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Senate Bill 803 (as introduced 11-8-11)  
Sponsor: Senator Darwin L. Booher  
Committee: Local Government and Elections

Date Completed: 11-9-11

### **CONTENT**

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

- **Require an application to vote to include an affirmative statement by the elector that he or she was a citizen of the United States.**
- **Require an elector who did not affirmatively state that he or she was a U.S. citizen to be challenged, and prohibit issuance of a ballot to an elector who did not make the statement under oath.**
- **Require an application for an absent voter ballot to question whether the applicant was a U.S. citizen.**
- **Prohibit a clerk from issuing an absent voter ballot to a person who indicated that he or she was not a U.S. citizen.**
- **Require a clerk to issue an absent voter ballot to a person who did not answer the citizenship question, but prohibit the ballot from being counted unless the person answered it before the polls closed on election day.**

#### Elector Application

Under the Law, at each election, before being given a ballot, a registered elector offering to vote must present a photo ID and execute an application showing his or her signature or mark and address of residence in the presence of an election official.

Under the bill, the application would have to be on a form prescribed by the Secretary of State. In addition to the information currently required, the form would have to include the elector's name and date of birth, as well as an affirmative statement by the elector that he or she was a U.S. citizen.

If an elector did not affirmatively state on the application that he or she was a U.S. citizen, an election inspector would have to challenge him or her. If the elector failed to state under oath that he or she was a U.S. citizen, the elector could not be issued a ballot.

Under the Law, if an elector's signature contained in the qualified voter file (QVF) is available in the polling place, the election official must compare the signature on the application with the digitized signature in the QVF. If the elector's signature is not in the QVF, the official must process the application in the same manner as applications are processed when a voter registration list is used in the polling place. If the name appears on the list, the elector must give his or her date of birth or other information stated on the list. The bill would delete the reference to the elector's date of birth.

Currently, in precincts using voter registration lists, the date of birth may be required to be placed on the application to vote. The bill would delete this provision.

If the signature or an item of information does not correspond, the person's vote must be challenged, and the Law's procedures for the challenging of an elector must be followed. The bill would refer to an item of information other than citizenship.

If the person offering to vote has signed the registration card or application by making a mark, the person must identify himself or herself by giving his or her date of birth, which must be compared with the date of birth stated on the registration card or voter registration list, or must give other identification referred to on the card or list. The bill would delete this provision.

### Absent Voter Ballot Application

The Law allows qualified electors to obtain an absent voter ballot by applying in person or by mail with the clerk of the township, city, or village in which he or she is registered. Under the bill, the application would have to include the following text: "Are you a citizen of the United States? [ ] Yes [ ] No". In addition, the application would have to include the following warning: "If you answer that you are not a citizen of the United States, you will not be issued an absent voter ballot. If you do not answer the citizenship question on this application, an absent voter ballot will be issued to you, but the ballot will not be counted unless you answer the citizenship question in writing to the clerk before the polls close on election day."

If the clerk of a city, township, or village received an absent voter ballot application from a registered voter who indicated that he or she was not a U.S. citizen, the clerk could not issue an absent voter ballot to that person. If the clerk received an absent voter ballot application from a registered voter who did not answer the citizenship question, the clerk would have to issue a ballot to the person, but the ballot could not be counted on election day unless the person answered the question in writing before the polls closed.

MCL 168.253 et al.

### **BACKGROUND**

Section 727 of the Michigan Election Law requires an election inspector to challenge an applicant for a ballot if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that individual is not a registered elector in that precinct. An election inspector or other qualified challenger also may challenge the right of an individual attempting to vote if the individual previously applied for an absent voter ballot and on election day claims that he or she never received the ballot or lost or destroyed it.

Upon a challenge, an election inspector immediately must identify a ballot voted by the challenged individual, if any. In addition, the inspector must make a written report including all of the following information:

- All election disparities or infractions complained of or believed to have occurred.
- The name of the individual making the challenge and the time of the challenge.
- The name, telephone number, and address of the challenged individual.
- Other information the election inspector considers appropriate.

The inspector must retain the report as part of the election record, and inform a challenged elector of his or her rights under Section 729. (Under that section, if a person attempting to vote is challenged as unqualified, an election inspector or a qualified elector may question the person under oath about his or her qualifications as an elector. If the answers show that the person is a qualified elector in the precinct, he or she is entitled to receive a ballot and vote.)

A challenger may not do any of the following: make a challenge indiscriminately and without cause; handle poll books while observing election procedures or the ballots during counting; or interfere with or unduly delay the work of the election inspectors. An individual who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

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.