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BILL ANALYSIS



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Senate Bill 285 (as introduced 3-24-21)
Senate Bill 303 (as introduced 3-24-21)
Senate Bill 304 (as introduced 3-24-21)
Sponsor: Senator Lana Theis (S.B. 285)
 Senator Tom Barrett (S.B. 303)
 Senator Curtis S. VanderWall (S.B. 304)
Committee: Elections

Date Completed: 5-26-21

CONTENT

Senate Bill 285 would amend the Michigan Election Law to do the following:

- Require an applicant for an absentee ballot to present an original or copy of identification to the clerk of the city or township in which the elector was registered or attach a copy of the identification to his or her application.
- Require the clerk or assistant clerk to issue an applicant a provisional absentee ballot if the applicant could not present or attach identification to his or her application.
- Require a statement describing the identification requirement to be included in the instructions for applicants for absent voter ballots.
- Require an applicant for an absentee ballot who was an absent uniformed services voter, overseas voter, or an applicant for an emergency absentee ballot to include a copy of his or her identification with his or her application.
- Require provisional absentee ballots issued under the bill to be processed in the same way as a provisional ballot would be processed currently under the Law.

Senate Bill 303 would amend the Michigan Election Law to do the following:

- Remove references to an affidavit that an elector may sign if he or she does not have identification for election purposes.
- Require an elector without identification to be issued a provisional ballot that would be processed in the manner prescribed under Section 523a of the Law.
- Remove language pertaining to affidavit reports that must be transmitted to both the county clerk and the Secretary of State (SOS).

Senate Bill 304 would amend the Michigan Election Law to do the following:

- Specify that a notice provided to an elector who was issued a provisional ballot would have to indicate that the ballot would be tabulated only if the voter verified his or her voter registration record with the clerk by presenting identification and specified documents within six days after the election.
- Require the notice to include information stating that certain individuals would be eligible to have the fee waived for obtaining an official State personal identification card.

- **Prohibit the tabulation of a provisional ballot unless a valid voter registration for that elector could be verified by the elector or if the identity and residence of the elector could be established using identification or identification and other documentation.**

Senate Bill 285

Identification for Absentee Ballot Application

Currently, an applicant for an absentee ballot may be made in any of the following ways:

- By a written request signed by the voter.
- On an absentee ballot application form provided for that purpose by the clerk of the city or township.
- On a Federal postcard application.

An applicant for an absentee ballot also must sign the application; a clerk or assistant clerk cannot deliver an absentee ballot to an applicant who did not sign his or her application. Under the bill, in addition to requiring the applicant's signature, an applicant for an absentee ballot either would have to present an original or a copy of identification for election purposes to the clerk of the city or township in which the elector was registered or attach a copy of identification for election purposes to his or her application. If an applicant did not present or attach identification to his or her application, the clerk or assistant clerk would have to issue the applicant a provisional absentee ballot that would be processed according to the procedure for provisional ballots described under Section 523a(5) of the Law.

(Section 523a(5) prescribes procedures for when an election inspector is unable to verify the registration of an elector on election day or if an elector cannot present identification for election purposes that contains a current residence address. Under this section, the elector must be issued a provisional ballot that is not tabulated on election day but is secured for verification after the election.)

Application Instructions

The Law prescribes the form for absentee ballot applications and the instructions that must be included with the application. Step 1 of the instructions generally require an applicant to sign and date the application and state that an applicant may not receive an application if his or her signature does not appear on the application. The bill also would require the instructions to include the following:

In addition, you must either present an original or a copy of identification for election purposes to the clerk of the city or township in which you are registered or attach a copy of identification for election purposes to the application. If you do not present or attach identification for election purposes, you will be issued a provisional absent voter ballot that is subject to verification and will not be tabulated on election day.

Absent Uniformed Services Ballot Application

The Law prescribes the procedure for an absent uniformed services voter or overseas voter to request an absentee ballot. A request for a ballot must contain the voter's signature. In addition, under the bill, the applicant would have to attach a copy of his or her identification to his or her absentee ballot application. If the applicant transmitted his or her completed application electronically, a copy of his or her identification also could be transmitted

electronically. Under the Law, an absent uniformed services voter or overseas voter may apply for an absentee ballot even if he or she is not registered to vote. In that case, a county, city, village, or township clerk must forward to an unregistered applicant the absentee ballot requested, the forms necessary for registration, and instructions for completing the forms. Under the bill, the applicant would have to attach identification to his or her application. If the applicant did not attach identification, the clerk would have to issue the applicant a provisional absentee ballot that would be processed according to Section 523a(5).

An applicant for an emergency absentee ballot or an applicant who was a program participant would have to include a copy his or her identification with his or her application. If the elector did not include a copy of his or her identification or present it to the clerk, the elector would have to be issued a provisional absentee ballot. ("Program participant" means an individual who is certified by the Department of the Attorney General as a program participant under Section 5 of the Address Confidentiality Program Act.)

Currently, if an elector obtains his or her absentee ballot in person from clerk of the city or township in which he or she is registered, the clerk may not provide the elector with an absentee ballot until the elector identified himself or herself to the clerk by presenting identification. The bill would allow an elector to present an original or copy of the identification.

