

HOUSE BILL No. 4993

July 17, 2003, Introduced by Reps. Hood, Byrum, Jamnick, Tobocman, Accavitti, Bieda and Hardman and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 792a (MCL 168.792a), as amended by 1996 PA
583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 792a. (1) Except as otherwise provided in this
2 subsection, the absent voter ballots in a city, township, or
3 village that uses voting machines shall be counted by absent
4 voter counting boards. The board of election commissioners of a
5 city, township, or village that has 2 precincts or less or of a
6 city that has 500,000 or more in population may decide that the
7 absent voter ballots shall be counted in the manner provided in
8 section 791. In a city, township, or village that does not use
9 voting machines, the absent voter ballots may be counted by
10 absent voter counting boards or in the same manner as is

1 otherwise provided for precincts in which voting is not done on
2 voting machines.

3 (2) The board of election commissioners shall establish the
4 absent voter counting boards. The board of election
5 commissioners shall determine the number of absent voter counting
6 boards to be established and shall appoint the election
7 inspectors to those absent voter counting boards 10 days or more
8 before the election at which they are to be used. Sections 673a
9 and 674 apply to the appointment of election inspectors to absent
10 voter counting boards under this section. The board of election
11 commissioners shall determine the number of ballots that may be
12 expeditiously counted by an absent voter counting board in a
13 reasonable period of time, taking into consideration the size and
14 complexity of the ballot to be counted pursuant to the guidelines
15 of the secretary of state. Combined ballots shall be regarded as
16 the number of ballots as there are sections to the ballot.

17 (3) If more than 1 absent voter counting board is to be used,
18 the city, township, or village clerk shall determine the number
19 of voting machines or the number of ballot boxes and the number
20 of election inspectors to be used in each of the absent voter
21 counting boards and to which absent voter counting board the
22 absent voter ballots for each precinct shall be assigned for
23 counting. The clerk shall make the determination under this
24 subsection 2 days or more before the election and shall not
25 assign an absent voter counting board more ballots than the
26 maximum number authorized by the board of election commissioners
27 under subsection (2). The clerk is not required to use all of

1 the absent voter counting boards authorized by the board of
2 election commissioners under subsection (2).

3 (4) In a city, township, or village that uses absent voter
4 counting boards under this section, absent voter ballots shall be
5 counted in the manner provided in this section and absent voter
6 ballots shall not be delivered to the polling places. The board
7 of election commissioners shall provide a place for each absent
8 voter counting board to count the absent voter ballots. Section
9 662 applies to the designation and prescribing of the absent
10 voter counting place or places in which the absent voter counting
11 board performs its duties under this section. The places shall
12 be designated as absent voter counting places. Except as
13 otherwise provided in this section, laws relating to paper ballot
14 precincts, including laws relating to the appointment of election
15 inspectors, apply to absent voter counting places. If a counting
16 place uses voting machines, the provisions of this section
17 relating to placing of absent voter ballots on voting machines
18 apply. More than 1 absent voter counting board may be located in
19 1 building.

20 (5) The clerk of a city, township, or village that uses
21 absent voter counting boards shall supply each absent voter
22 counting board with supplies necessary to carry out their duties
23 under this act. The supplies shall be furnished to the city,
24 township, or village clerk in the same manner and by the same
25 persons or agencies as for other precincts.

26 (6) Absent voter ballots received by the clerk before
27 election day shall be delivered to the absent voter counting

1 board by the clerk at the time the election inspectors of the
2 absent voter counting boards report for duty, which time shall be
3 established by the board of election commissioners. Absent voter
4 ballots received by the clerk on election day shall be delivered
5 to the absent voter counting boards before the time set for the
6 closing of the polls. Absent voter ballots shall be delivered to
7 the absent voter counting boards in the sealed absent voter
8 ballot return envelopes in which they were returned to the
9 clerk. Written or stamped on each of the return envelopes shall
10 be the time and the date that the envelope was received by the
11 clerk and a statement by the clerk that the signatures of the
12 absent voters on the envelopes have been checked and found to
13 agree with the signatures of the voters on the registration
14 cards. If a signature on the registration card and on the absent
15 voter ballot return envelope does not agree, if the absent voter
16 failed to sign the envelope, or if the statement of the absent
17 voter is not properly executed, the clerk shall mark the envelope
18 "rejected" and the reason for the rejection and shall place his
19 or her name under the notation. An envelope marked "rejected"
20 shall not be delivered to the absent voter counting board but
21 shall be preserved by the clerk until other ballots are destroyed
22 in the manner provided in this act. The clerk shall also comply
23 with section 765(5).

24 (7) At the time of issuing or mailing absent voter ballots to
25 qualified applicants, the clerk of a city, township, or village
26 that uses absent voter counting boards shall mark the letters
27 "A.V." and the date of **the** election on the registration card of

1 the applicant in the precinct registration file.

2 (8) This chapter does not prohibit an absent voter from
3 voting in person within the voter's precinct at an election,
4 notwithstanding that the voter may have applied for an absent
5 voter ballot and the ballot may have been mailed or otherwise
6 delivered to the voter. The voter, the election inspectors, and
7 other election officials shall proceed in the manner prescribed
8 in section 769. The clerk shall preserve the canceled ballots
9 for 2 years.

