

# SENATE BILL No. 752

October 12, 2011, Introduced by Senators HANSEN, GREEN and ROBERTSON and referred to the Committee on Local Government and Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 569a, 671, 792a, and 871 (MCL 168.569a, 168.671, 168.792a, and 168.871), section 569a as added by 1985 PA 24, section 671 as amended by 1995 PA 261, section 792a as amended by 2005 PA 71, and section 871 as amended by 2000 PA 207, and by adding section 686b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 569a. (1) In all primary elections, if there are more  
2 names under the heading of an office than there are candidates to  
3 be nominated and the same office appears in more than 1 precinct,  
4 the names shall be rotated in the following manner: In printing  
5 each set of ballots for the several election precincts, the  
6 relative positions of the different names printed in each division

1 shall be changed as many times as there are candidates in that  
2 division and as reasonably as possible a candidate's name shall not  
3 appear at the top of the ballot more times than any other  
4 candidate's name in that division. The names shall first be  
5 arranged alphabetically according to surnames on each ballot used  
6 in the precinct. In the next precinct the names shall appear in the  
7 same order on each ballot, except that the name appearing first  
8 under each office in the preceding precinct shall be last. The  
9 names shall be changed in that manner in every precinct of the  
10 city, village, township, or county.

11 (2) ~~Where~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN**  
12 ~~absent voter counting boards are used, each ballot form which~~  
13 ~~contains identical offices and names shall be considered~~ **BOARD IS** a  
14 separate precinct for the purposes of this ~~section~~ **ACT. IF A**  
15 **MUNICIPALITY HAS 250 OR MORE PRECINCTS AND ABSENT VOTER COUNTING**  
16 **BOARDS ARE USED, EACH BALLOT FORM WHICH CONTAINS IDENTICAL OFFICES**  
17 **AND NAMES MAY BE CONSIDERED A SEPARATE PRECINCT FOR THE PURPOSES OF**  
18 **THIS SECTION.**

19 (3) Notwithstanding provisions of law or charter to the  
20 contrary, this section ~~shall apply~~ **APPLIES** to nonpartisan general  
21 elections and to municipal elections.

22 Sec. 671. At the time of delivering the official ballots and  
23 other election supplies to the township and city clerks or, for  
24 city, village, or township elections, to the wards or precincts, a  
25 sufficient number of blank forms for use by the election inspectors  
26 in making the statement of returns of the election as required by  
27 law shall be delivered. At the same time, a sufficient number of

1 seals for the use of the election inspectors in sealing the ballot  
2 boxes after the close of the election shall be delivered. A record  
3 of the number of seals delivered to each voting precinct, and  
4 absent voter counting board, **AND ABSENT VOTER COUNTING BOARD**  
5 precinct shall be recorded and preserved.

6 **SEC. 686B. A POLITICAL PARTY THAT IS NOT A MAJOR POLITICAL**  
7 **PARTY, AS DEFINED IN SECTION 16, AND THAT IS REQUIRED TO NOMINATE**  
8 **CANDIDATES AT A COUNTY CAUCUS OR STATE CONVENTION SHALL, AT LEAST**  
9 **10 DAYS BEFORE HOLDING THE COUNTY CAUCUS OR STATE CONVENTION TO**  
10 **NOMINATE CANDIDATES, NOTIFY IN WRITING THE SECRETARY OF STATE AND**  
11 **THE BUREAU OF ELECTIONS OF THE DATE, TIME, AND LOCATION OF THE**  
12 **COUNTY CAUCUS OR STATE CONVENTION OF THAT POLITICAL PARTY.**

13 ~~Sec. 792a. (1) Except as otherwise provided in this~~  
14 ~~subsection, the absent voter ballots in a city, township, or~~  
15 ~~village that uses voting machines shall be counted by absent voter~~  
16 ~~counting boards. The board of election commissioners of a city,~~  
17 ~~township, or village that has 2 precincts or less or of a city that~~  
18 ~~has 500,000 or more in population may decide that the absent voter~~  
19 ~~ballots shall be counted in the manner provided in section 791. In~~  
20 ~~a city, township, or village that does not use voting machines, the~~  
21 ~~absent voter ballots may be counted by absent voter counting boards~~  
22 ~~or in the same manner as is otherwise provided for precincts in~~  
23 ~~which voting is not done on voting machines.~~**IF A CITY, TOWNSHIP, OR**  
24 **VILLAGE DECIDES TO USE ABSENT VOTER COUNTING BOARDS, THE BOARD OF**  
25 **ELECTION COMMISSIONERS OF THAT CITY, TOWNSHIP, OR VILLAGE SHALL**  
26 **ESTABLISH AN ABSENT VOTER COUNTING BOARD FOR EACH ELECTION DAY**  
27 **PRECINCT IN THAT CITY, TOWNSHIP, OR VILLAGE. THE BALLOT FORM OF AN**

