

HOUSE BILL NO. 4952

June 01, 2021, Introduced by Reps. Maddock, Paquette, Carra, Bezotte, Meerman, Hall, LaFave, Rendon and Wozniak and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 765a and 766 (MCL 168.765a and 168.766),
section 765a as amended by 2020 PA 177 and section 766 as amended
by 2018 PA 120, and by adding sections 801a and 801b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 765a. (1) Subject to section 764d, if a city or township
2 decides to use absent voter counting boards, the board of election
3 commissioners of that city or township shall establish an absent

1 voter counting board for each election day precinct in that city or
2 township. The ballot form of an absent voter counting board must
3 correspond to the ballot form of the election day precinct for
4 which it is established. After the polls close on election day, the
5 county, city, or township clerk responsible for producing the
6 accumulation report of the election results submitted by the boards
7 of precinct election inspectors shall format the accumulation
8 report to clearly indicate all of the following:

9 (a) The election day precinct returns.

10 (b) The corresponding absent voter counting board returns.

11 (c) A total of each election day precinct return and each
12 corresponding absent voter counting board return.

13 (2) Subject to section 764d, the board of election
14 commissioners shall establish the absent voter counting boards.
15 Subject to section 764d, the board of election commissioners shall
16 appoint the election inspectors to those absent voter counting
17 boards not less than 21 days or more than 40 days before the
18 election at which they are to be used. Sections 673a and 674 apply
19 to the appointment of election inspectors to absent voter counting
20 boards under this section. The board of election commissioners
21 shall determine the number of ballots that may be expeditiously
22 counted by an absent voter counting board in a reasonable period of
23 time, taking into consideration the size and complexity of the
24 ballot to be counted pursuant to the guidelines of the secretary of
25 state. Combined ballots must be regarded as the number of ballots
26 as there are sections to the ballot.

27 (3) If more than 1 absent voter counting board is to be used,
28 the city or township clerk shall determine the number of electronic
29 voting systems or the number of ballot boxes and the number of

1 election inspectors to be used in each of the absent voter counting
2 boards and to which absent voter counting board the absent voter
3 ballots for each precinct are assigned for counting.

4 (4) In a city or township that uses absent voter counting
5 boards under this section, absent voter ballots must be counted in
6 the manner provided in this section and, except as otherwise
7 provided in section 764d, absent voter ballots must not be
8 delivered to the polling places. Subject to section 764d, the board
9 of election commissioners shall provide a place for each absent
10 voter counting board to count the absent voter ballots. Section 662
11 applies to the designation and prescribing of the absent voter
12 counting place or places in which the absent voter counting board
13 performs its duties under this section, except the location may be
14 in a different jurisdiction if the county provides a tabulator for
15 use at a central absent voter counting board location in that
16 county. The places must be designated as absent voter counting
17 places. Except as otherwise provided in this section, laws relating
18 to paper ballot precincts, including laws relating to the
19 appointment of election inspectors, apply to absent voter counting
20 places. The provisions of this section relating to placing of
21 absent voter ballots on electronic voting systems apply. More than
22 1 absent voter counting board may be located in 1 building.

23 (5) The clerk of a city or township that uses absent voter
24 counting boards shall supply each absent voter counting board with
25 supplies necessary to carry out its duties under this act. The
26 supplies must be furnished to the city or township clerk in the
27 same manner and by the same persons or agencies as for other
28 precincts.

29 (6) Subject to section 764d, absent voter ballots received by

1 the clerk before election day must be delivered to the absent voter
2 counting board by the clerk or the clerk's authorized assistant at
3 the time the election inspectors of the absent voter counting
4 boards report for duty, which time must be established by the board
5 of election commissioners. Except as otherwise provided in section
6 764d, absent voter ballots received by the clerk before the time
7 set for the closing of the polls on election day must be delivered
8 to the absent voter counting boards. Except as otherwise provided
9 in section 765(6), absent voter ballots must be delivered to the
10 absent voter counting boards or combined absent voter counting
11 boards in the sealed absent voter ballot return envelopes in which
12 they were returned to the clerk. Written or stamped on each of the
13 return envelopes must be the time and the date that the envelope
14 was received by the clerk and a statement by the clerk that the
15 signatures of the absent voters on the envelopes have been checked
16 and found to agree with the signatures of the voters on the
17 registration cards or the digitized signatures of voters contained
18 in the qualified voter file as provided under section 766. If it is
19 determined after 8 p.m. on the day before election day that a
20 signature on the registration card or a digitized signature
21 contained in the qualified voter file and on the absent voter
22 ballot return envelope does not agree as provided under section
23 766, if it is determined after 8 p.m. on the day before election
24 day that the absent voter failed to sign the envelope, or if the
25 statement of the absent voter is not properly executed, the clerk
26 shall mark the envelope "rejected" and the reason for the rejection
27 and shall place his or her name under the notation. An envelope
28 marked "rejected" must not be delivered to the absent voter
29 counting board or combined absent voter counting board but must be

1 preserved by the clerk until other ballots are destroyed in the
2 manner provided in this act. If before 8 p.m. on the day before
3 election day the clerk of a city or township rejects an absent
4 voter ballot return envelope because the signature on the absent
5 voter ballot return envelope does not agree sufficiently with the
6 signature on the master card or the digitized signature contained
7 in the qualified voter file so as to identify the elector or
8 because the elector failed to sign the absent voter ballot return
9 envelope, the city or township clerk shall as soon as practicable,
10 but in no event later than 48 hours after determining the
11 signatures do not agree sufficiently or that the signature is
12 missing, or by 8 p.m. on the day before election day, whichever
13 occurs first, notify the elector of the rejection by mail,
14 telephone, or ~~electronic mail.~~ **email**. The clerk shall also comply
15 with section 765(5).

