

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Forlini and Kurtz

ENROLLED HOUSE BILL No. 5062

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 31, 33, 514, 679a, 811, 847, and 942 (MCL 168.31, 168.33, 168.514, 168.679a, 168.811, 168.847, and 168.942), section 31 as amended by 2005 PA 71, section 33 as amended by 2002 PA 91, section 514 as amended by 1992 PA 195, section 679a as added by 2004 PA 256, and sections 847 and 942 as amended by 1995 PA 261, and by adding section 31a.

The People of the State of Michigan enact:

Sec. 31. (1) The secretary of state shall do all of the following:

(a) Subject to subsection (2), issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.

(b) Advise and direct local election officials as to the proper methods of conducting elections.

(c) Publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.

(d) Publish indexed pamphlet copies of the registration, primary, and election laws and furnish to the various county, city, township, and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions. The secretary of state may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference.

(e) Prescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations.

(f) Prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of this state.

(g) Require reports from the local election officials the secretary of state considers necessary.

(h) Investigate, or cause to be investigated by local authorities, the administration of election laws, and report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.

(i) Publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the county clerks on or before the first day of December following the election. All clerks shall furnish to the secretary of state, promptly and without compensation, any further information requested of them to be used in the compilation of the legislative manual.

(j) Establish a curriculum for comprehensive training and accreditation of all county, city, township, and village officials who are responsible for conducting elections.

(k) Establish a continuing election education program for all county, city, township, and village clerks.

(l) Establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election.

(m) Establish a comprehensive training curriculum for all precinct inspectors.

(n) Create an election day dispute resolution team that has regional representatives of the department of state, which team shall appear on site, if necessary.

(2) Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the secretary of state shall promulgate rules establishing uniform standards for state and local nominating, recall, and ballot question petition signatures. The standards for petition signatures may include, but need not be limited to, standards for all of the following:

(a) Determining the validity of registration of a circulator or individual signing a petition.

(b) Determining the genuineness of the signature of a circulator or individual signing a petition, including digitized signatures.

(c) Proper designation of the place of registration of a circulator or individual signing a petition.

Sec. 31a. (1) In order to ensure compliance with the provisions of this act, after each election the secretary of state may audit election precincts.

(2) The secretary of state shall develop an election audit program that details the documents to be inspected and the procedures to be used during an election audit conducted under this section. The secretary of state may train and certify county clerks and their staffs for the purpose of conducting election audits of precincts randomly selected by the secretary of state in their counties. The secretary of state shall supervise each county clerk in the performance of election audits conducted under this section.

(3) Each county clerk who conducts an election audit under this section shall provide the results of the election audit to the secretary of state within 20 days after the election audit.

Sec. 33. (1) The director of elections shall conduct training schools throughout this state before the general November election, and before other elections as the director considers advisable, for county clerks and their representatives with respect to the conducting of elections in accordance with the election laws. Included in this training shall be instruction on the uniform voting system. If a county clerk fails to conduct in his or her county a training school for election boards within the county, the director of elections shall conduct the training school, the cost of the training school to be charged as an obligation of the county.

(2) The director of elections shall train all county, city, and township clerks who are involved in the training of precinct inspectors. The training shall include team training and monitoring of their performance as trainers.

(3) The director of elections shall conduct all precinct inspector training in counties where the clerk has not been accredited to conduct the training schools.

(4) The director of elections shall conduct continuing election education training courses for county, city, township, and village clerks to attend. Each county, city, township, and village clerk is required to attend and complete continuing election education training at least once every 2 years to maintain accreditation as a clerk. The department of state is responsible for providing continuing election education training to the clerks at no charge to the clerks, counties, cities, townships, or villages.

Sec. 514. If the registration of an elector is canceled, the clerk shall make a proper entry on the original and duplicate registration cards, indicating the date and the cause for cancellation, and shall affix his or her signature to the entries. All copies of the canceled registration cards shall be filed in the office of the clerk. All duplicates of the original registration cards canceled may be destroyed 2 years after the registrations are canceled. The clerk may also destroy the original registration cards of an elector 5 years after the date of cancellation of the elector's registration, if the registration is not reinstated within that period. The clerk may also destroy any canceled original registration cards

2 years after the date of cancellation if the canceled registration cards are reproduced under the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, and the reproductions are on file in the office of the clerk. The reproductions may be destroyed after the expiration of the statutory retention date of the reproduced records. The registration records, if combustible, shall be destroyed by burning.

