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## BILL ANALYSIS



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Senate Bill 311 (as introduced 3-24-21)  
Sponsor: Senator Ruth A. Johnson  
Committee: Elections

Date Completed: 5-5-21

**CONTENT**

**The bill would amend the Michigan Election Law to do the following:**

- **Allow a member of a uniformed service on active duty or a member of the Merchant Marine, by reason of being on active duty, absent from the United States, and otherwise qualified to vote, to electronically return a voted ballot to the appropriate city or township clerk.**
- **Require the Secretary of State (SOS) to promulgate rules that would establish policies and procedures for the electronic return of voted ballots by eligible members.**
- **Require the SOS to require an eligible member to use a United States Department of Defense verified electronic signature in order to electronically return a voted ballot.**
- **Require the SOS to promulgate rules to implement the bill by January 1, 2022.**
- **Require the SOS to allow the electronic return of voted ballots by eligible members starting no later than the 2022 August primary elections.**

Electronic Return of Voted Ballot; Uniformed Services Voter

The Michigan Election Law allows an absent uniformed services voter or an overseas voter to use the Federal write-in absentee ballot, in accordance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, at a regular election or special election to vote for a local, State, or Federal office or on a ballot question. An absent uniformed services voter or an overseas voter who uses the Federal write-in absentee ballot must return his or her voted Federal write-in absentee ballot by mail to the appropriate clerk. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, or Coast Guard, the Commissioned Corps of the Public Health Services, the Commissioned Corps of the National Oceanic and Atmospheric Administration, a reserve component of a uniformed service, or the Michigan National Guard.

Also, the Law requires the clerk of a county, city, or village, upon the request of an absent uniformed services voter or overseas voter, to electronically transmit an absentee ballot to the voter. The voter must print the absentee ballot and return it by mail to the appropriate clerk.

Under either of the above circumstances, the bill would allow specify a member of a uniformed service on active duty, by reason of being on active duty, or a member of the Merchant Marine, by reason of service in the Merchant Marine, who was absent from the US and did not expect to return to the residence where that member was otherwise qualified to vote before

an election could return a ballot voted electronically to the appropriate city or township clerk to be counted under the policies and procedures established by the SOS.

### Promulgation of Rules

The bill would require the SOS to promulgate rules that established policies and procedures for the electronic return of voted ballots by eligible members. ("Eligible member" would mean a member of a uniformed service on active duty or a member of the Merchant Marine, as described above.) In doing so, the SOS would have to require an eligible member to use a United States Department of Defense verified electronic signature, so that the identity of the eligible member could be verified using those policies and procedures. A member who was unable or unwilling to provide that signature would not be eligible to electronically return a voted ballot. "United States Department of Defense verified electronic signature" would mean the certificate-based digital identification code issued to qualified personnel by the US Department of Defense as part of the Common Access Card, or its successor.

The SOS would have to take reasonable steps to ensure the integrity and secrecy of voted ballots returned electronically. The SOS could develop and maintain a secure web portal on its website to facilitate the electronic return of voted ballots by eligible members. By January 1, 2022, the SOS would have to promulgate rules pursuant to the Administrative Procedures Act to implement this provision, and the SOS would have to allow for the electronic return of voted ballots by eligible members starting no later than the 2022 August primary election.

MCL 168.759a et al.

Legislative Analyst: Dana Adams

### **FISCAL IMPACT**

The bill could have a negative fiscal impact in the form of additional costs for the Department of State to promulgate rules to develop policies and procedures for the electronic return of voted ballots by eligible members. The bill also would authorize the Department to develop and maintain a secure web portal on its website to facilitate the electronic return of voted ballots by eligible members. The Department's costs to promulgate rules likely would be minimal and would be absorbed within its annual appropriations. The costs for developing a web portal could require additional appropriations; however, the bill would make this optional for the Department. The Department's ability to absorb the cost within current appropriations would depend on the actual costs of developing the web portal and on its capabilities to add this portal to its current website.

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.