16 (7) This chapter does not prohibit an absent voter from voting
17 in person within the voter's precinct at an election,
18 notwithstanding that the voter may have applied for an absent voter
19 ballot and the ballot may have been mailed or otherwise delivered
20 to the voter. The voter, the election inspectors, and other
21 election officials shall proceed in the manner prescribed in
22 section 769. The clerk shall preserve the canceled ballots for 2
23 years.

24 (8) The absent voter counting boards and combined absent voter
25 counting boards shall process the ballots and returns in as nearly
26 as possible the same manner as ballots are processed in paper
27 ballot precincts. The poll book may be combined with the absent
28 voter list or record required by section 760, and the applications
29 for absent voter ballots may be used as the poll list. The

1 processing and tallying of absent voter ballots may commence at 7
2 a.m. on the day of the election. **The tabulation of absent voter**
3 **ballots by an absent voter counting board or combined absent voter**
4 **counting board is subject to section 801b.**

5 (9) An election inspector, challenger, or any other ~~person~~
6 **individual** in attendance at an absent voter counting place or
7 combined absent voter counting place at any time after the
8 processing of ballots has begun shall take and sign the following
9 oath that may be administered by the chairperson or a member of the
10 absent voter counting board or combined absent voter counting
11 board:

12 "I (name of ~~person~~**individual** taking oath) do solemnly swear
13 (or affirm) that I shall not communicate in any way any information
14 relative to the processing or tallying of votes that may come to me
15 while in this counting place until after the polls are closed.".

16 (10) The oaths administered under subsection (9) must be
17 placed in an envelope provided for the purpose and sealed with the
18 red state seal. Following the election, the oaths must be delivered
19 to the city or township clerk. Except as otherwise provided in
20 subsection (12), ~~a person~~**an individual** in attendance at the absent
21 voter counting place or combined absent voter counting place shall
22 not leave the counting place after the tallying has begun until the
23 polls close. Subject to this subsection, the clerk of a city or
24 township may allow the election inspectors appointed to an absent
25 voter counting board in that city or township to work in shifts. A
26 second or subsequent shift of election inspectors appointed for an
27 absent voter counting board may begin that shift at any time on
28 election day as provided by the city or township clerk. However, an
29 election inspector shall not leave the absent voter counting place

1 after the tallying has begun until the polls close. If the election
2 inspectors appointed to an absent voter counting board are
3 authorized to work in shifts, at no time shall there be a gap
4 between shifts and the election inspectors must never leave the
5 absent voter ballots unattended. At all times, at least 1 election
6 inspector from each major political party must be present at the
7 absent voter counting place and the policies and procedures adopted
8 by the secretary of state regarding the counting of absent voter
9 ballots must be followed. ~~A person~~ **An individual** who causes the
10 polls to be closed or who discloses an election result or in any
11 manner characterizes how any ballot being counted has been voted in
12 a voting precinct before the time the polls can be legally closed
13 on election day is guilty of a felony.

14 (11) Voted absent voter ballots must be placed in an approved
15 ballot container, and the ballot container must be sealed in the
16 manner provided by this act for paper ballot precincts. The seal
17 numbers must be recorded on the statement sheet and in the poll
18 book.

19 (12) Subject to this subsection, a local election official who
20 has established an absent voter counting board or combined absent
21 voter counting board, the deputy or employee of that local election
22 official, an employee of the state bureau of elections, a county
23 clerk, an employee of a county clerk, or a representative of a
24 voting equipment company may enter and leave an absent voter
25 counting board or combined absent voter counting board after the
26 tally has begun but before the polls close. ~~A person~~ **An individual**
27 described in this subsection may enter an absent voter counting
28 board or combined absent voter counting board only for the purpose
29 of responding to an inquiry from an election inspector or a

1 challenger or providing instructions on the operation of the
2 counting board. Before entering an absent voter counting board or
3 combined absent voter counting board, ~~a person~~ **an individual**
4 described in this subsection must take and sign the oath prescribed
5 in subsection (9). The chairperson of the absent voter counting
6 board or combined absent voter counting board shall record in the
7 poll book the name of ~~a person~~ **an individual** described in this
8 subsection who enters the absent voter counting board or combined
9 absent voter counting board. ~~A person~~ **An individual** described in
10 this subsection who enters an absent voter counting board or
11 combined absent voter counting board and who discloses an election
12 result or in any manner characterizes how any ballot being counted
13 has been voted in a precinct before the time the polls can be
14 legally closed on election day is guilty of a felony. As used in
15 this subsection, "local election official" means a county, city, or
16 township clerk.