Sec. 679a. (1) The election commission of a city, township, or village shall, by resolution, provide that at an election at which the ballots are counted and certified at the precinct, 1 or more additional boards of election inspectors be appointed to serve as receiving boards. For a precinct having receiving boards, the board of election commissioners shall appoint a receiving board consisting of 2 or more election inspectors, with an equal number from each major political party, and shall appoint an equal number of election inspectors from each major political party.

(2) Not less than 2 election inspectors in a precinct, representing each of the major political parties, shall deliver to the receiving board for that precinct a sealed ballot container containing the voted ballots, and, in a separate sealed envelope, the poll book and statement of returns. The poll book and statement of returns may be enclosed in a single sealed envelope.

(3) The receiving board shall open the sealed envelope and review the poll book and statement of returns to determine both of the following:

(a) That the ballot container is properly sealed and the seal number is properly recorded in the poll book and the statement of returns. If the ballot container is not properly sealed or there is a discrepancy with the seal number recorded in the poll book or the statement of returns, the election inspectors who delivered the ballot container and the receiving board shall together take the necessary steps to correct the discrepancy. The election inspectors and the receiving board shall note the discrepancy and the corrective action in the remarks section of the poll book and all shall sign the notation.

(b) That the number of individuals voting recorded in the poll book equals the number of ballots issued to electors, as shown by the statement of returns. If the number of individuals voting as shown by the poll book does not equal the number of ballots counted as shown by the statement of returns, and if an explanation of the discrepancy has not been noted in the poll book, the receiving board shall ask the election inspectors about the discrepancy, note the explanation in the poll book, and all shall sign the notation.

(4) If the poll book or statement of returns has been erroneously sealed in the ballot container, the election inspectors may open the ballot container and remove the poll book or statement of returns. The elections inspectors and receiving board shall note the corrective action in the remarks section of the poll book and all shall sign the notation before placing the poll book or statement of returns in a separate sealed envelope. If the statement of returns was sealed in the ballot container and the poll book was sealed in an envelope, the poll book shall be removed from the sealed envelope for the notation of corrective action to be recorded before placing the poll book and statement of returns in a sealed envelope. The receiving board shall notify the clerk of the board of canvassers responsible for canvassing all or a portion of the election of the corrective action taken.

(5) When the receiving board has completed the review under subsection (3), the receiving board shall place the poll book and statement of returns in the appropriate envelope, sealed with a red paper seal and initialed by the receiving board. If permitted by the clerk of the board of canvassers, the poll books and statement of returns from more than 1 precinct may be included and delivered in a single envelope.

Sec. 811. All election returns, including poll lists, statements, tally sheets, absent voters' return envelopes bearing the statement required by section 761, absent voters' records required by section 760, and other returns made by the inspectors of election of the several precincts shall be carefully preserved and may be destroyed after the expiration of 2 years following the primary or election at which the same were used. All applications executed under section 523 and all absent voters' applications shall be carefully preserved and may be destroyed after the expiration of 6 years following the primary or election at which those applications were executed. All ballots used at any primary or election may be destroyed after 30 days following the final determination of the board of canvassers with respect to the primary or election unless a petition for recount has been filed and not completed or unless their destruction is stayed by an order of a court.

Sec. 847. The secretary of state may authorize the release of all ballots, ballot boxes, voting machines, and equipment after 30 days following certification of an election by the board of state canvassers in a precinct other than a precinct in which 1 or more of the following occur:

(a) A petition for recount has been filed with the board of state canvassers.


(b) A petition has been filed pursuant to section 879.

(c) A court of competent jurisdiction has issued an order restraining interference with ballots, ballot boxes, voting machines, and equipment.

Sec. 942. An offense under this act shall not be prosecuted unless the prosecution is commenced within 3 years after the time the offense is discovered. The complaining witness or any other person who is called to testify in behalf of the people in a proceeding under this section shall not be liable to criminal prosecution under this act for an offense in respect to which he or she is examined or to which his or her testimony relates, except to prosecution for perjury committed in the testimony.

Enacting section 1. This amendatory act takes effect August 15, 2012.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor