shall ascertain, by comparing the number appearing on the ballot stub with the number recorded on the poll list, that the ballot delivered by the voter is the same ballot that was issued to the elector. Except as otherwise provided in this subsection, if the numbers do not agree, the ballot must be marked as "rejected", and the elector must not be allowed to vote. Except as otherwise provided in this subsection, if the numbers agree, an election inspector shall remove and discard the stub. Except as otherwise provided in this subsection, the election inspector shall deposit the ballot in the ballot box or other approved ballot container. If electronic tabulating equipment that deposits the voted ballot into the ballot box or other approved ballot container is used at the precinct, the election inspector shall return the ballot to the elector, and the elector shall deposit the ballot into the electronic tabulating equipment. The electronic tabulating equipment must be

arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the electronic tabulating equipment, 2 election inspectors from different political parties may periodically open the equipment to rearrange voted ballots and may transfer voted ballots to another approved ballot container. The requirement to compare a ballot number with the poll list does not apply to a ballot used for early voting that is produced by an on-demand ballot printing system.

(3) A ballot from which the stub is detached must not be accepted by the election inspector in charge of the ballot box or other approved ballot container. An elector who spoils the elector's ballot may return the ballot and secure another ballot. The word "spoiled" must be written across the face of the ballot, and the ballot must be marked and secured for later return.

(4) A ballot of a challenged voter that has the names of candidates and questions printed directly on the voted ballot must be processed in the manner prescribed for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual hard copy ballot must be processed in the manner prescribed for challenging a vote cast on a voting machine.

(5) Except as otherwise provided in this act, an election inspector shall not allow any portion of a ballot, including a ballot stub, to be removed by any individual other than an election inspector from the polling place.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____
No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.797b Rules.

Sec. 797b. The secretary of state shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the tabulation of ballots, certification of results, delivery of ballots and certified results, and sealing of devices and ballot boxes after the polls are closed.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.797c Computer program; disposition and use of source code.

Sec. 797c. A person or company providing a computer program that examines, counts, tabulates, and prints results of the votes cast by a voter on an electronic voting system shall place in an escrow account a copy of the source code of the program and any subsequent revisions or modifications of the source code. The secretary of state or an authorized agent of the secretary of state shall agree to use the information contained in the source code solely for the purpose of analyzing and testing the software and shall not disclose proprietary information to any other person or agency without the prior written consent of the vendor.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

168.798a Separate counting center; direction and conduct of proceedings; method.

Sec. 798a. If a separate counting center is used, all proceedings shall be under the direction of the clerk or authorized assistants. The proceedings shall be conducted under observation by the public, but no persons except those authorized shall touch a ballot or return. Persons who engage in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If a ballot is damaged or defective so that it cannot properly be counted by the electronic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged or defective ballot. Each duplicate ballot shall be clearly labeled "duplicate", and shall bear a serial number, which shall be recorded on the damaged or defective ballot.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.798b Electronic tabulating equipment; unofficial and official returns; manual count; accumulation report.

Sec. 798b. (1) The county clerk may conduct an unofficial count in order to provide early unofficial returns to the public. Upon completion of the count, the official returns shall be open to the public. The return of the electronic tabulating equipment, to which have been added the write-in and absentee votes if necessary, shall constitute, after being duly certified, the official return of each precinct or election district. If it becomes impracticable to count all or a part of the ballots with tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots. An accumulation report of unofficial results using the tabulated votes available after 8 p.m. on election day must be compiled and published using a format that clearly indicates all of the following:

- (a) The election day precinct results.
- (b) The corresponding absent voter ballot counting board results.
- (c) The corresponding early voting results.
- (d) The sum of subdivisions (a), (b), and (c) for each precinct and contest.

(2) For a city or township with 250 or more precincts using common ballot forms instead of the election day precinct format in the absent voter counting boards and early voting sites, the accumulation report will not report results from absent voter counting boards or early voting sites as corresponding to election day precincts. Accumulation reports in each city or township described in this subsection must report the results for each election day precinct and separately report the results of each absent voter counting board and the corresponding early voting results. Each common ballot form may constitute at least 1 separate absent voter counting board and early voting precinct.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

Popular name: Election Code

168.798c Casting absentee votes on paper ballots or ballot cards; count; recording; voting and processing absent voters' ballots; inspection of rejected ballot.

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspectors on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1969, Act 186, Imd. Eff. Aug. 5, 1969;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.799 Injuring, altering, or defacing voting device, ballot, or other equipment; interference with correct operation of equipment; enforcement; examination.

Sec. 799. A person shall not willfully injure any voting device, ballot, or other record or equipment or interfere or attempt to interfere with its correct operation. The inspectors of the election shall enforce the provisions of this section. The inspectors of election, at such intervals as they consider proper, shall examine any voting device, ballot, or other equipment used in the election to ascertain whether it has been injured, altered, or defaced, to detect the wrongdoer, and to repair the injury.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

Popular name: Election Code

168.799a Recounting punched, marked, or stamped ballot; procedure; stray marks; releasing

sealed materials.

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

History: Add. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.