

HOUSE BILL No. 5116

October 25, 2011, Introduced by Reps. Brown, Durhal, Hovey-Wright, Lipton, Byrum, McCann and Switalski and referred to the Committee on Redistricting and Elections.

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

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
7 shall be changed as many times as there are candidates in that
8 division and as reasonably as possible a candidate's name shall not
9 appear at the top of the ballot more times than any other

1 candidate's name in that division. The names shall first be
 2 arranged alphabetically according to surnames on each ballot used
 3 in the precinct. In the next precinct the names shall appear in the
 4 same order on each ballot, except that the name appearing first
 5 under each office in the preceding precinct shall be last. The
 6 names shall be changed in that manner in every precinct of the
 7 city, village, township, or county.

8 (2) ~~Where~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN**
 9 absent voter counting ~~boards are used, each ballot form which~~
 10 ~~contains identical offices and names shall be considered~~ **BOARD IS**
 11 **NOT** a separate precinct for the purposes of this ~~section~~ **ACT. IF A**
 12 **MUNICIPALITY HAS 250 OR MORE PRECINCTS AND ABSENT VOTER COUNTING**
 13 **BOARDS ARE USED, EACH BALLOT FORM WHICH CONTAINS IDENTICAL OFFICES**
 14 **AND NAMES MAY BE CONSIDERED A SEPARATE PRECINCT FOR THE PURPOSES OF**
 15 **THIS SECTION.**

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

19 Sec. 671. At the time of delivering the official ballots and
 20 other election supplies to the township and city clerks or, for
 21 city, village, or township elections, to the wards or precincts, a
 22 sufficient number of blank forms for use by the election inspectors
 23 in making the statement of returns of the election as required by
 24 law shall be delivered. At the same time, a sufficient number of
 25 seals for the use of the election inspectors in sealing the ballot
 26 boxes after the close of the election shall be delivered. A record
 27 of the number of seals delivered to each voting precinct, ~~and~~

1 absent voter counting board, **AND ABSENT VOTER COUNTING BOARD**
2 precinct shall be recorded and preserved.

3 Sec. 792a. (1) Except as otherwise provided in this
4 subsection, the absent voter ballots in a city, township, or
5 village that uses voting machines shall be counted by absent voter
6 counting boards. The board of election commissioners of a city,
7 township, or village that has 2 precincts or less or of a city that
8 has 500,000 or more in population may decide that the absent voter
9 ballots shall be counted in the manner provided in section 791. In
10 a city, township, or village that does not use voting machines, the
11 absent voter ballots may be counted by absent voter counting boards
12 or in the same manner as is otherwise provided for precincts in
13 which voting is not done on voting machines. **EXCEPT AS OTHERWISE**
14 **PROVIDED IN THIS SUBSECTION, AN ABSENT VOTER COUNTING BOARD IS NOT**
15 **A SEPARATE PRECINCT, AND THE RESULTS OF BALLOTS TABULATED IN AN**
16 **ABSENT VOTER COUNTING BOARD SHALL BE COMBINED WITH THE RESULTS FROM**
17 **THE APPROPRIATE PRECINCT. IF A MUNICIPALITY HAS 250 OR MORE**
18 **PRECINCTS AND ABSENT VOTER COUNTING BOARDS ARE USED, AN ABSENT**
19 **VOTER COUNTING BOARD MAY BE CONSIDERED A SEPARATE PRECINCT FOR**
20 **PURPOSES OF THIS ACT.**

21 (2) The board of election commissioners shall establish the
22 absent voter counting boards. The board of election commissioners
23 shall determine the number of absent voter counting boards to be
24 established and shall appoint the election inspectors to those
25 absent voter counting boards 10 days or more before the election at
26 which they are to be used. Sections 673a and 674 apply to the
27 appointment of election inspectors to absent voter counting boards

1 under this section. The board of election commissioners shall
2 determine the number of ballots that may be expeditiously counted
3 by an absent voter counting board in a reasonable period of time,
4 taking into consideration the size and complexity of the ballot to
5 be counted pursuant to the guidelines of the secretary of state.
6 Combined ballots shall be regarded as the number of ballots as
7 there are sections to the ballot.

8 (3) If more than 1 absent voter counting board is to be used,
9 the city, township, or village clerk shall determine the number of
10 voting machines or the number of ballot boxes and the number of
11 election inspectors to be used in each of the absent voter counting
12 boards and to which absent voter counting board the absent voter
13 ballots for each precinct shall be assigned for counting. The clerk
14 shall make the determination under this subsection 2 days or more
15 before the election and shall not assign an absent voter counting
16 board more ballots than the maximum number authorized by the board
17 of election commissioners under subsection (2). The clerk is not
18 required to use all of the absent voter counting boards authorized
19 by the board of election commissioners under subsection (2).

20 (4) In a city, township, or village that uses absent voter
21 counting boards under this section, absent voter ballots shall be
22 counted in the manner provided in this section and absent voter
23 ballots shall not be delivered to the polling places. The board of
24 election commissioners shall provide a place for each absent voter
25 counting board to count the absent voter ballots. Section 662
26 applies to the designation and prescribing of the absent voter
27 counting place or places in which the absent voter counting board

1 performs its duties under this section. The places shall be
2 designated as absent voter counting places. Except as otherwise
3 provided in this section, laws relating to paper ballot precincts,
4 including laws relating to the appointment of election inspectors,
5 apply to absent voter counting places. If a counting place uses
6 voting machines, the provisions of this section relating to placing
7 of absent voter ballots on voting machines apply. More than 1
8 absent voter counting board may be located in 1 building.

