

**SUBSTITUTE FOR
SENATE BILL NO. 757**

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 765, 765a, and 765b (MCL 168.765, 168.765a, and 168.765b), section 765 as amended by 2018 PA 603, section 765a as added by 2018 PA 123, and section 765b as added by 2018 PA 127, and by adding sections 14b and 24k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 14b. As used in this act, "absent voter ballot secrecy**
2 **envelope container" means a container described in section 24k that**
3 **is used for storing and securing absent voter ballot secrecy**
4 **envelopes that are removed from the absent voter ballot return**
5 **envelopes on the day before election day as provided in section**
6 **765.**



1 Sec. 24k. (1) An absent voter ballot secrecy envelope
2 container includes a ballot bag, box, transfer case, or other
3 container used to store and secure absent voter ballot secrecy
4 envelopes.

5 (2) A manufacturer or distributor of an absent voter ballot
6 secrecy envelope container shall submit an absent voter ballot
7 secrecy envelope container to the secretary of state for approval
8 under the requirements of subsection (3) before the container is
9 sold to a city or township for use at an election.

10 (3) The secretary of state shall not approve an absent voter
11 ballot secrecy envelope container unless the container meets both
12 of the following requirements:

13 (a) The container is made of metal, plastic, fiberglass, or
14 other material, that provides resistance to tampering.

15 (b) The container is capable of being sealed.

16 (4) Before June 1, 2020, and before June 1 of every fourth
17 year after 2020, each board of county canvassers shall examine the
18 absent voter ballot secrecy envelope containers to be used in any
19 election conducted under this act. The board of county canvassers
20 shall designate on the absent voter ballot secrecy envelope
21 container that the absent voter ballot secrecy envelope container
22 does or does not meet the requirements under subsection (3). An
23 absent voter ballot secrecy envelope container that is not approved
24 by a board of county canvassers must not be used to store and
25 secure any absent voter ballot secrecy envelopes.

26 (5) A city or township clerk may procure, at the expense of
27 the respective city or township, absent voter ballot secrecy
28 envelope containers that are approved under this section.

29 (6) A city or township clerk who uses or permits the use of an



1 **absent voter ballot secrecy envelope container that is not approved**
2 **under this section is guilty of a misdemeanor.**

3 Sec. 765. (1) ~~A—Except as otherwise provided in subsection~~
4 **(6),** a clerk who receives an absent voter ballot return envelope
5 containing the marked ballots of an absent voter shall not open
6 that envelope before delivering the envelope to the board of
7 election inspectors as provided in this section. ~~The—Except as~~
8 **otherwise provided in subsection (6),** the city or township clerk
9 shall safely keep in his or her office until election day any
10 absent voter ballot return envelopes received by the clerk before
11 election day containing the marked ballots of an absent voter.

12 (2) Before the opening of the polls on election day or as soon
13 after the opening of the polls as possible, the clerk shall deliver
14 the absent voter ballot return envelopes to the chairperson or
15 other member of the board of election inspectors in the absent
16 voter's precinct, together with the signed absent voter ballot
17 applications received by the clerk from any voters of that precinct
18 and the clerk's list or record kept relative to those absent
19 voters. However, if higher numbered ballots are used under section
20 717, the clerk shall retain the applications and lists in his or
21 her office and shall keep the applications and lists open to public
22 inspection at all reasonable hours. Absent voter ballots must not
23 be tabulated before the opening of the polls on election day.

24 (3) The city or township clerk, or authorized designee of the
25 clerk, shall call for and receive absent voter ballots from the
26 post office at which the city or township clerk regularly receives
27 mail addressed to the city or township clerk on election day. Any
28 envelopes containing absent voter ballots that are received from
29 the post office or from voters who voted by absentee ballot in



1 person in the clerk's office on election day must be delivered to
2 the board of election inspectors or the absent voter counting
3 boards to be tabulated.

