

Legislative Analysis



ABSENT VOTER BALLOT DROP BOXES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 273 (S-1) as passed by the Senate
Sponsor: Sen. Ruth Johnson

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

Senate Bill 278 (S-1) as passed by the Senate
Sponsor: Sen. Michael D. MacDonald

House Committee: Elections and Ethics
Senate Committee: Elections
Complete to 1-31-22

SUMMARY:

Senate Bill 273 would amend the Election Law to set certain requirements for absent voter (AV) ballot drop boxes.

Before the use of a new AV ballot drop box in an election in a city or township, its design and construction would have to be approved by the secretary of state (SOS) and the board of canvassers of the county where the city or township was located. The same approval, by June 1, 2022, would be required for drop boxes that were installed before January 1, 2022, and failure to obtain that approval would require their use to be discontinued for elections held after June 1, 2022.

Beginning June 1, 2022, a city or township clerk would have to use a video recording device to monitor each AV ballot drop box, with adequate lighting for recording at a resolution of at least 1080p continuously or the use of motion detection that records at least one frame per minute until motion detection triggers continuous recording. These recordings would have to be retained for at least 30 days after final certification of an election. Upon request, they would have to be made available to the SOS or appropriate board of county commissioners.

By June 1, 2022, an AV ballot drop box would have to contain text in at least a 60-point font and a contrasting color that is clearly visible to users that states that the area may be under surveillance and that it is a felony for an individual other than the voter or a member of his or her immediate family or household to return an AV ballot. (It would specify that immediate family includes a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.)

Proposed MCL 168.761e

Senate Bill 278 would revise the AV ballot drop box requirements enacted before the November 2020 general election,¹ which among other requirements stipulated that drop boxes ordered or installed after October 1, 2020, had to be clearly labeled, securely locked, and secured against removal.

¹ The section to be repealed, MCL 168.761d, is described under the "AV ballot drop boxes" heading here:
<http://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-0757-059CD2C3.pdf>

The bill would require that all AV ballot drop boxes installed in a city or township must comply with those provisions by June 1, 2022. The bill also would remove the requirement that city and township clerks use video monitoring of outdoor drop boxes.

Current law provides that only a city or township clerk, deputy clerk, or staff member may collect AV ballots from the drop box. The bill would retain that provision and add that, when one of those individuals collects ballots, he or she must immediately return the ballots to the clerk's office (or, if the ballots are collected on election day, to an AV counting board) unless he or she is also collecting ballots from other drop boxes,. Additionally, all AV ballots collected from drop boxes would have to be transported in an approved ballot container.

The bill also would require the city or township clerk to document each time AV ballots were collected from a drop box, unless the drop box was located on the grounds of the clerk's office or a satellite office staffed by the clerk's employees. This documentation would have to be preserved and maintained by the clerk for at least 22 months after the applicable election and would have to include all of the following:

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

MCL 168.761d

The bills are tie-barred together, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

Senate Bill 273 would result in additional costs to cities and townships that do not currently have the video recording equipment necessary to comply with the bill's requirements or that would need to purchase or upgrade their drop boxes if they do not meet the criteria set by the secretary of state and board of county canvassers for approval. The local units may be required to purchase new video recording equipment or lighting with installation costs or update existing equipment and lighting if their current equipment is not capable of recording video at a resolution of 1080p continuously. It is not known at this time how many drop box locations would require new or updated equipment or the cost per unit. Costs would likely vary per government entity based on existing vendor contracts and existing video recording capabilities.

Senate Bill 278 would have no fiscal impact on the state or local units of government.

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Michael Cnossen

■ 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.