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

15 (6) Absent voter ballots received by the clerk before election
16 day shall be delivered to the absent voter counting board by the
17 clerk at the time the election inspectors of the absent voter
18 counting boards report for duty, which time shall be established by
19 the board of election commissioners. Absent voter ballots received
20 by the clerk on election day shall be delivered to the absent voter
21 counting boards before the time set for the closing of the polls.
22 Absent voter ballots shall be delivered to the absent voter
23 counting boards in the sealed absent voter ballot return envelopes
24 in which they were returned to the clerk. Written or stamped on
25 each of the return envelopes shall be the time and the date that
26 the envelope was received by the clerk and a statement by the clerk
27 that the signatures of the absent voters on the envelopes have been

1 checked and found to agree with the signatures of the voters on the
2 registration cards or the digitized signatures of voters contained
3 in the qualified voter file as provided under section 766. If a
4 signature on the registration card or a digitized signature
5 contained in the qualified voter file and on the absent voter
6 ballot return envelope does not agree as provided under section
7 766, if the absent voter failed to sign the envelope, or if the
8 statement of the absent voter is not properly executed, the clerk
9 shall mark the envelope "rejected" and the reason for the rejection
10 and shall place his or her name under the notation. An envelope
11 marked "rejected" shall not be delivered to the absent voter
12 counting board but shall be preserved by the clerk until other
13 ballots are destroyed in the manner provided in this act. The clerk
14 shall also comply with section 765(5).

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

20 (8) This chapter does not prohibit an absent voter from voting
21 in person within the voter's precinct at an election,
22 notwithstanding that the voter may have applied for an absent voter
23 ballot and the ballot may have been mailed or otherwise delivered
24 to the voter. The voter, the election inspectors, and other
25 election officials shall proceed in the manner prescribed in
26 section 769. The clerk shall preserve the canceled ballots for 2
27 years.

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

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

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

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

1 (12) At the time the board of election commissioners provide
2 for the use of absent voter counting boards, the board of election
3 commissioners may provide that the absent voter counting boards
4 shall record the votes contained on absent voter ballots on voting
5 machines. In that case, the recording of ballots shall be done by
6 the chairperson of the absent voter counting board or another
7 member designated by the chairperson. The act of casting the votes
8 shall be performed in the presence of and under the careful
9 observation and full view of all members of the absent voter
10 counting board, party challengers, and any other persons lawfully
11 present at the absent voter counting place. The vote as indicated
12 by the voting pointers shall not be recorded until each member of
13 the absent voter counting board is satisfied that the arrangement
14 of the voting pointers fully carries out the intent of the absent
15 voter as shown by the cross marks or check marks on the absent
16 voter ballot. A certificate that the requirements of this
17 subsection were met shall be made on the election inspectors'
18 statement of returns.

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

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

1 (15) In a city, township, or village where challenged voters
2 are required to vote on absent voter ballots, each challenged voter
3 ballot and application for ballot, after having been voted and
4 properly identified, shall be placed by the voter in an absent
5 voter ballot return envelope. The applicable information required
6 on the back of the envelope shall be completed by the board of
7 election inspectors. The envelope shall be signed by the challenged
8 voter and by the chairperson of the precinct board of election
9 inspectors. The word "challenged" shall be written across the front
10 of the envelope. The envelope and application for ballot shall be
11 sealed and delivered to the absent voter counting place by the
12 clerk of the city, township, or village. Immediately after the
13 closing of the polls, the chairperson of the precinct board of
14 election inspectors shall notify the clerk of the city, township,
15 or village of remaining challenged voter ballots to be delivered to
16 the absent voter counting place. In a city, township, or village
17 that uses voting machines where absent voter counting boards are
18 not used, challenged ballots shall be counted and tallied in the
19 precincts, in the same manner that absent voter ballots are tallied
20 and counted as provided in section 791.

21 (16) Subject to this subsection, a local election official who
22 has established an absent voter counting board, the deputy or
23 employee of that local election official, or an employee of the
24 state bureau of elections may enter and leave an absent voter
25 counting board after the tally has begun but before the polls
26 close. A person described in this subsection may enter an absent
27 voter counting board only for the purpose of responding to an

1 inquiry from an election inspector or a challenger or to provide
2 instructions on the operation of the counting board. Before
3 entering an absent voter counting board, a person described in this
4 subsection shall take and sign the oath prescribed in subsection
5 (10). The chairperson of the absent voter counting board shall
6 record in the poll book the name of a person described in this
7 subsection who enters the absent voter counting board. A person
8 described in this subsection who enters an absent voter counting
9 board and who discloses an election result or in any manner
10 characterizes how any ballot being counted has been voted in a
11 precinct before the time the polls can be legally closed on
12 election day is guilty of a felony. As used in this subsection,
13 "local election official" means a county, city, township, or
14 village clerk. ~~, the secretary of a school board, or an employee of~~
15 ~~a school district designated to conduct a school election.~~

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

1 ~~jurisdiction empowered to conduct an election under this act.~~