

SUBSTITUTE FOR
SENATE BILL NO. 812

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 794b (MCL 168.794b), as amended by 1990 PA 109,
and by adding sections 37a, 37b, 765a, and 798d; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 37A. THE SECRETARY OF STATE SHALL ALLOW A COUNTY CLERK,
2 IN CONSULTATION WITH THE CLERK OF EACH CITY AND TOWNSHIP LOCATED IN
3 THAT COUNTY, TO DETERMINE WHICH ELECTRONIC VOTING SYSTEM WILL BE
4 USED IN THE COUNTY AS LONG AS THE ELECTRONIC VOTING SYSTEM SELECTED
5 MEETS BOTH OF THE FOLLOWING CRITERIA:

6 (A) THE ELECTRONIC VOTING SYSTEM IS THE SAME TYPE OF
7 ELECTRONIC VOTING SYSTEM AS THE UNIFORM VOTING SYSTEM.

8 (B) THE ELECTRONIC VOTING SYSTEM IS APPROVED AND CERTIFIED AS

1 PROVIDED IN SECTION 795A.

2 SEC. 37B. THE GOVERNING BODY OF A GOVERNMENTAL UNIT IN THIS
3 STATE MAY CONTRACT WITH THE GOVERNING BODY OF ANOTHER GOVERNMENTAL
4 UNIT IN THIS STATE WITH REGARD TO THE USE OF THE ELECTRONIC VOTING
5 SYSTEM OWNED BY EITHER OF THE CONTRACTING UNITS.

6 SEC. 765A. (1) IF A CITY OR TOWNSHIP DECIDES TO USE ABSENT
7 VOTER COUNTING BOARDS, THE BOARD OF ELECTION COMMISSIONERS OF THAT
8 CITY OR TOWNSHIP SHALL ESTABLISH AN ABSENT VOTER COUNTING BOARD FOR
9 EACH ELECTION DAY PRECINCT IN THAT CITY OR TOWNSHIP. THE BALLOT
10 FORM OF AN ABSENT VOTER COUNTING BOARD MUST CORRESPOND TO THE
11 BALLOT FORM OF THE ELECTION DAY PRECINCT FOR WHICH IT IS
12 ESTABLISHED. AFTER THE POLLS CLOSE ON ELECTION DAY, THE COUNTY,
13 CITY, OR TOWNSHIP CLERK RESPONSIBLE FOR PRODUCING THE ACCUMULATION
14 REPORT OF THE ELECTION RESULTS SUBMITTED BY THE BOARDS OF PRECINCT
15 ELECTION INSPECTORS SHALL FORMAT THE ACCUMULATION REPORT TO CLEARLY
16 INDICATE ALL OF THE FOLLOWING:

17 (A) THE ELECTION DAY PRECINCT RETURNS.

18 (B) THE CORRESPONDING ABSENT VOTER COUNTING BOARD RETURNS.

19 (C) A TOTAL OF EACH ELECTION DAY PRECINCT RETURN AND EACH
20 CORRESPONDING ABSENT VOTER COUNTING BOARD RETURN.

21 (2) THE BOARD OF ELECTION COMMISSIONERS SHALL ESTABLISH THE
22 ABSENT VOTER COUNTING BOARDS. THE BOARD OF ELECTION COMMISSIONERS
23 SHALL APPOINT THE ELECTION INSPECTORS TO THOSE ABSENT VOTER
24 COUNTING BOARDS NOT LESS THAN 21 DAYS OR MORE THAN 40 DAYS BEFORE
25 THE ELECTION AT WHICH THEY ARE TO BE USED. SECTIONS 673A AND 674
26 APPLY TO THE APPOINTMENT OF ELECTION INSPECTORS TO ABSENT VOTER
27 COUNTING BOARDS UNDER THIS SECTION. THE BOARD OF ELECTION

1 COMMISSIONERS SHALL DETERMINE THE NUMBER OF BALLOTS THAT MAY BE
2 EXPEDITIOUSLY COUNTED BY AN ABSENT VOTER COUNTING BOARD IN A
3 REASONABLE PERIOD OF TIME, TAKING INTO CONSIDERATION THE SIZE AND
4 COMPLEXITY OF THE BALLOT TO BE COUNTED PURSUANT TO THE GUIDELINES
5 OF THE SECRETARY OF STATE. COMBINED BALLOTS MUST BE REGARDED AS THE
6 NUMBER OF BALLOTS AS THERE ARE SECTIONS TO THE BALLOT.

