

SENATE BILL NO. 275

March 24, 2021, Introduced by Senators RUNESTAD, LASATA, HORN, THEIS, ZORN, BIZON, DALEY, BUMSTEAD, OUTMAN, STAMAS, BARRETT and VANDERWALL and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 31a and 765a (MCL 168.31a and 168.765a), section 31a as amended by 2018 PA 603 and section 765a as amended by 2020 PA 177, and by adding section 801b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31a. (1) In order to ensure compliance with the
2 provisions of this act, after each election the secretary of state
3 may audit election precincts.

1 (2) The secretary of state shall prescribe the procedures for
2 election audits that include reviewing the documents, ballots, and
3 procedures used during an election as required in section 4 of
4 article II of the state constitution of 1963. The secretary of
5 state and county clerks shall conduct election audits, including
6 statewide election audits, as set forth in the prescribed
7 procedures. The secretary of state shall train and certify county
8 clerks and their staffs for the purpose of conducting election
9 audits of precincts randomly selected by the secretary of state in
10 their counties. An election audit must include an audit of the
11 results of at least 1 race in each precinct selected for an audit.
12 A statewide election audit must include an audit of the results of
13 at least 1 statewide race or statewide ballot question in a
14 precinct selected for an audit. An audit conducted under this
15 section is not a recount and does not change any certified election
16 results. The secretary of state shall supervise each county clerk
17 in the performance of election audits conducted under this section.

18 **(3) At each precinct randomly selected for an election audit**
19 **under subsection (2), individuals from each political party may**
20 **attend and observe the election audit proceedings and those**
21 **individuals are authorized to bring their own video recording**
22 **devices to record the election audit proceedings. An individual who**
23 **attends, observes, or records the election audit proceedings must**
24 **not interfere with or disrupt the election audit. An individual who**
25 **interferes with or disrupts the election audit is subject to**
26 **removal from the location where the election audit is being**
27 **conducted. However, the sole act of recording the election audit**
28 **proceedings does not constitute sufficient grounds to remove an**
29 **individual from the location where the election audit is being**

1 **conducted.**

2 (4) ~~(3)~~—Each county clerk who conducts an election audit under
3 this section shall provide the results of the election audit to the
4 secretary of state within 20 days after the election audit.

5 Sec. 765a. (1) Subject to section 764d, if a city or township
6 decides to use absent voter counting boards, the board of election
7 commissioners of that city or township shall establish an absent
8 voter counting board for each election day precinct in that city or
9 township. The ballot form of an absent voter counting board must
10 correspond to the ballot form of the election day precinct for
11 which it is established. After the polls close on election day, the
12 county, city, or township clerk responsible for producing the
13 accumulation report of the election results submitted by the boards
14 of precinct election inspectors shall format the accumulation
15 report to clearly indicate all of the following:

- 16 (a) The election day precinct returns.
- 17 (b) The corresponding absent voter counting board returns.
- 18 (c) A total of each election day precinct return and each
19 corresponding absent voter counting board return.

20 (2) Subject to section 764d, the board of election
21 commissioners shall establish the absent voter counting boards.
22 Subject to section 764d, the board of election commissioners shall
23 appoint the election inspectors to those absent voter counting
24 boards not less than 21 days or more than 40 days before the
25 election at which they are to be used. Sections 673a and 674 apply
26 to the appointment of election inspectors to absent voter counting
27 boards under this section. The board of election commissioners
28 shall determine the number of ballots that may be expeditiously
29 counted by an absent voter counting board in a reasonable period of

1 time, taking into consideration the size and complexity of the
2 ballot to be counted pursuant to the guidelines of the secretary of
3 state. Combined ballots must be regarded as the number of ballots
4 as there are sections to the ballot.

5 (3) If more than 1 absent voter counting board is to be used,
6 the city or township clerk shall determine the number of electronic
7 voting systems or the number of ballot boxes and the number of
8 election inspectors to be used in each of the absent voter counting
9 boards and to which absent voter counting board the absent voter
10 ballots for each precinct are assigned for counting.

11 (4) In a city or township that uses absent voter counting
12 boards under this section, absent voter ballots must be counted in
13 the manner provided in this section and, except as otherwise
14 provided in section 764d, absent voter ballots must not be
15 delivered to the polling places. Subject to section 764d, the board
16 of election commissioners shall provide a place for each absent
17 voter counting board to count the absent voter ballots. Section 662
18 applies to the designation and prescribing of the absent voter
19 counting place or places in which the absent voter counting board
20 performs its duties under this section, except the location may be
21 in a different jurisdiction if the county provides a tabulator for
22 use at a central absent voter counting board location in that
23 county. The places must be designated as absent voter counting
24 places. Except as otherwise provided in this section, laws relating
25 to paper ballot precincts, including laws relating to the
26 appointment of election inspectors, apply to absent voter counting
27 places. The provisions of this section relating to placing of
28 absent voter ballots on electronic voting systems apply. More than
29 1 absent voter counting board may be located in 1 building.

