

## NO-REASON ABSENTEE VOTING

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**House Bill 4724 (reported from committee w/o amendment)**

**Sponsor: Rep. Lisa Posthumus Lyons**

**Committee: Elections**

**Complete to 12-7-15**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 4724 would amend the Michigan Election Law to modify the procedures both for obtaining an application for an absentee ballot, and also for returning that application to the local clerk where the voter was registered to vote. Notably, the bill would permit any eligible voter, without offering a reason, to apply for an absent voter ballot in person with the local clerk by providing a driver license, an official state identification card, or another generally recognized picture identification card. The bill would take effect January 1, 2016.

**FISCAL IMPACT:** The bill would have a probable minimal impact to state and local governments. There would be a slight administrative cost to update forms and systems to accommodate the changes made to the absentee process. Local government may see a slight increase in mailing costs for additional absentee ballots. This increased cost would be dependent on how many additional voters would request a ballot, which is indeterminable at this time. However, the anticipated changes should result in a minimal increase of costs and would be covered under current levels of funding.

### **THE APPARENT PROBLEM:**

Michigan conducts up to four elections per year, which include federal, state, and local races, well as ballot proposals. Lengthy ballots and long lines at the polls can discourage voters from voting. Current law allows six categories of voters to request absentee ballots, but this legislation adds a seventh category that would allow individuals to request an absentee ballot for any reason, as long as they apply in person with the local clerk and present identification.

### **THE CONTENT OF THE BILL:**

**Absent voter defined.** Currently under the law, the definition of an "absent voter" refers to a qualified and registered elector who meets one or more of six requirements (MCL 168.758):

- has a physical disability and requires assistance when attending the polls
- cannot attend the polls on election day due to religious tenets
- is an election precinct inspector in another precinct
- is 60 years of age or older
- will be absent from home on election day
- cannot attend the polls because of being in jail awaiting arraignment or trial

House Bill 4724 would retain all of these provisions. In addition, the bill would add a seventh qualifying category for requesting an absentee ballot, by expanding the definition of "absent voter" to include a person *who applies for an absent voter ballot in person with the clerk of the township, city, or village where the voter is registered, and presents to the clerk an official state personal identification card, an operator's or chauffeur's license, or another generally recognized picture identification card.*

Now under the law, an elector who qualifies to vote as an absent voter must apply in person or by mail to the clerk of the township, city or village where registered, and may do so any time during the 75 days before an election. House Bill 4724 would retain this requirement, and also require that applicants present picture identification, as described above.

***Customary absentee ballot application.*** Currently the law requires that the application a voter completes to request an absent voter ballot contain, among other things, a list of the statutory grounds (i.e., the six criteria listed above) for which an absentee ballot can be requested. A voter making application then checks the criterion that applies. House Bill 4724 would retain these provisions. (MCL 168.759)

***Absent ballot application for absent voters presenting picture ID.*** In addition, House Bill 4724 provides a separate application form for electors who seek an absentee ballot by identifying themselves as eligible voters, with a picture ID, to the local clerk where the voter is registered. That application would contain, among other things, notification of the need to present a picture identification card, the voter's address to which the absentee ballot should be sent, a warning that only United States citizens may vote, a notice that making a false statement would be a misdemeanor, and a notice that only those people listed in the instructions may assist a voter by returning an absentee ballot application to the clerk (whether by offering to return it, agreeing to return it, or soliciting to return it).

***Credentials for those receiving absent voter applications.*** House Bill 4724 specifies that an assistant who is authorized by a local clerk to receive absent voter ballot applications at a location other than the clerk's office must have credentials signed by the clerk. The notice to be provided to applicants would instruct them to ask to see those credentials before entrusting their applications to an assistant.

***Signed certification for those assisting absent voter applicants.*** Further, the application form would contain a section entitled "Certificate of Authorized Registered Elector Returning Absent Voter Ballot Application." This section of the application form would require the signature of a person who helped an absentee voter return the ballot application. When signing the certificate, those offering assistance would give their name, address, date of birth, the name of the person whose ballot application they were delivering, and also the promise that the assistant had not solicited or requested to return the application; had made no marks on the application; had not altered the application; nor had influenced the applicant. The application form also would warn that a false statement violates Michigan election law.