If an elector does not have identification, the elector may sign an affidavit to that effect before the clerk and be allowed to obtain his or her absentee ballot. The clerk must indicate to each elector who is registered in that city or township and who obtains his or her absentee ballot in person that the elector may sign an affidavit indicating that the elector does not have identification in order to obtain his or her absentee ballot. However, if an elector obtains an absentee ballot in person from the clerk and votes absentee without providing identification, that ballot must be prepared as a challenged ballot and must be counted as any other ballot is counted unless determine otherwise by a court of law or any other applicable law. The bill would eliminate this language and, instead, specify that if an elector did not have identification, the clerk would have to issue the elector a provisional absentee ballot.

Senate Bill 303

Under the Law, in order for an elector to be given a ballot, a registered elector must identify himself or herself by presenting identification, and by completing an application in the presence of an election official that includes his or her name, address of residence, date of birth, an affirmative statement that he or she is a US citizen, and the elector's signature.

If an elector's signature contained in the QV file is available in the polling place, the election official must compare the signature on the application with the digitized signature in the QV file. If an elector's signature is not contained in the QV file, the election official must process the application in the same manner as applications are processed when a voter registration list is used in the polling place. If voter registration lists are used in the precinct, the election inspector must determine if the name on the application to vote appears on the registration list. If the name appears on the list, the elector must provide further identification or other information stated on the voter registration list. If the signature or an item of information does not correspond, the vote of the person must be challenged.

If the elector does not have identification for election purposes, the individual must sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided under the Law. However, an elector being allowed to vote without identification is subject to challenge. The bill would eliminate these provisions and, instead, require an elector without identification to be issued a provisional ballot that would be processed according to Section 523a(5).

Within seven days after an election, the city or township clerk must transmit to the county clerk an affidavit report that includes the number of affidavits signed by voters. The report must be transmitted in a form prescribed by the Secretary of State. Within 14 days after an election, the county clerk must transmit a county affidavit report to the Secretary of State, who then must make the report available to the public. The bill would remove these provisions.

Senate Bill 304

Currently, if an individual who has applied to register to vote on or before election day appears at a polling place on election and completes an application is not listed on the voter registration list and does not have a receipt indicating that his or her initial application was accepted, the election inspector must issue a ballot while also following specified procedures that includes directing the elector to complete a new voter registration form with a sworn statement affirming that he or she submitted a registration form on or before election day, and contacting the city or township clerk to verify whether the elector is listed on the registration records of the jurisdiction or whether there is any information contrary to the content of the sworn statement.

If the clerk verifies the elector's information and confirms the information provided in the sworn statement, and the elector provides identification for election purposes that contains a current residence address to establish his or her identity and residence, the elector is permitted to vote a provisional ballot that is tabulated on election day in the same manner as an elector whose name was on the voter registration list, except his or her ballot will be processed as a challenged ballot.

If the election inspector is unable to contact the clerk, the individual is not in the correct precinct, or the individual cannot present appropriate identification, the elector must be issued a provisional ballot that is not tabulated on election day but is secured for verification after the election. The election inspector must provide the voter with a notice that the voter's information will be verified by the clerk of the jurisdiction within six days after the election to determine whether the ballot will be tabulated and, if the ballot is not tabulated, to determine the reason it was not tabulated.

The bill specifies that the notice provided to the voter under this provision would have to indicate that the provisional ballot would be tabulated only if, within six days after the election, the voter verified his or her voter registration record with the proper city or township clerk or the voter established his or her identity and residence with the proper city or township clerk by using identification along with a current utility bill, bank statement, paycheck government check, or other government document that established the voter's current address if the identification used did not contain his or her current address. The notice also would have to indicate that certain individuals would be eligible under Section 2(14) of Public Act 222 of 1972, which pertains to State personal identification cards, to have the fee waived for obtaining an official State personal identification card that could be used to establish his or her identity and residence with the appropriate clerk. (Section 2(14) requires the Secretary of the State to waive the \$10 fee for a personal identification card if the applicant is 65 years of age or older, had his or her driver license suspended or revoked because of mental or physical infirmity or disability, provided evidence of statutory blindness, presented evidence that he or she was a participant in one or more assistance programs, is a veteran, or is homeless.)

Within six days after an election, for each provisional ballot placed in a provisional ballot return envelope, the city or township clerk must determine whether the elector voting the provisional ballot was eligible to vote and whether to tabulate the ballot. In making this

determination, the clerk must not open the ballot return envelope. A provisional ballot must be tabulated only if a valid voter registration record for the elector is located or if the identity and residence of the elector is established using identification along with other acceptable documentation. Under the bill, a provisional ballot could be tabulated only if a valid voter registration record for that elector was verified by the elector or if the identity and residence of the elector was established by the elector using identification with his or her current address or identification and other documentation.

MCL 168.759 et al. (S.B. 285)
168.523 et al (S.B. 303)
168.523a & 168.813 (S.B. 304)

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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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.