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BILL ANALYSIS



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Senate Bill 752 (as introduced 10-12-11)
Sponsor: Senator Goeff Hansen
Committee: Local Government and Elections

Date Completed: 11-2-11

CONTENT**The bill would amend the Michigan Election Law to do the following:**

- **Revise procedures applicable to an absent voter counting board.**
- **Delete certain provisions related to a board of canvassers conducting a recount in a precinct that uses paper ballots or voting machines.**
- **Require a political party, other than a major political party, to notify the Secretary of State and the Bureau of Elections before holding its county caucus or State convention.**

Absent Voter Counting Boards

Counting by Absent Voter Counting Boards. Currently, except as otherwise provided, the absent voter ballots in a city, township, or village that uses voting machines must be counted by absent voter counting boards. The board of election commissioners of a city, township, or village that has a maximum of two precincts or of a city with a population of at least 500,000 may decide that the absent voter ballots must be counted in the manner provided in Section 791 (described below). In a city, township, or village that does not use voting machines, the absent voter ballots may be counted by absent voter counting boards, or in the same manner as is otherwise provided for precincts in which voting is not done on voting machines.

The bill would delete these provisions. Instead, if a city, township, or village decided to use absent voter counting boards, the applicable board of election commissioners would have to establish an absent voter counting board for each election day precinct. The ballot form of an absent voter counting board would have to correspond to the ballot form of the election day precinct for which it was established. After the polls closed on election day, the county, city, township, or village clerk responsible for producing the accumulation report of the election results submitted by the boards of precinct election inspectors would have to format the report to indicate clearly all of the following:

- The election day precinct returns.
- The corresponding absent voter counting board returns.
- A total of each election day precinct return and each corresponding absent voter counting board return.

(Under Section 791, when absent voters' ballots have been returned to the city clerk and delivered to the precinct board of election inspectors, the inspectors must determine the legality of the ballots, and count and tally the votes. The canvass must be performed in the same manner as is provided for paper ballot precincts.)

Board as Separate Precinct. In all primary elections, if there are more names under the heading of an office than there are candidates to be nominated, and the same office appears in more than one precinct, the names must be rotated, and appear on the ballot, as prescribed in the Law.

Where absent voter counting boards are used, each ballot form that contains identical offices and names *must* be considered a separate precinct for these purposes. Under the bill, instead, if a municipality had 250 or more precincts and absent voter counting boards were used, each ballot form that contained identical offices and names *could* be considered a separate precinct for these purposes. For the purposes of the entire Law, except as otherwise provided, an absent voter counting board would be a separate precinct.

(The provisions apply to nonpartisan general elections and to municipal elections.)

Seals Delivered to Absent Voter Counting Board. Under the Law, when the official ballots and other election supplies are delivered to township and city clerks, or wards and precincts, as applicable, a sufficient number of blank forms for use by the election inspectors in making the statement of returns of the election must be delivered. At that time, a sufficient number of seals for the use of the election inspectors in sealing the ballot boxes after the close of the election also must be delivered. A record of the number of seals delivered to each voting precinct and absent voter counting board precinct must be recorded and preserved. Under the bill, the record-keeping requirement also would apply to seals delivered to each absent voter counting board.

School Districts. Under the Law, a local election official who has established an absent voter counting board, the deputy or employee of that official, or an employee of the State Bureau of Elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. Such a person may enter only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the board's operation. A person who enters an absent voter counting board and discloses an election result or in any manner characterizes how any ballot being counted has been voted before the polls close is guilty of a felony.

As used in these provisions, "local election official" means a county, city, township, or village clerk; the secretary of a school board; or a school district employee designated to conduct a school election. The bill would eliminate the references to a school board secretary and school district employee.

The Law requires the SOS to develop instructions for the conduct of absent voter counting boards. The instructions are binding upon the operation of a counting board used in an election conducted by a county, city, township, village, school district, or any other jurisdiction empowered to conduct an election under the Law. The bill would delete the references to a school district or other jurisdiction, referring only to a county, city, township, or village.

Board of Canvassers: Recount

Paper Ballots. Currently, in a precinct using paper ballots, the board of canvassers conducting a recount must do so subject to all of the following conditions.

The ballots in packages or ballot bags that are secured and sealed so that a ballot cannot be removed or inserted unless it corresponds in number with the poll list delivered to the appropriate clerk by the board of election inspectors, must be recounted even though the ballot box or other container is not securely sealed with the seal of record.

If the ballot box or other container is securely sealed with the seal of record, only the ballots that correspond in number with the poll list delivered to the appropriate clerk by the board of

election inspectors must be recounted, even though the ballots are not secured and sealed in packages or ballot bags.

If the ballot box or other container is not securely sealed, or if the seal is not the seal of record, and the ballots in packages or ballot bags are not secured and sealed so that a ballot cannot be removed or inserted, the ballots must not be recounted and the original count of the ballots as reported by the board of election inspectors must stand as the correct count.

The bill would delete all of these provisions.

Voting Machines. Currently, in a precinct in which voting machines are used, the board of canvassers conducting a recount must recount all voting machines used in the precinct unless one or more of the circumstances described below exist.

All voting machines may not be recounted if the sum of the numbers appearing on the public counters of all machines used in the precinct exceeds the total number of voters who voted in the precinct as shown by the poll book, plus the number of times the machine was operated by the inspectors of election and custodians, and the excess is not explained to the satisfaction of the board of canvassers by the inspectors of election of that precinct.

A voting machine used in a precinct may not be recounted if it is not sealed with the seal of record in a manner that makes it impossible to vote on the machine or change the totals appearing on the individual candidate or ballot question counters.

A voting machine may not be recounted if the number appearing on the protective counter at the time of the recount does not equal the sum of the number appearing on the protective counter at the opening of the polls and the number appearing on the public counter at the time of the recount.

If a precinct in which voting machines are used cannot be recounted as required under these provisions, absent voter ballots tallied in that precinct may not be recounted unless recorded separately.

The bill would delete all of these provisions.

Political Party County Caucus/State Convention

Under the bill, a political party that was not a major political party and that was required to nominate candidates at a county caucus or State convention would have to notify the Secretary of State and the Bureau of Elections, at least 10 days before holding the caucus or convention to nominate candidates, of the date, time, and location of the caucus or convention.

("Major political party" means each of the two political parties whose candidate for the office of Secretary of State received the highest and second highest number of votes at the immediately preceding general election in which a Secretary of State was elected.)

MCL 168.569a et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.