

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 756**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 765a (MCL 168.765a), as amended by 2020 PA 95.

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



1 of precinct election inspectors shall format the accumulation
2 report to clearly indicate all of the following:

3 (a) The election day precinct returns.

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

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

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

21 (3) If more than 1 absent voter counting board is to be used,
22 the city or township clerk shall determine the number of electronic
23 voting systems or the number of ballot boxes and the number of
24 election inspectors to be used in each of the absent voter counting
25 boards and to which absent voter counting board the absent voter
26 ballots for each precinct are assigned for counting.

27 (4) In a city or township that uses absent voter counting
28 boards under this section, absent voter ballots must be counted in
29 the manner provided in this section and, except as otherwise



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

17 (5) The clerk of a city or township that uses absent voter
18 counting boards shall supply each absent voter counting board with
19 supplies necessary to carry out its duties under this act. The
20 supplies must be furnished to the city or township clerk in the
21 same manner and by the same persons or agencies as for other
22 precincts.

23 (6) Subject to section 764d, absent voter ballots received by
24 the clerk before election day must be delivered to the absent voter
25 counting board by the clerk or the clerk's authorized assistant at
26 the time the election inspectors of the absent voter counting
27 boards report for duty, which time must be established by the board
28 of election commissioners. Except as otherwise provided in section
29 764d, absent voter ballots received by the clerk before the time



1 set for the closing of the polls on election day must be delivered
2 to the absent voter counting boards. Absent voter ballots must be
3 delivered to the absent voter counting boards or combined absent
4 voter counting boards in the sealed absent voter ballot return
5 envelopes in which they were returned to the clerk. Written or
6 stamped on each of the return envelopes must be the time and the
7 date that the envelope was received by the clerk and a statement by
8 the clerk that the signatures of the absent voters on the envelopes
9 have been checked and found to agree with the signatures of the
10 voters on the registration cards or the digitized signatures of
11 voters contained in the qualified voter file as provided under
12 section 766. If a signature on the registration card or a digitized
13 signature contained in the qualified voter file and on the absent
14 voter ballot return envelope does not agree as provided under
15 section 766, if the absent voter failed to sign the envelope, or if
16 the statement of the absent voter is not properly executed, the
17 clerk shall mark the envelope "rejected" and the reason for the
18 rejection and shall place his or her name under the notation. An
19 envelope marked "rejected" must not be delivered to the absent
20 voter counting board or combined absent voter counting board but
21 must be preserved by the clerk until other ballots are destroyed in
22 the manner provided in this act. The clerk shall also comply with
23 section 765(5).

24 (7) This chapter does not prohibit an absent voter from voting
25 in person within the voter's precinct at an election,
26 notwithstanding that the voter may have applied for an absent voter
27 ballot and the ballot may have been mailed or otherwise delivered
28 to the voter. The voter, the election inspectors, and other
29 election officials shall proceed in the manner prescribed in



1 section 769. The clerk shall preserve the canceled ballots for 2
2 years.

3 (8) The absent voter counting boards and combined absent voter
4 counting boards shall process the ballots and returns in as nearly
5 as possible the same manner as ballots are processed in paper
6 ballot precincts. The poll book may be combined with the absent
7 voter list or record required by section 760, and the applications
8 for absent voter ballots may be used as the poll list. The
9 processing and tallying of absent voter ballots may commence at 7
10 a.m. on the day of the election.

11 (9) An election inspector, challenger, or any other person in
12 attendance at an absent voter counting place or combined absent
13 voter counting place at any time after the processing of ballots
14 has begun shall take and sign the following oath that may be
15 administered by the chairperson or a member of the absent voter
16 counting board or combined absent voter counting board:

17 "I (name of person taking oath) do solemnly swear (or affirm)
18 that I shall not communicate in any way any information relative to
19 the processing or tallying of votes that may come to me while in
20 this counting place until after the polls are closed.".