1 (5) The clerk of a city or township that uses absent voter
2 counting boards shall supply each absent voter counting board with
3 supplies necessary to carry out its duties under this act. The
4 supplies must be furnished to the city or township clerk in the
5 same manner and by the same persons or agencies as for other
6 precincts.

7 (6) Subject to section 764d, absent voter ballots received by
8 the clerk before election day must be delivered to the absent voter
9 counting board by the clerk or the clerk's authorized assistant at
10 the time the election inspectors of the absent voter counting
11 boards report for duty, which time must be established by the board
12 of election commissioners. Except as otherwise provided in section
13 764d, absent voter ballots received by the clerk before the time
14 set for the closing of the polls on election day must be delivered
15 to the absent voter counting boards. Except as otherwise provided
16 in section 765(6), absent voter ballots must be delivered to the
17 absent voter counting boards or combined absent voter counting
18 boards in the sealed absent voter ballot return envelopes in which
19 they were returned to the clerk. Written or stamped on each of the
20 return envelopes must be the time and the date that the envelope
21 was received by the clerk and a statement by the clerk that the
22 signatures of the absent voters on the envelopes have been checked
23 and found to agree with the signatures of the voters on the
24 registration cards or the digitized signatures of voters contained
25 in the qualified voter file as provided under section 766. If it is
26 determined after 8 p.m. on the day before election day that a
27 signature on the registration card or a digitized signature
28 contained in the qualified voter file and on the absent voter
29 ballot return envelope does not agree as provided under section

1 766, if it is determined after 8 p.m. on the day before election
2 day that the absent voter failed to sign the envelope, or if the
3 statement of the absent voter is not properly executed, the clerk
4 shall mark the envelope "rejected" and the reason for the rejection
5 and shall place his or her name under the notation. An envelope
6 marked "rejected" must not be delivered to the absent voter
7 counting board or combined absent voter counting board but must be
8 preserved by the clerk until other ballots are destroyed in the
9 manner provided in this act. If before 8 p.m. on the day before
10 election day the clerk of a city or township rejects an absent
11 voter ballot return envelope because the signature on the absent
12 voter ballot return envelope does not agree sufficiently with the
13 signature on the master card or the digitized signature contained
14 in the qualified voter file so as to identify the elector or
15 because the elector failed to sign the absent voter ballot return
16 envelope, the city or township clerk shall as soon as practicable,
17 but in no event later than 48 hours after determining the
18 signatures do not agree sufficiently or that the signature is
19 missing, or by 8 p.m. on the day before election day, whichever
20 occurs first, notify the elector of the rejection by mail,
21 telephone, or electronic mail. The clerk shall also comply with
22 section 765(5).

23 (7) This chapter does not prohibit an absent voter from voting
24 in person within the voter's precinct at an election,
25 notwithstanding that the voter may have applied for an absent voter
26 ballot and the ballot may have been mailed or otherwise delivered
27 to the voter. The voter, the election inspectors, and other
28 election officials shall proceed in the manner prescribed in
29 section 769. The clerk shall preserve the canceled ballots for 2

1 years.

2 (8) The absent voter counting boards and combined absent voter
3 counting boards shall process the ballots and returns in as nearly
4 as possible the same manner as ballots are processed in paper
5 ballot precincts. The poll book may be combined with the absent
6 voter list or record required by section 760, and the applications
7 for absent voter ballots may be used as the poll list. The
8 processing and tallying of absent voter ballots may commence at 7
9 a.m. on the day of the election. **Beginning at 8 p.m. on election**
10 **day, the tabulation of absent voter ballots by an absent voter**
11 **counting board or combined absent voter counting board is subject**
12 **to section 801b.**

13 (9) An election inspector, challenger, or any other person in
14 attendance at an absent voter counting place or combined absent
15 voter counting place at any time after the processing of ballots
16 has begun shall take and sign the following oath that may be
17 administered by the chairperson or a member of the absent voter
18 counting board or combined absent voter counting board:

19 "I (name of person taking oath) do solemnly swear (or affirm)
20 that I shall not communicate in any way any information relative to
21 the processing or tallying of votes that may come to me while in
22 this counting place until after the polls are closed."