7 (3) IF MORE THAN 1 ABSENT VOTER COUNTING BOARD IS TO BE USED,
8 THE CITY OR TOWNSHIP CLERK SHALL DETERMINE THE NUMBER OF ELECTRONIC
9 VOTING SYSTEMS OR THE NUMBER OF BALLOT BOXES AND THE NUMBER OF
10 ELECTION INSPECTORS TO BE USED IN EACH OF THE ABSENT VOTER COUNTING
11 BOARDS AND TO WHICH ABSENT VOTER COUNTING BOARD THE ABSENT VOTER
12 BALLOTS FOR EACH PRECINCT ARE ASSIGNED FOR COUNTING.

13 (4) IN A CITY OR TOWNSHIP THAT USES ABSENT VOTER COUNTING
14 BOARDS UNDER THIS SECTION, ABSENT VOTER BALLOTS MUST BE COUNTED IN
15 THE MANNER PROVIDED IN THIS SECTION AND ABSENT VOTER BALLOTS MUST
16 NOT BE DELIVERED TO THE POLLING PLACES. THE BOARD OF ELECTION
17 COMMISSIONERS SHALL PROVIDE A PLACE FOR EACH ABSENT VOTER COUNTING
18 BOARD TO COUNT THE ABSENT VOTER BALLOTS. SECTION 662 APPLIES TO THE
19 DESIGNATION AND PRESCRIBING OF THE ABSENT VOTER COUNTING PLACE OR
20 PLACES IN WHICH THE ABSENT VOTER COUNTING BOARD PERFORMS ITS DUTIES
21 UNDER THIS SECTION, EXCEPT THE LOCATION MAY BE IN A DIFFERENT
22 JURISDICTION IF THE COUNTY PROVIDES A TABULATOR FOR USE AT A
23 CENTRAL ABSENT VOTER COUNTING BOARD LOCATION IN THAT COUNTY. THE
24 PLACES MUST BE DESIGNATED AS ABSENT VOTER COUNTING PLACES. EXCEPT
25 AS OTHERWISE PROVIDED IN THIS SECTION, LAWS RELATING TO PAPER
26 BALLOT PRECINCTS, INCLUDING LAWS RELATING TO THE APPOINTMENT OF
27 ELECTION INSPECTORS, APPLY TO ABSENT VOTER COUNTING PLACES. IF A

1 COUNTING PLACE USES ELECTRONIC VOTING SYSTEMS, THE PROVISIONS OF
2 THIS SECTION RELATING TO PLACING OF ABSENT VOTER BALLOTS ON
3 ELECTRONIC VOTING SYSTEMS APPLY. MORE THAN 1 ABSENT VOTER COUNTING
4 BOARD MAY BE LOCATED IN 1 BUILDING.

5 (5) THE CLERK OF A CITY OR TOWNSHIP THAT USES ABSENT VOTER
6 COUNTING BOARDS SHALL SUPPLY EACH ABSENT VOTER COUNTING BOARD WITH
7 SUPPLIES NECESSARY TO CARRY OUT ITS DUTIES UNDER THIS ACT. THE
8 SUPPLIES MUST BE FURNISHED TO THE CITY OR TOWNSHIP CLERK IN THE
9 SAME MANNER AND BY THE SAME PERSONS OR AGENCIES AS FOR OTHER
10 PRECINCTS.

11 (6) ABSENT VOTER BALLOTS RECEIVED BY THE CLERK BEFORE ELECTION
12 DAY MUST BE DELIVERED TO THE ABSENT VOTER COUNTING BOARD BY THE
13 CLERK OR THE CLERK'S AUTHORIZED ASSISTANT AT THE TIME THE ELECTION
14 INSPECTORS OF THE ABSENT VOTER COUNTING BOARDS REPORT FOR DUTY,
15 WHICH TIME MUST BE ESTABLISHED BY THE BOARD OF ELECTION
16 COMMISSIONERS. ABSENT VOTER BALLOTS RECEIVED BY THE CLERK BEFORE
17 THE TIME SET FOR THE CLOSING OF THE POLLS ON ELECTION DAY MUST BE
18 DELIVERED TO THE ABSENT VOTER COUNTING BOARDS. ABSENT VOTER BALLOTS
19 MUST BE DELIVERED TO THE ABSENT VOTER COUNTING BOARDS IN THE SEALED
20 ABSENT VOTER BALLOT RETURN ENVELOPES IN WHICH THEY WERE RETURNED TO
21 THE CLERK. WRITTEN OR STAMPED ON EACH OF THE RETURN ENVELOPES MUST
22 BE THE TIME AND THE DATE THAT THE ENVELOPE WAS RECEIVED BY THE
23 CLERK AND A STATEMENT BY THE CLERK THAT THE SIGNATURES OF THE
24 ABSENT VOTERS ON THE ENVELOPES HAVE BEEN CHECKED AND FOUND TO AGREE
25 WITH THE SIGNATURES OF THE VOTERS ON THE REGISTRATION CARDS OR THE
26 DIGITIZED SIGNATURES OF VOTERS CONTAINED IN THE QUALIFIED VOTER
27 FILE AS PROVIDED UNDER SECTION 766. IF A SIGNATURE ON THE