21 (10) The oaths administered under subsection (9) must be
22 placed in an envelope provided for the purpose and sealed with the
23 red state seal. Following the election, the oaths must be delivered
24 to the city or township clerk. Except as otherwise provided in
25 subsection (12), a person in attendance at the absent voter
26 counting place or combined absent voter counting place shall not
27 leave the counting place after the tallying has begun until the
28 polls close. **Subject to this subsection, if the clerk of a city or**
29 **township provides written notice to the secretary of state at least**



1 20 days or more before election day for an election occurring
2 before December 31, 2020, or at least 40 days or more before
3 election day for an election occurring after December 31, 2020, the
4 clerk of that city or township may allow the election inspectors
5 appointed to an absent voter counting board in that city or
6 township to work in shifts. The secretary of state shall post any
7 written notice received from the clerk of a city or township under
8 this subsection on the department of state website. If the clerk of
9 a city or township provides written notice to the secretary of
10 state under this subsection, a second or subsequent shift of
11 election inspectors appointed for an absent voter counting board
12 may begin that shift at any time on election day as provided in the
13 written notice. However, an election inspector shall not leave the
14 absent voter counting place after the tallying has begun until the
15 polls close. If the election inspectors appointed to an absent
16 voter counting board are authorized to work in shifts, at no time
17 shall there be a gap between shifts and the election inspectors
18 must never leave the absent voter ballots unattended. At all times,
19 at least 1 election inspector from each major political party must
20 be present at the absent voter counting place and the policies and
21 procedures adopted by the secretary of state regarding the counting
22 of absent voter ballots must be followed. A person who causes the
23 polls to be closed or who discloses an election result or in any
24 manner characterizes how any ballot being counted has been voted in
25 a voting precinct before the time the polls can be legally closed
26 on election day is guilty of a felony.

27 (11) Voted absent voter ballots must be placed in an approved
28 ballot container, and the ballot container must be sealed in the
29 manner provided by this act for paper ballot precincts. The seal



1 numbers must be recorded on the statement sheet and in the poll
2 book.

3 (12) Subject to this subsection, a local election official who
4 has established an absent voter counting board or combined absent
5 voter counting board, the deputy or employee of that local election
6 official, an employee of the state bureau of elections, a county
7 clerk, an employee of a county clerk, or a representative of a
8 voting equipment company may enter and leave an absent voter
9 counting board or combined absent voter counting board after the
10 tally has begun but before the polls close. A person described in
11 this subsection may enter an absent voter counting board or
12 combined absent voter counting board only for the purpose of
13 responding to an inquiry from an election inspector or a challenger
14 or providing instructions on the operation of the counting board.
15 Before entering an absent voter counting board or combined absent
16 voter counting board, a person described in this subsection must
17 take and sign the oath prescribed in subsection (9). The
18 chairperson of the absent voter counting board or combined absent
19 voter counting board shall record in the poll book the name of a
20 person described in this subsection who enters the absent voter
21 counting board or combined absent voter counting board. A person
22 described in this subsection who enters an absent voter counting
23 board or combined absent voter counting board and who discloses an
24 election result or in any manner characterizes how any ballot being
25 counted has been voted in a precinct before the time the polls can
26 be legally closed on election day is guilty of a felony. As used in
27 this subsection, "local election official" means a county, city, or
28 township clerk.

29 (13) The secretary of state shall develop instructions



1 consistent with this act for the conduct of absent voter counting
2 boards or combined absent voter counting boards. The secretary of
3 state shall distribute the instructions developed under this
4 subsection to county, city, and township clerks 40 days or more
5 before a general election in which absent voter counting boards or
6 combined absent voter counting boards will be used. A county, city,
7 or township clerk shall make the instructions developed under this
8 subsection available to the public and shall distribute the
9 instructions to each challenger in attendance at an absent voter
10 counting board or combined absent voter counting board. The
11 instructions developed under this subsection are binding upon the
12 operation of an absent voter counting board or combined absent
13 voter counting board used in an election conducted by a county,
14 city, or township.

