

SENATE BILL No. 152

February 6, 2003, Introduced by Senator CLARKE and referred to the Committee on Government Operations.

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:

SENATE BILL No. 152

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~~ **according** to
15 the guidelines of the secretary of state. Combined ballots
16 ~~shall be~~ **are** regarded as the number of ballots as there are
17 sections to the ballot.

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

1 under subsection (2). The clerk is not required to use all of
2 the absent voter counting boards authorized by the board of
3 election commissioners under subsection (2).

4 (4) In a city, township, or village that uses absent voter
5 counting boards under this section, absent voter ballots shall be
6 counted in the manner provided in this section and absent voter
7 ballots shall not be delivered to the polling places. The board
8 of election commissioners shall provide a place for each absent
9 voter counting board to count the absent voter ballots. Section
10 662 applies to the designation and prescribing of the absent
11 voter counting place or places in which the absent voter counting
12 board performs its duties under this section. The places shall
13 be designated as absent voter counting places. Except as
14 otherwise provided in this section, laws relating to paper ballot
15 precincts, including laws relating to the appointment of election
16 inspectors, apply to absent voter counting places. If a counting
17 place uses voting machines, the provisions of this section
18 relating to placing of absent voter ballots on voting machines
19 apply. More than 1 absent voter counting board may be located in
20 1 building.

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

27 (6) Absent voter ballots received by the clerk before

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

25 (7) At the time of issuing or mailing absent voter ballots to
26 qualified applicants, the clerk of a city, township, or village
27 that uses absent voter counting boards shall mark the letters

1 "A.V." and the date of election on the registration card of the
2 applicant in the precinct registration file.

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

11 (9) The absent voter counting boards shall process the
12 ballots and returns in as nearly as possible the same manner as
13 ballots are processed in paper ballot precincts. The poll book
14 may be combined with the absent voter list or record required by
15 section 760, and the applications for absent voter ballots may be
16 used as the poll list. The processing ~~and tallying~~ **only** of
17 absent voter ballots may commence at ~~7~~ **12:01** a.m. on the day of
18 the election. **As used in this section, "processing" includes all**
19 **the steps necessary to prepare the absent voter ballots for**
20 **tallying. The tallying of absent voter ballots shall not**
21 **commence until 7 a.m. on the day of the election.**

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

27 "I (name of person taking oath) do solemnly swear (or affirm)

1 that I ~~shall~~ **will** not communicate in any way ~~any~~ information
2 relative to the processing or tallying of votes that may come to
3 me while in this counting place until after the polls are
4 closed."

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

17 (12) At the time the board of election commissioners provide
18 for the use of absent voter counting boards, the board of
19 election commissioners may provide that the absent voter counting
20 boards shall record the votes contained on absent voter ballots
21 on voting machines. In that case, the recording of ballots shall
22 be done by the chairperson of the absent voter counting board or
23 another member designated by the chairperson. The act of casting
24 the votes shall be performed in the presence of and under the
25 careful observation and full view of all members of the absent
26 voter counting board, party challengers, and any other persons
27 lawfully present at the absent voter counting place. The vote as

1 indicated by the voting pointers shall not be recorded until each
2 member of the absent voter counting board is satisfied that the
3 arrangement of the voting pointers fully carries out the intent
4 of the absent voter as shown by the cross marks or check marks on
5 the absent voter ballot. A certificate that the requirements of
6 this subsection were met shall be made on the election
7 inspectors' statement of returns.

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

14 (14) Voted absent voter ballots shall be placed in a ballot
15 box and the ballot bag and ballot box shall be sealed in the
16 manner provided ~~by this act~~ for paper ballot precincts. The
17 seal numbers shall be recorded on the statement sheet and in the
18 poll book.

19 (15) In a city, township, or village where challenged voters
20 are required to vote on absent voter ballots, each challenged
21 voter ballot and application for ballot, after having been voted
22 and properly identified, shall be placed by the voter in an
23 absent voter ballot return envelope. The applicable information
24 required on the back of the envelope shall be completed by the
25 board of election inspectors. The envelope shall be signed by
26 the challenged voter and by the chairperson of the precinct board
27 of election inspectors. The word "challenged" shall be written

1 across the front of the envelope. The envelope and application
2 for ballot shall be sealed and delivered to the absent voter
3 counting place by the clerk of the city, township, or village.
4 Immediately after the closing of the polls, the chairperson of
5 the precinct board of election inspectors shall notify the clerk
6 of the city, township, or village of remaining challenged voter
7 ballots to be delivered to the absent voter counting place. In a
8 city, township, or village that uses voting machines where absent
9 voter counting boards are not used, challenged ballots shall be
10 counted and tallied in the precincts, in the same manner that
11 absent voter ballots are tallied and counted as provided in
12 section 791.

13 (16) Subject to this subsection, a local election official
14 who has established an absent voter counting board, the deputy or
15 employee of that local election official, or an employee of the
16 state bureau of elections may enter and leave an absent voter
17 counting board after the tally has begun but before the polls
18 close. A person described in this subsection may enter an absent
19 voter counting board only for the purpose of responding to an
20 inquiry from an election inspector or a challenger or to provide
21 instructions on the operation of the counting board. Before
22 entering an absent voter counting board, a person described in
23 this subsection shall take and sign the oath prescribed in
24 subsection (10). The chairperson of the absent voter counting
25 board shall record in the poll book the name of a person
26 described in this subsection who enters the absent voter counting
27 board. A person described in this subsection who enters an

1 absent voter counting board and who discloses an election result
2 or in any manner characterizes how any ballot being counted has
3 been voted in a precinct before the time the polls can be legally
4 closed on election day is guilty of a felony. As used in this
5 subsection, "local election official" means a county, city,
6 township, or village clerk, the secretary of a school board, or
7 an employee of a school district designated to conduct a school
8 election.

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