1 REGISTRATION CARD OR A DIGITIZED SIGNATURE CONTAINED IN THE
2 QUALIFIED VOTER FILE AND ON THE ABSENT VOTER BALLOT RETURN ENVELOPE
3 DOES NOT AGREE AS PROVIDED UNDER SECTION 766, IF THE ABSENT VOTER
4 FAILED TO SIGN THE ENVELOPE, OR IF THE STATEMENT OF THE ABSENT
5 VOTER IS NOT PROPERLY EXECUTED, THE CLERK SHALL MARK THE ENVELOPE
6 "REJECTED" AND THE REASON FOR THE REJECTION AND SHALL PLACE HIS OR
7 HER NAME UNDER THE NOTATION. AN ENVELOPE MARKED "REJECTED" MUST NOT
8 BE DELIVERED TO THE ABSENT VOTER COUNTING BOARD BUT MUST BE
9 PRESERVED BY THE CLERK UNTIL OTHER BALLOTS ARE DESTROYED IN THE
10 MANNER PROVIDED IN THIS ACT. THE CLERK SHALL ALSO COMPLY WITH
11 SECTION 765(5).

12 (7) THIS CHAPTER DOES NOT PROHIBIT AN ABSENT VOTER FROM VOTING
13 IN PERSON WITHIN THE VOTER'S PRECINCT AT AN ELECTION,
14 NOTWITHSTANDING THAT THE VOTER MAY HAVE APPLIED FOR AN ABSENT VOTER
15 BALLOT AND THE BALLOT MAY HAVE BEEN MAILED OR OTHERWISE DELIVERED
16 TO THE VOTER. THE VOTER, THE ELECTION INSPECTORS, AND OTHER
17 ELECTION OFFICIALS SHALL PROCEED IN THE MANNER PRESCRIBED IN
18 SECTION 769. THE CLERK SHALL PRESERVE THE CANCELED BALLOTS FOR 2
19 YEARS.

20 (8) THE ABSENT VOTER COUNTING BOARDS SHALL PROCESS THE BALLOTS
21 AND RETURNS IN AS NEARLY AS POSSIBLE THE SAME MANNER AS BALLOTS ARE
22 PROCESSED IN PAPER BALLOT PRECINCTS. THE POLL BOOK MAY BE COMBINED
23 WITH THE ABSENT VOTER LIST OR RECORD REQUIRED BY SECTION 760, AND
24 THE APPLICATIONS FOR ABSENT VOTER BALLOTS MAY BE USED AS THE POLL
25 LIST. THE PROCESSING AND TALLYING OF ABSENT VOTER BALLOTS MAY
26 COMMENCE AT 7 A.M. ON THE DAY OF THE ELECTION.

27 (9) AN ELECTION INSPECTOR, CHALLENGER, OR ANY OTHER PERSON IN

1 ATTENDANCE AT AN ABSENT VOTER COUNTING PLACE AT ANY TIME AFTER THE
2 PROCESSING OF BALLOTS HAS BEGUN SHALL TAKE AND SIGN THE FOLLOWING
3 OATH THAT MAY BE ADMINISTERED BY THE CHAIRPERSON OR A MEMBER OF THE
4 ABSENT VOTER COUNTING BOARD:

5 "I (NAME OF PERSON TAKING OATH) DO SOLEMNLY SWEAR (OR AFFIRM)
6 THAT I SHALL NOT COMMUNICATE IN ANY WAY ANY INFORMATION RELATIVE TO
7 THE PROCESSING OR TALLYING OF VOTES THAT MAY COME TO ME WHILE IN
8 THIS COUNTING PLACE UNTIL AFTER THE POLLS ARE CLOSED.".