***Absent voter ballot applications to include warning.*** House Bill 4724 would require a person who printed and distributed absent voter ballot applications to print on the application the warning, the "certificate of authorized registered elector returning the absent voter ballot application," and the instructions required by this section of the law.

***Campaigning prohibited at clerk's office.*** Finally, under House Bill 4724, for the period beginning 45 days before each election and continuing through election day, if a city, township or village clerk's office was open and an elector could obtain an absent voter ballot in person from the clerk, then campaigning would be prohibited within 100 feet of the entrance to the clerk's office. Specifically, a person could not post, display, or distribute any material that directly or indirectly made reference to an election, a candidate, or a ballot question; nor could a person persuade or try to persuade a person to vote for or against any particular candidate or party ticket or for or against any ballot question that was being voted on at the election. A person who violated this section of the law would be guilty of a misdemeanor. (Proposed MCL 168.761b)

### ***BACKGROUND INFORMATION:***

Secretary of State Ruth Johnson is the third consecutive Michigan secretary of state to call for no-reason absentee voting. According to the National Conference of State Legislatures, 20 states currently require an excuse in order for a person to obtain an absentee ballot, while 27 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse. The Secretary of State's office testified that there has been no apparent increase of fraud in these states due to no-reason absentee voting.

### ***ARGUMENTS:***

#### ***For:***

##### Convenience

Proponents of this bill primarily argue that this would make voting easier for people. Allowing everyone who wants to vote absentee to do so would allow those people to vote at their convenience, without waiting in line or altering their schedule to get to the polls on Election Day. Also, by removing these prospective absentee voters from the lines at polling places, those who do vote in person would have a shorter wait and, potentially, voters who would otherwise stay home may vote because of the increased speed and ease.

##### More informed electorate

Proponents also argue that allowing voters to study their ballots at length may allow the voter to research the candidates and proposals more fully, and as they reach that part of the ballot.

##### Promote honesty

For all practical purposes, any voter may request an absentee ballot currently, as long as he or she either falls under one of the criteria or is willing to falsely assert that one applies. This bill would remove any incentive to lie about the reason for seeking an absentee ballot.

##### Fairness

The limited nature of the qualifying categories for voting absentee disqualifies most eligible voters. Certain demographics, such as people over 60, many of whom are retired, can vote absentee by right. However, the busiest demographic—working parents—do not have this opportunity unless another of the five qualifying categories applies to them.

***Response:***

Some argue that while this is a step in the right direction, it is a weak approach to absentee voting because it requires a person who does not meet the current qualifications to apply in person at the local clerk's office at every election. This seems unnecessary. A substitute proposed in committee would have simply struck the current required excuses for obtaining a ballot and treated all voters equally.

***Against:***

Avoid Fraud

Opponents of the bill argue that removing these barriers to voting would increase the possibility of voter fraud. Increasing the number of absentee ballots could also increase the possibility that one person casts multiple ballots, by filling out others' absentee ballots. Alternatively, a person who is ineligible to vote, whether because of age (under 18) or lack of citizenship, may fill out the ballot of someone who has requested an absentee ballot. Such instances, while unlikely, are more likely with increased absentee ballots.

Timing of voting

Opponents also argue that an absentee voter may vote too far in advance of the election and, by doing so, may not take into account any late-breaking news or developing stories. Similarly, a voter who is able to complete a ballot whenever the mood strikes may choose to do so after seeing an inflammatory ad or reading a biased news story. Neither of these instances would accurately reflect the best judgment of the voter on Election Day.

***POSITIONS:***

The Michigan Secretary of State's office testified in support of this bill. (6-17-15)

The Michigan Association of County Clerks testified in support of this bill, with technical changes. (6-17-15)

The Ottawa County Clerk/Register testified in support of the bill. (6-17-15)

The Michigan Municipal League supports this bill. (6-17-15)

The American Civil Liberties Union supports this bill with modifications to the in-person appearance requirement. (6-17-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.