1 ABSENT VOTER COUNTING BOARD SHALL CORRESPOND TO THE BALLOT FORM OF  
2 THE ELECTION DAY PRECINCT FOR WHICH IT IS ESTABLISHED. AFTER THE  
3 POLLS CLOSE ON ELECTION DAY, THE COUNTY, CITY, TOWNSHIP, OR VILLAGE  
4 CLERK RESPONSIBLE FOR PRODUCING THE ACCUMULATION REPORT OF THE  
5 ELECTION RESULTS SUBMITTED BY THE BOARDS OF PRECINCT ELECTION  
6 INSPECTORS SHALL FORMAT THE ACCUMULATION REPORT TO CLEARLY INDICATE  
7 ALL OF THE FOLLOWING:

8 (A) THE ELECTION DAY PRECINCT RETURNS.

9 (B) THE CORRESPONDING ABSENT VOTER COUNTING BOARD RETURNS.

10 (C) A TOTAL OF EACH ELECTION DAY PRECINCT RETURN AND EACH  
11 CORRESPONDING ABSENT VOTER COUNTING BOARD RETURN.

12 (2) The board of election commissioners shall establish the  
13 absent voter counting boards. The board of election commissioners  
14 shall determine the number of absent voter counting boards to be  
15 established and shall appoint the election inspectors to those  
16 absent voter counting boards 10 days or more before the election at  
17 which they are to be used. Sections 673a and 674 apply to the  
18 appointment of election inspectors to absent voter counting boards  
19 under this section. The board of election commissioners shall  
20 determine the number of ballots that may be expeditiously counted  
21 by an absent voter counting board in a reasonable period of time,  
22 taking into consideration the size and complexity of the ballot to  
23 be counted pursuant to the guidelines of the secretary of state.  
24 Combined ballots shall be regarded as the number of ballots as  
25 there are sections to the ballot.

26 (3) If more than 1 absent voter counting board is to be used,  
27 the city, township, or village clerk shall determine the number of

1 voting machines or the number of ballot boxes and the number of  
2 election inspectors to be used in each of the absent voter counting  
3 boards and to which absent voter counting board the absent voter  
4 ballots for each precinct shall be assigned for counting. The clerk  
5 shall make the determination under this subsection 2 days or more  
6 before the election and shall not assign an absent voter counting  
7 board more ballots than the maximum number authorized by the board  
8 of election commissioners under subsection (2). The clerk is not  
9 required to use all of the absent voter counting boards authorized  
10 by the board of election commissioners under subsection (2).

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

27 (5) The clerk of a city, township, or village that uses absent

1 voter counting boards shall supply each absent voter counting board  
2 with supplies necessary to carry out their duties under this act.  
3 The supplies shall be furnished to the city, township, or village  
4 clerk in the same manner and by the same persons or agencies as for  
5 other precincts.

6 (6) Absent voter ballots received by the clerk before election  
7 day shall be delivered to the absent voter counting board by the  
8 clerk at the time the election inspectors of the absent voter  
9 counting boards report for duty, which time shall be established by  
10 the board of election commissioners. Absent voter ballots received  
11 by the clerk on election day shall be delivered to the absent voter  
12 counting boards before the time set for the closing of the polls.  
13 Absent voter ballots shall be delivered to the absent voter  
14 counting boards in the sealed absent voter ballot return envelopes  
15 in which they were returned to the clerk. Written or stamped on  
16 each of the return envelopes shall be the time and the date that  
17 the envelope was received by the clerk and a statement by the clerk  
18 that the signatures of the absent voters on the envelopes have been  
19 checked and found to agree with the signatures of the voters on the  
20 registration cards or the digitized signatures of voters contained  
21 in the qualified voter file as provided under section 766. If a  
22 signature on the registration card or a digitized signature  
23 contained in the qualified voter file and on the absent voter  
24 ballot return envelope does not agree as provided under section  
25 766, if the absent voter failed to sign the envelope, or if the  
26 statement of the absent voter is not properly executed, the clerk  
27 shall mark the envelope "rejected" and the reason for the rejection

1 and shall place his or her name under the notation. An envelope  
2 marked "rejected" shall not be delivered to the absent voter  
3 counting board but shall be preserved by the clerk until other  
4 ballots are destroyed in the manner provided in this act. The clerk  
5 shall also comply with section 765(5).