9 (10) THE OATHS ADMINISTERED UNDER SUBSECTION (9) MUST BE
10 PLACED IN AN ENVELOPE PROVIDED FOR THE PURPOSE AND SEALED WITH THE
11 RED STATE SEAL. FOLLOWING THE ELECTION, THE OATHS MUST BE DELIVERED
12 TO THE CITY OR TOWNSHIP CLERK. EXCEPT AS OTHERWISE PROVIDED IN
13 SUBSECTION (12), A PERSON IN ATTENDANCE AT THE ABSENT VOTER
14 COUNTING PLACE SHALL NOT LEAVE THE COUNTING PLACE AFTER THE
15 TALLYING HAS BEGUN UNTIL THE POLLS CLOSE. A PERSON WHO CAUSES THE
16 POLLS TO BE CLOSED OR WHO DISCLOSES AN ELECTION RESULT OR IN ANY
17 MANNER CHARACTERIZES HOW ANY BALLOT BEING COUNTED HAS BEEN VOTED IN
18 A VOTING PRECINCT BEFORE THE TIME THE POLLS CAN BE LEGALLY CLOSED
19 ON ELECTION DAY IS GUILTY OF A FELONY.

20 (11) VOTED ABSENT VOTER BALLOTS MUST BE PLACED IN AN APPROVED
21 BALLOT CONTAINER, AND THE BALLOT CONTAINER MUST BE SEALED IN THE
22 MANNER PROVIDED BY THIS ACT FOR PAPER BALLOT PRECINCTS. THE SEAL
23 NUMBERS MUST BE RECORDED ON THE STATEMENT SHEET AND IN THE POLL
24 BOOK.

25 (12) SUBJECT TO THIS SUBSECTION, A LOCAL ELECTION OFFICIAL WHO
26 HAS ESTABLISHED AN ABSENT VOTER COUNTING BOARD, THE DEPUTY OR
27 EMPLOYEE OF THAT LOCAL ELECTION OFFICIAL, OR AN EMPLOYEE OF THE

1 STATE BUREAU OF ELECTIONS MAY ENTER AND LEAVE AN ABSENT VOTER
2 COUNTING BOARD AFTER THE TALLY HAS BEGUN BUT BEFORE THE POLLS
3 CLOSE. A PERSON DESCRIBED IN THIS SUBSECTION MAY ENTER AN ABSENT
4 VOTER COUNTING BOARD ONLY FOR THE PURPOSE OF RESPONDING TO AN
5 INQUIRY FROM AN ELECTION INSPECTOR OR A CHALLENGER OR PROVIDING
6 INSTRUCTIONS ON THE OPERATION OF THE COUNTING BOARD. BEFORE
7 ENTERING AN ABSENT VOTER COUNTING BOARD, A PERSON DESCRIBED IN THIS
8 SUBSECTION MUST TAKE AND SIGN THE OATH PRESCRIBED IN SUBSECTION
9 (9). THE CHAIRPERSON OF THE ABSENT VOTER COUNTING BOARD SHALL
10 RECORD IN THE POLL BOOK THE NAME OF A PERSON DESCRIBED IN THIS
11 SUBSECTION WHO ENTERS THE ABSENT VOTER COUNTING BOARD. A PERSON
12 DESCRIBED IN THIS SUBSECTION WHO ENTERS AN ABSENT VOTER COUNTING
13 BOARD AND WHO DISCLOSES AN ELECTION RESULT OR IN ANY MANNER
14 CHARACTERIZES HOW ANY BALLOT BEING COUNTED HAS BEEN VOTED IN A
15 PRECINCT BEFORE THE TIME THE POLLS CAN BE LEGALLY CLOSED ON
16 ELECTION DAY IS GUILTY OF A FELONY. AS USED IN THIS SUBSECTION,
17 "LOCAL ELECTION OFFICIAL" MEANS A COUNTY, CITY, OR TOWNSHIP CLERK.

18 (13) THE SECRETARY OF STATE SHALL DEVELOP INSTRUCTIONS
19 CONSISTENT WITH THIS ACT FOR THE CONDUCT OF ABSENT VOTER COUNTING
20 BOARDS. THE SECRETARY OF STATE SHALL DISTRIBUTE THE INSTRUCTIONS
21 DEVELOPED UNDER THIS SUBSECTION TO CITY AND TOWNSHIP CLERKS 40 DAYS
22 OR MORE BEFORE A GENERAL ELECTION IN WHICH ABSENT VOTER COUNTING
23 BOARDS WILL BE USED. A CITY OR TOWNSHIP CLERK SHALL MAKE THE
24 INSTRUCTIONS DEVELOPED UNDER THIS SUBSECTION AVAILABLE TO THE
25 PUBLIC AND SHALL DISTRIBUTE THE INSTRUCTIONS TO EACH CHALLENGER IN
26 ATTENDANCE AT AN ABSENT VOTER COUNTING BOARD. THE INSTRUCTIONS
27 DEVELOPED UNDER THIS SUBSECTION ARE BINDING UPON THE OPERATION OF

