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Senate Bill 273 (Substitute S-1)
Senate Bill 278 (Substitute S-1)
Sponsor: Senator Ruth A. Johnson (S.B. 273)
Senator Michael D. MacDonald (S.B. 278)
Committee: Elections

Date Completed: 11-10-21

CONTENT

Senate Bill 273 (S-1) would amend the Michigan Election Law to do the following:

- Require the design and construction of an absent voter ballot drop box to be approved by the Secretary of State (SOS) and the applicable board of county canvassers before being used in an election.
- Require the design and construction of a drop box installed before January 1, 2022, to be approved by June 1, 2022.
- Prohibit a drop box that was installed before January 1, 2022, and was not approved by June 1, 2022, from being used in an election held after June 1, 2022.
- Require a video recording device to monitor each drop box location beginning June 1, 2022.
- Require a city or township to retain the recording of a drop box location for at least 30 days after the final certification of the election at which the absentee ballots were collected.
- Require the recordings to be made available upon request to the SOS and applicable board of county canvassers.
- Require an absent voter ballot drop box to contain the text specified in the bill by June 1, 2022.

Senate Bill 278 (S-1) would amend the Michigan Election Law to do the following:

- Require all absent voter ballot drop boxes that were installed in a city or township to comply with the bill's requirements by no later than June 1, 2022.
- Require an individual authorized to collect absent voter ballots from an absent voter ballot drop box to immediately return collected ballots to the clerk's office, or, if applicable, to an absent voter counting board on election day, unless that individual was collecting ballots from another drop box.
- Require ballots collected from a drop box to be transported in an approved ballot container.
- Require the city or township clerk to document each time absent voter ballots were collected from a drop box, if that box were not located on the grounds of a city or township's clerk office or an official satellite office of the city or township clerk in that city or township and prescribe the information that would have to be included in the documentation.

- **Require records to be preserved and maintained by the city or township clerk for at least 22 months after the election for which the absent voter ballots were collected.**

The bills are tie-barred.

Senate Bill 273 (S-1)

Under the bill, before an absent voter ballot drop box was used at an election in a city or township, its design and construction would have to be approved by the SOS and the board of county canvassers of the county in which that city or township was located. If a drop box were installed before January 1, 2022, the design and construction of that drop box would have to be approved by the SOS and the applicable board of county canvassers by June 1, 2022. If this requirement were not satisfied before June 1, 2022, that drop box could not be used at an election held after June 1, 2022.

Beginning June 1, 2022, a city or township clerk would be required to use a video recording device to monitor each drop box location in that city or township. At each location, there would have to be adequate lighting for the recording device to record at a resolution of at least 1080p continuously or allow for the use of motion detection that recorded no less than one frame per minute until motion detection triggered continuous recording. The recording of each drop box would have to be retained by the city or township for at least 30 days after the final certification of the election at which the absentee ballots were collected. Upon request, the recordings would have to be made available by the city or township clerk to the SOS or appropriate board of county canvassers.

By no later than June 1, 2022, a drop box would have to contain the following text (painted or affixed to the front of the box in no less than 60-point font and in a color that provided a clear contrast so that it was clearly visible to an individual depositing a ballot into the box): "AREA MAY BE UNDER SURVEILLANCE It is a felony under Michigan law for an individual other than the voter or a member of the voter's immediate family or household to return an absent voter ballot. Immediate family includes a father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, grandparent, or grandchild."

Senate Bill 278 (S-1)

Section 761d of the Law requires absent voter ballot drop boxes to be clearly labeled, securely locked and designed to prevent the removal of ballots, and if located in an area that is not continuously staffed, to be secured to prevent the removal of the box from its location. Section 761d also prescribes additional requirements for an absent voter ballot drop box that is located outdoors. Currently, if a drop box was ordered or installed in a city or township before October 1, 2020, that drop box is exempt from the requirements of Section 761d. The bill would remove this language. Instead, by no later than June 1, 2022, all drop boxes that were installed in a city or township would have to comply with the bill's requirements.

Only a city or township clerk, his or her deputy clerk, or a sworn member of his or her staff is authorized to collect absent voter ballots from an absent voter ballot drop box. Under the bill, when an authorized individual collected absentee ballots from a drop box, that individual would have to return the collected ballots to the city or township clerk's office, or, if applicable, to an absent voter counting board on election day immediately after collection, unless he or she were collecting ballots from other drop boxes in the city or township.

All absentee ballots collected from a drop box would have to be transported in a ballot container approved under Section 24j of the Law. (Under Section 24j, an approved ballot container

must be made of metal, plastic, fiberglass, or other material, that provides resistance to tampering, and is capable of being sealed with a metal seal.)

Except for an absent voter ballot drop box that was located on the grounds of a city or township clerk's office, or the grounds of an official satellite office of the city or township clerk staffed city or township employees, the city or township clerk would have to document each time absent voter ballots were collected from a drop box in that city or township. These records would have to be preserved and maintained by the city or township clerk for at least 22-months following the election for which the absent voter ballots were collected. The documentation would have to include all of the following:

- The date the ballots were collected from the drop box.
- The name of the individual who collected the ballots from the drop box.
- The location in the city or township of the drop box.

Proposed MCL 168.761e (S.B. 273)
MCL 168.761d (S.B. 278)

Legislative Analyst: Dana Adams

FISCAL IMPACT

Senate Bill 273 (S-1)

The bills would have an indeterminate negative fiscal impact on State and local units of government.

City and township clerks not already in possession of video recording and lighting systems that could comply with the specifications contained in the bill would incur additional costs. Local units would have to purchase or update video recording or lighting equipment and pay for installation and maintenance and likely would incur additional administrative costs associated with these efforts. The magnitude of the fiscal impact would depend upon the costs associated with the equipment as well as the number of recording systems required to monitor all ballot drop boxes. Similarly, local units of government could be required to upgrade or replace existing drop boxes in order to ensure that they were properly secured and were affixed with the required felony notice. This would result in additional labor and supply expenditures.

The Secretary of State and boards of county canvassers could incur minor costs associated with the approval of ballot drop boxes. The magnitude of these costs would depend upon the number of drop boxes that would need to be approved. However, these costs likely could be covered by existing appropriations.

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The bill would have no fiscal impact on State or local units of government.

Fiscal Analyst: Elizabeth Raczkowski

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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.