6 (7) At the time of issuing or mailing absent voter ballots to  
7 qualified applicants, the clerk of a city, township, or village  
8 that uses absent voter counting boards shall mark the letters  
9 "A.V." and the date of election on the registration card of the  
10 applicant in the precinct registration file.

11 (8) This chapter does not prohibit an absent voter from voting  
12 in person within the voter's precinct at an election,  
13 notwithstanding that the voter may have applied for an absent voter  
14 ballot and the ballot may have been mailed or otherwise delivered  
15 to the voter. The voter, the election inspectors, and other  
16 election officials shall proceed in the manner prescribed in  
17 section 769. The clerk shall preserve the canceled ballots for 2  
18 years.

19 (9) The absent voter counting boards shall process the ballots  
20 and returns in as nearly as possible the same manner as ballots are  
21 processed in paper ballot precincts. The poll book may be combined  
22 with the absent voter list or record required by section 760, and  
23 the applications for absent voter ballots may be used as the poll  
24 list. The processing and tallying of absent voter ballots may  
25 commence at 7 a.m. on the day of the election.

26 (10) An election inspector, challenger, or any other person in  
27 attendance at an absent voter counting place at any time after the

1 processing of ballots has begun shall take and sign the following  
2 oath that may be administered by the chairperson or a member of the  
3 absent voter counting board:

4 "I (name of person taking oath) do solemnly swear (or affirm)  
5 that I shall not communicate in any way any information relative to  
6 the processing or tallying of votes that may come to me while in  
7 this counting place until after the polls are closed."

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

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



1 counting board, party challengers, and any other persons lawfully  
2 present at the absent voter counting place. The vote as indicated  
3 by the voting pointers shall not be recorded until each member of  
4 the absent voter counting board is satisfied that the arrangement  
5 of the voting pointers fully carries out the intent of the absent  
6 voter as shown by the cross marks or check marks on the absent  
7 voter ballot. A certificate that the requirements of this  
8 subsection were met shall be made on the election inspectors'  
9 statement of returns.

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

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

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

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

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

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

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

20 Sec. 871. ~~(1) In a precinct using paper ballots, the board of~~  
21 ~~canvassers conducting a recount pursuant to this chapter shall~~  
22 ~~conduct the recount, subject to all of the following:~~

23 ~~—— (a) The ballots in packages or ballot bags that are secured~~  
24 ~~and sealed so that a ballot cannot be removed or inserted unless~~  
25 ~~the ballot corresponds in number with the poll list delivered to~~  
26 ~~the appropriate clerk by the board of election inspectors, shall be~~  
27 ~~recounted even though the ballot box or other ballot container is~~

1 ~~not securely sealed with the seal of record.~~

2 ~~—— (b) If the ballot box or other ballot container is securely~~  
3 ~~sealed with the seal of record, only the ballots that correspond in~~  
4 ~~number with the poll list delivered to the appropriate clerk by the~~  
5 ~~board of election inspectors shall be recounted even though the~~  
6 ~~ballots are not secured and sealed in packages or ballot bags.~~

7 ~~—— (c) If the ballot box or other ballot container is not~~  
8 ~~securely sealed or if the seal on the ballot box or other ballot~~  
9 ~~container is not the seal of record and the ballots in packages or~~  
10 ~~ballot bags are not secured and sealed so that a ballot cannot be~~  
11 ~~removed or inserted, the ballots shall not be recounted and the~~  
12 ~~original count of the ballots as reported by the board of election~~  
13 ~~inspectors shall stand as the correct count.~~

14 ~~—— (d) If the number of ballots in a secured and sealed package~~  
15 ~~or bag and the number of ballots issued on election day as shown on~~  
16 ~~the poll list do not match and the difference is not explained to~~  
17 ~~the satisfaction of the board of canvassers, the ballots shall not~~  
18 ~~be recounted and the original count of the ballots as reported by~~  
19 ~~the board of election inspectors shall stand as the correct count.~~

20 (1) ~~(2) Except as otherwise provided in this section, the **THE**~~  
21 ~~board of canvassers conducting a recount pursuant to this chapter~~  
22 ~~shall recount all ballots of a precinct using an electronic voting~~  
23 ~~system unless 1 or more of the following circumstances exist:~~

24 (a) The seal on the transfer case or other ballot container is  
25 broken or bears a different number than that recorded on the poll  
26 book, the breaking or discrepancy is not explained to the  
27 satisfaction of the board of canvassers, and security of the

1 ballots has not been otherwise preserved.