1 AN ABSENT VOTER COUNTING BOARD USED IN AN ELECTION CONDUCTED BY A
2 COUNTY, CITY, OR TOWNSHIP.

3 Sec. 794b. ~~The IF FEDERAL FUNDING OR STATE FUNDING IS NOT~~
4 AVAILABLE, THE board of commissioners of a county, the legislative
5 body of a city, ~~or village, OR~~ the township board of a township, ~~or~~
6 ~~the school board of a school district,~~ on the adoption and
7 acquisition of an electronic voting system, shall provide for ALL
8 OR THE BALANCE OF THE payment for the system. ~~in the same manner as~~
9 ~~is provided for the payment for voting machines in section 774.~~

10 SEC. 798D. IF THERE IS NO RESERVE ELECTRONIC VOTING SYSTEM
11 AVAILABLE, EMERGENCY BALLOTS MAY ALSO BE PROVIDED BY THE COUNTY
12 BOARD OF ELECTION COMMISSIONERS. EMERGENCY BALLOTS MUST HAVE
13 SUITABLE BLANK SPACES TO PERMIT THE VOTER TO VOTE FOR THE
14 CANDIDATES FOR WHOM THE ELECTOR DESIRES TO VOTE. THE BALLOTS MUST
15 BE USED ONLY IN AN EMERGENCY AND UPON SPECIAL PERMISSION OF THE
16 BOARD OR OFFICIAL WHOSE DUTY IT IS TO PROVIDE BALLOTS FOR THE
17 ELECTION. THE BOARD OR OFFICIAL SHALL PREPARE THE EMERGENCY BALLOTS
18 THAT MUST BE HELD BY THE CITY, TOWNSHIP, OR VILLAGE CLERK, SUBJECT
19 TO THE ORDER OF THE COUNTY CLERK OR OTHER AUTHORIZED PERSON. IT IS
20 NOT NECESSARY TO PROVIDE EMERGENCY BALLOTS FOR EACH ELECTION UNLESS
21 PREVIOUSLY PROVIDED BALLOTS HAVE BEEN USED, DESTROYED, OR LOST, IN
22 WHICH CASE SIMILAR BALLOTS MUST AGAIN BE PROVIDED. IF AT ANY TIME
23 DURING THE ELECTION, THE ELECTRONIC VOTING SYSTEM IS DISABLED AND
24 CANNOT BE REPAIRED AND NO OTHER ELECTRONIC VOTING SYSTEM IS
25 AVAILABLE, AN EMERGENCY MUST BE DECLARED TO EXIST AND THE VOTING
26 AFTER AN EMERGENCY IS DECLARED AT THAT ELECTION IN THAT VOTING
27 PRECINCT MUST BE BY EMERGENCY BALLOT, IN THE MANNER PROVIDED IN

1 THIS SECTION. THE BOARD OR OFFICIAL WHO HAS CUSTODY OF THE
2 EMERGENCY BALLOTS, WHEN SO DIRECTED, SHALL SUPPLY A SUFFICIENT
3 NUMBER OF EMERGENCY BALLOTS TO THE ELECTION BOARD FOR USE BY THE
4 VOTERS. ONE OF THE BALLOTS MUST BE DELIVERED BY THE ELECTION BOARD
5 TO EACH VOTER WHO APPEARS TO VOTE AFTER AN EMERGENCY IS DECLARED.
6 EMERGENCY BALLOTS MUST BE VOTED AND COUNTED SUBJECT TO THE
7 PROVISIONS RELATIVE TO VOTING BY BALLOT AT GENERAL ELECTIONS,
8 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. THE BALLOTS MUST BE
9 NUMBERED CONSECUTIVELY FROM 1 UP, AND THE NUMBER AND IDENTIFICATION
10 MUST BE PRINTED ON A PERFORATED STUB AS IN THE CASE WHERE ONLY
11 REGULAR BALLOTS ARE USED AT ELECTIONS.

12 Enacting section 1. Sections 770 to 793 of the Michigan
13 election law, 1954 PA 116, MCL 168.770 to 168.793, are repealed.

14 Enacting section 2. This amendatory act takes effect 90 days
15 after the date it is enacted into law.