17 (13) The secretary of state shall develop instructions
18 consistent with this act for the conduct of absent voter counting
19 boards or combined absent voter counting boards. The secretary of
20 state shall distribute the instructions developed under this
21 subsection to county, city, and township clerks 40 days or more
22 before a general election in which absent voter counting boards or
23 combined absent voter counting boards will be used. A county, city,
24 or township clerk shall make the instructions developed under this
25 subsection available to the public and shall distribute the
26 instructions to each challenger in attendance at an absent voter
27 counting board or combined absent voter counting board. The
28 instructions developed under this subsection are binding upon the
29 operation of an absent voter counting board or combined absent

1 voter counting board used in an election conducted by a county,
2 city, or township.

3 (14) At any absent voter counting board, an election
4 inspector, election challenger, or poll watcher is authorized to
5 use a camera or video camera to photograph or videotape the
6 proceedings of the absent voter counting board.

7 (15) At least 14 days before an election at which an absent
8 voter counting board will be used by a city or township, the clerk
9 of that city or township must post public notice at the city or
10 township clerk's office, and at any other location considered
11 appropriate by the city or township clerk, of the date, time, and
12 location that each absent voter counting board will meet,
13 including, but not limited to, the date, time, and location that
14 each absent voter counting board will meet to verify signatures on
15 absent voter ballot return envelopes.

16 Sec. 766. (1) Upon receipt from the city or township clerk of
17 any envelope containing the marked ballot or ballots of an absent
18 voter, the board of inspectors of election shall verify the
19 legality of the vote by doing both of the following:

20 (a) Examining the digitized signature for the absent voter
21 included in the qualified voter file under section 509q or the
22 registration record as provided in subsection (2) to see that the
23 ~~person~~**individual** has not voted in person, that he or she is a
24 registered ~~voter~~**, elector**, and that the signature on the statement
25 agrees with the signature on the registration record.

26 (b) Examining the statement of the voter to see that it is
27 properly executed.

28 (2) The qualified voter file must be used to determine the
29 genuineness of a signature on an envelope containing an absent

1 voter ballot. Signature comparisons must be made with the digitized
2 signature in the qualified voter file. If the qualified voter file
3 does not contain a digitized signature of an elector, or is not
4 accessible to the clerk, the city or township clerk shall compare
5 the signature appearing on an envelope containing an absent voter
6 ballot to the signature contained on the master card.

7 (3) The location at which the signature verification process
8 described in this section occurs must be open at all times to
9 election challengers and poll watchers.

10 Sec. 801a. (1) Subject to subsection (2), at any precinct,
11 absent voter counting board, or other location where votes are
12 tabulated for an election, an election inspector, election
13 challenger, or poll watcher is authorized, only when votes are
14 being tabulated, to use a camera or video camera, including, but
15 not limited to, a cellular telephone camera, to photograph or
16 videotape, or both, the tabulating of votes at that precinct,
17 absent voter counting board, or other location.

18 (2) An election inspector, election challenger, or poll
19 watcher is only authorized under subsection (1) to use a camera or
20 video camera to photograph or videotape the tabulating of votes at
21 a precinct, absent voter counting board, or other location, and is
22 not authorized to use a camera or video camera to photograph or
23 videotape any of the following:

24 (a) An elector entering, leaving, or voting at a precinct or
25 other location.

26 (b) The personal identification of an elector.

27 (3) An individual shall not threaten, intimidate, impede, or
28 prevent an election inspector, election challenger, or poll watcher
29 while photographing or videotaping the tabulating of votes as

1 authorized under subsection (1).

2 (4) An individual who violates subsection (2) or (3) is guilty
3 of a misdemeanor punishable by imprisonment for not more than 93
4 days or a fine of not more than \$1,000.00, or both.

5 Sec. 801b. (1) For an election involving statewide office, a
6 legislative office, or a county office, the county, city, or
7 township clerk may provide live video coverage of the custody of
8 all ballots while the ballots are present in the tabulation room of
9 a precinct, absent voter counting board, or combined absent voter
10 counting board. If live video coverage is provided by a county,
11 city, or township, the live video coverage must be recorded and
12 include date and time indicators. The county, city, or township
13 clerk must make the recording of any live video coverage available
14 for 40 days on the county, city, or township website. In addition,
15 the secretary of state may make the recording of any live video
16 coverage under this section available on the secretary of state
17 website.

18 (2) The county, city, or township clerk must retain the
19 recordings of the live video coverage from each precinct, absent
20 voter counting board, and combined absent voter counting board as a
21 public record for 40 days after the election.

22 (3) If the feed of the live video coverage under subsection
23 (1) is disrupted or disabled, the county, city, or township clerk
24 is not liable for the disruption, but the clerk must attempt to
25 reinstate the live video coverage as soon as practical.

26 (4) Any disruption in the live video coverage does not affect
27 or prevent the continued tabulation of the ballots in the precinct,
28 absent voter counting board, or combined absent voter counting
29 board.