2 (b) The number of ballots to be recounted and the number of  
3 ballots issued on election day as shown on the poll list or the  
4 computer printout do not match and the difference is not explained  
5 to the satisfaction of the board of canvassers.

6 (c) The seal used to seal the ballot label assembly to a  
7 voting device in the precinct is broken or bears a different number  
8 than that recorded in poll records and the ballot labels or  
9 rotation of candidates' names is different than that shown by other  
10 voting devices in the precinct and records of the board of election  
11 commissioners.

12 ~~—— (3) In a precinct in which voting machines are used, the board~~  
13 ~~of canvassers conducting a recount pursuant to this chapter shall~~  
14 ~~recount all voting machines used in the precinct unless 1 or more~~  
15 ~~of the following circumstances exist:~~

16 ~~—— (a) All voting machines used in a precinct shall not be~~  
17 ~~recounted if the sum of the numbers appearing on the public~~  
18 ~~counters of all voting machines used in the precinct exceeds the~~  
19 ~~total number of voters who voted in the precinct as shown by the~~  
20 ~~poll book, plus the number of times the machine was operated by the~~  
21 ~~inspectors of election and custodians, as shown by the record of~~  
22 ~~the board of election inspectors, and the excess is not explained~~  
23 ~~to the satisfaction of the board of canvassers by the inspectors of~~  
24 ~~election of that precinct.~~

25 ~~—— (b) A voting machine used in a precinct shall not be recounted~~  
26 ~~if the voting machine is not sealed with the seal of record in such~~  
27 ~~a manner as to render it impossible to vote on the machine or to~~

1 otherwise change the totals appearing on the individual candidate  
2 or ballot question counters.

3 ~~—— (c) A voting machine used in a precinct shall not be recounted~~  
4 ~~if the number appearing on the protective counter of the voting~~  
5 ~~machine at the time of the recount does not equal the sum of the~~  
6 ~~number appearing on the protective counter at the opening of the~~  
7 ~~polls as shown by the certificate of the board of election~~  
8 ~~inspectors and the number appearing on the public counter at the~~  
9 ~~time of the recount.~~

10 (2) ~~(4) In a precinct in which voting machines are used, which~~  
11 ~~precinct cannot be recounted under subsection (3), absent voter~~  
12 ~~ballots tallied in that precinct shall not be recounted unless~~  
13 ~~recorded separately. This section does not prohibit the recounting~~  
14 ~~of absent voter ballots tallied in a precinct using an absent voter~~  
15 ~~counting board or in a precinct in which 1 or more voting machines~~  
16 ~~are recountable, if the absent voter ballots are securely packaged~~  
17 ~~and sealed.~~

18 (3) ~~(5) If a board of canvassers conducting a recount pursuant~~  
19 ~~to this chapter determines that the ballots of a precinct are not~~  
20 ~~eligible for recount under this section, the original return of the~~  
21 ~~votes for that precinct shall be taken as correct.~~

22 (4) ~~(6) A board of canvassers conducting a recount pursuant to~~  
23 ~~this chapter may conduct a recount by the following means:~~

24 (a) A manual tally of the ballots.

25 (b) A tabulation of the ballots on a computer using a software  
26 application designed to specifically count only the office or  
27 ballot question subject to the recount.

1 (c) A tabulation of the ballots on a computer using the same  
2 software application used in the precinct on election day.

3 (d) Any combination of methods in subdivision (a), (b), or  
4 (c), as determined appropriate by the board of canvassers.

5 (5) ~~(7)~~—If a board of canvassers conducting a recount pursuant  
6 to this chapter intends to conduct a recount on a computer, the  
7 board of canvassers shall first test the software application by  
8 use of a test deck to determine if the program accurately counts  
9 the votes for the office or ballot question subject to the recount.  
10 If the test under this subsection fails to show that the software  
11 application accurately counts the votes for the office or ballot  
12 question subject to the recount, the board of canvassers shall use  
13 another means prescribed in subsection ~~(6)~~—(4) to conduct the  
14 recount.