

SENATE BILL No. 149

February 6, 2003, Introduced by Senators BRATER, JACOBS, CHERRY, SCHAUER, PRUSI and CLARK-COLEMAN and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 726 (MCL 168.726) and by adding sections 750a and 750b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 726. ~~No ballots~~ **A ballot** shall **not** be delivered to
2 an elector by ~~any~~ **a** person other than 1 of the inspectors of
3 election and only within the polling place, except as provided in
4 this act for absent ~~voters~~ **voter** ballots **and election by mail**
5 **ballots.**

6 Sec. 750a. (1) Subject to this section and section 750b, a
7 city, township, or village clerk or the secretary of a school
8 district may conduct a local election by mail in the city,
9 township, village, or school district, under the supervision of
10 the secretary of state. In deciding to conduct a local election

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1 by mail, a city, township, or village clerk or the secretary of a
2 school district shall consider requests from the governing body
3 of the city, township, village, or school district and whether
4 conducting the election by mail is economically and
5 administratively feasible.

6 (2) The August primary held under section 534, the general
7 November election, and any other election in which a candidate
8 for statewide office, judicial office, legislative office, or
9 countywide office is nominated or elected shall be conducted as
10 an election by mail.

11 (3) Not later than January 1, 2004, a city, township, or
12 village clerk or the secretary of a school district shall advise
13 the governing body of the city, township, village, or school
14 district for which the clerk or secretary is the election
15 official as to each local election held in that city, township,
16 village, or school district that will be conducted as an election
17 by mail. Periodically, the clerk or secretary may review its
18 decision of whether a local election will be conducted as an
19 election by mail. If an earlier decision to conduct or not
20 conduct a local election as an election by mail is changed, the
21 clerk or secretary shall notify the governing body of the city,
22 township, village, or school district not later than the third
23 Tuesday in January of the year in which the election is to be
24 held of that change. This subsection does not apply to an
25 election required to be held as an election by mail under
26 subsection (2).

27 (4) The secretary of state shall promulgate rules in the

1 manner prescribed in this act to provide procedures for
2 conducting an election by mail.

3 Sec. 750b. (1) A city, township, or village clerk or a
4 secretary of a school district that conducts an election by mail
5 under section 750a shall conduct the election by mail as provided
6 in this section.

7 (2) The clerk or secretary shall designate 1 or more places
8 of deposit in the city, township, village, or school district for
9 voters to return voted ballots for the election by mail. The
10 clerk or secretary shall provide that the places designated for
11 the deposit of voted ballots in the city, township, village, or
12 school district be open on the date of the election for a period
13 of 13 hours or more, beginning no later than 7 a.m. and ending no
14 earlier than 8 p.m., as determined by the clerk or secretary.

15 (3) The city, township, or village clerk or the secretary of
16 a school district shall send by nonforwardable mail an official
17 ballot with a pre-addressed, postage paid return identification
18 envelope and a secrecy envelope to each voter who is registered
19 in the city, township, village, or school district as of the
20 thirtieth day before the date of the election by mail. The clerk
21 or secretary shall address the ballot to the registered voter as
22 that voter's name appears on the registration records of that
23 voter. Except as otherwise provided in this subsection and
24 subsection (8), the clerk or secretary shall mail the official
25 ballots and envelopes during the period beginning on the
26 twentieth day before the date of the election by mail and ending
27 on the fourteenth day before the date of the election by mail.

1 For a statewide election by mail, the secretary of state shall
2 prescribe in rules promulgated under section 750a(4) the date on
3 which the official ballots and envelopes for the statewide
4 election by mail are to be mailed by a clerk or secretary under
5 this subsection. However, the secretary of state shall provide
6 in those rules that all ballots shall be mailed by the fourteenth
7 day before the date of the election by mail.

8 (4) For a primary election, the election by mail ballot shall
9 contain a section for the selection of candidates from each
10 political party that is participating in the primary election.
11 The instructions accompanying the primary election by mail
12 ballots shall state clearly that the voter may vote for the
13 appropriate number of candidates of 1 party only and that a
14 primary ballot on which candidates from more than 1 party are
15 selected will not be counted.