23 (10) The oaths administered under subsection (9) must be
24 placed in an envelope provided for the purpose and sealed with the
25 red state seal. Following the election, the oaths must be delivered
26 to the city or township clerk. Except as otherwise provided in
27 subsection (12), a person in attendance at the absent voter
28 counting place or combined absent voter counting place shall not
29 leave the counting place after the tallying has begun until the

1 polls close. Subject to this subsection, the clerk of a city or
2 township may allow the election inspectors appointed to an absent
3 voter counting board in that city or township to work in shifts. A
4 second or subsequent shift of election inspectors appointed for an
5 absent voter counting board may begin that shift at any time on
6 election day as provided by the city or township clerk. However, an
7 election inspector shall not leave the absent voter counting place
8 after the tallying has begun until the polls close. If the election
9 inspectors appointed to an absent voter counting board are
10 authorized to work in shifts, at no time shall there be a gap
11 between shifts and the election inspectors must never leave the
12 absent voter ballots unattended. At all times, at least 1 election
13 inspector from each major political party must be present at the
14 absent voter counting place and the policies and procedures adopted
15 by the secretary of state regarding the counting of absent voter
16 ballots must be followed. A person who causes the polls to be
17 closed or who discloses an election result or in any manner
18 characterizes how any ballot being counted has been voted in a
19 voting precinct before the time the polls can be legally closed on
20 election day is guilty of a felony.

21 (11) Voted absent voter ballots must be placed in an approved
22 ballot container, and the ballot container must be sealed in the
23 manner provided by this act for paper ballot precincts. The seal
24 numbers must be recorded on the statement sheet and in the poll
25 book.

26 (12) Subject to this subsection, a local election official who
27 has established an absent voter counting board or combined absent
28 voter counting board, the deputy or employee of that local election
29 official, an employee of the state bureau of elections, a county

1 clerk, an employee of a county clerk, or a representative of a
2 voting equipment company may enter and leave an absent voter
3 counting board or combined absent voter counting board after the
4 tally has begun but before the polls close. A person described in
5 this subsection may enter an absent voter counting board or
6 combined absent voter counting board only for the purpose of
7 responding to an inquiry from an election inspector or a challenger
8 or providing instructions on the operation of the counting board.
9 Before entering an absent voter counting board or combined absent
10 voter counting board, a person described in this subsection must
11 take and sign the oath prescribed in subsection (9). The
12 chairperson of the absent voter counting board or combined absent
13 voter counting board shall record in the poll book the name of a
14 person described in this subsection who enters the absent voter
15 counting board or combined absent voter counting board. A person
16 described in this subsection who enters an absent voter counting
17 board or combined absent voter counting board and who discloses an
18 election result or in any manner characterizes how any ballot being
19 counted has been voted in a precinct before the time the polls can
20 be legally closed on election day is guilty of a felony. As used in
21 this subsection, "local election official" means a county, city, or
22 township clerk.

23 (13) The secretary of state shall develop instructions
24 consistent with this act for the conduct of absent voter counting
25 boards or combined absent voter counting boards. The secretary of
26 state shall distribute the instructions developed under this
27 subsection to county, city, and township clerks 40 days or more
28 before a general election in which absent voter counting boards or
29 combined absent voter counting boards will be used. A county, city,

1 or township clerk shall make the instructions developed under this
2 subsection available to the public and shall distribute the
3 instructions to each challenger in attendance at an absent voter
4 counting board or combined absent voter counting board. The
5 instructions developed under this subsection are binding upon the
6 operation of an absent voter counting board or combined absent
7 voter counting board used in an election conducted by a county,
8 city, or township.

9 **Sec. 801b. (1) For any election involving a statewide office,**
10 **a legislative office, or a county office, the county, city, or**
11 **township clerk may provide live video coverage of the custody of**
12 **all ballots while the ballots are present in the tabulation room of**
13 **a precinct, absent voter counting board, or combined absent voter**
14 **counting board. If live video coverage is provided by a county,**
15 **city, or township, the live video coverage must be recorded and**
16 **include date and time indicators. The county, city, or township**
17 **clerk must make the recording of any live video coverage available**
18 **for 40 days on the county, city, or township website. In addition,**
19 **the secretary of state may make the recording of any live video**
20 **coverage under this section available on the secretary of state**
21 **website.**

22 **(2) The county, city, or township clerk must retain the**
23 **recordings of the live video coverage from each precinct, absent**
24 **voter counting board, and combined absent voter counting board as a**
25 **public record for 40 days after the election.**

26 **(3) If the feed of the live video coverage under subsection**
27 **(1) is disrupted or disabled, the county, city, or township clerk**
28 **is not liable for the disruption, but the clerk must attempt to**
29 **reinstate the live video coverage as soon as practical.**

1 (4) Any disruption in the live video coverage does not affect
2 or prevent the continued tabulation of the ballots in the precinct,
3 absent voter counting board, or combined absent voter counting
4 board.