10 (9) The absent voter counting boards shall process the
11 ballots and returns in as nearly as possible the same manner as
12 ballots are processed in paper ballot precincts. The poll book
13 may be combined with the absent voter list or record required by
14 section 760, and the applications for absent voter ballots may be
15 used as the poll list. The processing and tallying of absent
16 voter ballots may commence at ~~7~~ **12:01** a.m. on the day of the
17 election.

18 (10) An election inspector, challenger, or any other person
19 in attendance at an absent voter counting place at any time after
20 the processing of ballots has begun shall take and sign the
21 following oath, ~~that~~ **which** may be administered by the
22 chairperson or a member of the absent voter counting board:

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

27 (11) The oaths administered under subsection (10) shall be

1 placed in an envelope provided for the purpose and sealed with
2 the red state seal. Following the election the oaths shall be
3 delivered to the city, township, or village clerk. Except as
4 otherwise provided in subsection (16), a person in attendance at
5 the absent voter counting place shall not leave the counting
6 place after the tallying has begun until the polls close. A
7 person who causes the polls to be closed or who discloses an
8 election result or in any manner characterizes how any ballot
9 being counted has been voted in a voting precinct before the time
10 the polls can be legally closed on election day is guilty of a
11 felony.

12 (12) At the time the board of election commissioners provide
13 for the use of absent voter counting boards, the board of
14 election commissioners may provide that the absent voter counting
15 boards shall record the votes contained on absent voter ballots
16 on voting machines. In that case, the recording of ballots shall
17 be done by the chairperson of the absent voter counting board or
18 another member designated by the chairperson. The act of casting
19 the votes shall be performed in the presence of and under the
20 careful observation and full view of all members of the absent
21 voter counting board, party challengers, and any other persons
22 lawfully present at the absent voter counting place. The vote as
23 indicated by the voting pointers shall not be recorded until each
24 member of the absent voter counting board is satisfied that the
25 arrangement of the voting pointers fully carries out the intent
26 of the absent voter as shown by the cross marks or check marks on
27 the absent voter ballot. A certificate that the requirements of

1 this subsection were met shall be made on the election
2 inspectors' statement of returns.

3 (13) As soon as absent voter ballots have been cast on a
4 voting machine pursuant to subsection (12), but not before 8
5 p.m., the election inspectors shall seal the operating lever of
6 the machine against voting and shall then proceed to determine
7 and record the votes cast in the manner provided in this act.

8 (14) Voted absent voter ballots shall be placed in a ballot
9 box and the ballot bag and ballot box shall be sealed in the
10 manner provided by this act for paper ballot precincts. The seal
11 numbers shall be recorded on the statement sheet and in the poll
12 book.

13 (15) In a city, township, or village where challenged voters
14 are required to vote on absent voter ballots, each challenged
15 voter ballot and application for ballot, after having been voted
16 and properly identified, shall be placed by the voter in an
17 absent voter ballot return envelope. The applicable information
18 required on the back of the envelope shall be completed by the
19 board of election inspectors. The envelope shall be signed by
20 the challenged voter and by the chairperson of the precinct board
21 of election inspectors. The word "challenged" shall be written
22 across the front of the envelope. The envelope and application
23 for ballot shall be sealed and delivered to the absent voter
24 counting place by the clerk of the city, township, or village.
25 Immediately after the closing of the polls, the chairperson of
26 the precinct board of election inspectors shall notify the clerk
27 of the city, township, or village of remaining challenged voter

1 ballots to be delivered to the absent voter counting place. In a
2 city, township, or village that uses voting machines where absent
3 voter counting boards are not used, challenged ballots shall be
4 counted and tallied in the precincts, in the same manner that
5 absent voter ballots are tallied and counted as provided in
6 section 791.

7 (16) Subject to this subsection, a local election official
8 who has established an absent voter counting board, the deputy or
9 employee of that local election official, or an employee of the
10 state bureau of elections may enter and leave an absent voter
11 counting board after the tally has begun but before the polls
12 close. A person described in this subsection may enter an absent
13 voter counting board only for the purpose of responding to an
14 inquiry from an election inspector or a challenger or to provide
15 instructions on the operation of the counting board. Before
16 entering an absent voter counting board, a person described in
17 this subsection shall take and sign the oath prescribed in
18 subsection (10). The chairperson of the absent voter counting
19 board shall record in the poll book the name of a person
20 described in this subsection who enters the absent voter counting
21 board. A person described in this subsection who enters an
22 absent voter counting board and who discloses an election result
23 or in any manner characterizes how any ballot being counted has
24 been voted in a precinct before the time the polls can be legally
25 closed on election day is guilty of a felony. As used in this
26 subsection, "local election official" means a county, city,
27 township, or village clerk, the secretary of a school board, or

1 an employee of a school district designated to conduct a school
2 election.

3 (17) The secretary of state shall develop instructions
4 consistent with this act for the conduct of absent voter counting
5 boards. The secretary of state shall distribute the instructions
6 developed under this subsection to city and township clerks 40
7 days or more before a general election in which absent voter
8 counting boards will be used. A city or township clerk shall
9 make the instructions developed under this subsection available
10 to the public and shall distribute the instructions to each
11 challenger in attendance at an absent voter counting board. The
12 instructions developed under this subsection are binding upon the
13 operation of an absent voter counting board used in an election
14 conducted by a county, city, township, village, school district,
15 or any other jurisdiction empowered to conduct an election under
16 this act.