16 (5) For an elector who has applied to register to vote on or
17 before the close of registration and is not listed in the
18 registration records of the city, township, village, or school
19 district, the city, township, or village clerk or secretary of
20 the school district shall proceed as prescribed in section 509y.
21 If the elector meets the requirements of section 509y, the clerk
22 or secretary shall make the official ballot, the return
23 identification envelope, and the secrecy envelope available at
24 the clerk's or secretary's office or other place designated by
25 the clerk or secretary. The elector who receives the official
26 ballots and envelopes under this subsection shall do all of the
27 following:

1 (a) Vote at the election in the clerk's or secretary's office
2 or other place designated by the clerk or secretary or vote by
3 mail.

4 (b) Mark the ballot, sign the return identification envelope,
5 and comply with the instructions provided with the ballot.

6 (c) Return the ballot in the return identification envelope
7 to the clerk or secretary.

8 (6) A ballot or ballot label used in an election by mail
9 shall contain the following warning:

10 "A person who, by use of force or other means, unduly
11 influences an elector to vote in a particular manner or to
12 refrain from voting is subject to imprisonment or to a fine, or
13 both."

14 (7) In order to vote an election by mail ballot received
15 under subsection (3), a registered voter shall mark the ballot,
16 sign the return identification envelope supplied with the ballot,
17 and comply with the instructions provided with the ballot. The
18 voter may return the marked ballot to the appropriate city,
19 township, or village clerk or secretary of a school district by
20 depositing it in the United States mail or with another public
21 postal service, express mail service, parcel post service, or
22 common carrier. The voter may return the marked ballot to the
23 appropriate city, township, or village clerk or secretary of a
24 school district by depositing it at the office of the clerk or
25 secretary or other place of deposit designated by the clerk or
26 secretary. The voter shall return the ballot in the return
27 identification envelope supplied with the ballot or the ballot

1 will not be counted. An election by mail ballot must be received
2 at the office of the appropriate clerk or secretary or other
3 place of deposit designated by the clerk or secretary not later
4 than the end of the period determined under subsection (2) on the
5 date of the election.

6 (8) A voter may obtain a replacement election by mail ballot
7 if the ballot is destroyed, spoiled, lost, or not received by the
8 voter. A voter who seeks a replacement ballot shall sign a sworn
9 statement that the ballot was destroyed, spoiled, lost, or not
10 received by the voter and submit the statement to the appropriate
11 clerk or secretary before the end of the period determined under
12 subsection (2). The clerk or secretary shall keep a record of
13 each replacement election by mail ballot provided under this
14 subsection. The clerk or secretary shall designate the clerk's
15 or secretary's office or a central location in the city,
16 township, village, or school district in which the election is
17 held as the single place to obtain a replacement election by mail
18 ballot under this subsection. A clerk or secretary may mail
19 replacement ballots 5 days or more before the date of the
20 election by mail. The clerk or secretary may deliver in person
21 to a registered voter a replacement ballot up until and including
22 the date of the election by mail.

23 (9) Election officials shall count an election by mail ballot
24 only if that ballot meets all of the following requirements:

25 (a) The ballot is returned in the return identification
26 envelope.

27 (b) The return identification envelope is signed by the voter

1 to whom the ballot was issued.

2 (c) The signature is verified as provided in subsection
3 (10).

4 (10) The city, township, or village clerk or secretary of a
5 school district shall verify the signature of each voter on the
6 return identification envelope with the signature of the voter on
7 the voter's registration card, according to the procedures
8 prescribed in this act and rules promulgated by the secretary of
9 state.

10 (11) If the clerk, secretary, or other election official
11 determines that a voter to whom a replacement election by mail
12 ballot has been issued has voted more than once, an election
13 official shall not count any ballot cast by that voter. A clerk,
14 secretary, or other election official who becomes aware of a
15 person who votes or attempts to vote by means of both an original
16 ballot and a replacement ballot shall report that information to
17 the prosecuting attorney for that county and to the secretary of
18 state.

19 (12) An election by mail ballot or a voter casting a ballot
20 at an election by mail, or both, is subject to challenge as
21 prescribed in this act.