4 (4) If a marked absent voter ballot is received by the clerk
5 after the close of the polls, the clerk shall plainly mark the
6 envelope with the time and date of receipt and shall file the
7 envelope in his or her office.

8 (5) On or before 8 a.m. on election day, the clerk shall post
9 in the clerk's office or otherwise make public the number of absent
10 voter ballots the clerk distributed to absent voters and the number
11 of absent voter ballot return envelopes containing the marked
12 ballots of absent voters received by the clerk before election day
13 and to be delivered to the board of election inspectors or the
14 absent voter counting boards under this act. On or before 9 p.m. on
15 election day, the clerk shall post in the clerk's office or
16 otherwise make public the number of absent voter ballot return
17 envelopes containing the marked ballots of absent voters received
18 by the clerk on election day and delivered to the board of election
19 inspectors, under subsection (3), along with the total number of
20 absent voter ballot return envelopes containing the marked ballots
21 of absent voters received by the clerk both before and on election
22 day and delivered to the board of election inspectors or the absent
23 voter counting boards under this act. As soon as possible after all
24 precincts in the city or township are processed, the clerk shall
25 post in the clerk's office or otherwise make public the number of
26 absent voter ballot return envelopes containing the marked ballots
27 of absent voters received by the election inspectors at the
28 precincts on election day, along with the total number of absent
29 voter ballot return envelopes containing the marked ballots of



1 absent voters received in the city or township for that election.
2 This subsection applies only to elections in which a federal or
3 state office appears on the ballot.

4 (6) If the clerk of a city or township with at least 10,000
5 active registered electors provides written notice in compliance
6 with this subsection to the secretary of state 40 days or more
7 before election day, that city or township clerk, or his or her
8 authorized designee, may between the hours of 10 a.m. and 8 p.m. on
9 the day before election day perform certain absent voter ballot
10 pre-processing activities as described in this subsection. The
11 written notice provided to the secretary of state must include the
12 location and hours that the absent voter ballot return envelopes
13 will be opened and the perforated ballot stubs removed in that city
14 or township. The secretary of state shall post any written notice
15 received from the clerk of a city or township under this subsection
16 on the department of state website. After providing written notice
17 to the secretary of state in compliance with this subsection, a
18 city or township clerk, or his or her authorized designee, is only
19 authorized to open absent voter ballot return envelopes and remove
20 the perforated ballot stubs on the day before election day and is
21 not authorized to remove absent voter ballots from the absent voter
22 ballot secrecy envelopes. If an opened absent voter ballot return
23 envelope contains an absent voter ballot that is not contained in
24 an absent voter ballot secrecy envelope, the city or township
25 clerk, or his or her designee, shall immediately insert that absent
26 voter ballot into an absent voter ballot secrecy envelope. The
27 opening of absent voter ballot return envelopes and removing of
28 perforated ballot stubs must be done at a location designated by
29 the city or township clerk, and the location, opening of absent



1 voter ballot return envelopes, and removing of perforated ballot
 2 stubs must be accessible to challengers as described in section
 3 730. Once the absent voter ballot return envelopes have been opened
 4 and the perforated ballot stubs removed as provided in this
 5 subsection, the absent voter ballot secrecy envelopes containing
 6 the absent voter ballots to be counted must be stored and secured
 7 in an absent voter ballot secrecy envelope container, as described
 8 in section 24k, and sealed. The city or township clerk shall record
 9 the seal number and follow all other policies and procedures
 10 adopted by the secretary of state regarding absent voter ballots.
 11 The city or township clerk shall store the absent voter ballot
 12 secrecy envelope container containing the absent voter ballot
 13 secrecy envelopes in a secure location until election day.

14 Sec. 765a. (1) If a city or township decides to use absent
 15 voter counting boards, the board of election commissioners of that
 16 city or township shall establish an absent voter counting board for
 17 each election day precinct in that city or township. The ballot
 18 form of an absent voter counting board must correspond to the
 19 ballot form of the election day precinct for which it is
 20 established. After the polls close on election day, the county,
 21 city, or township clerk responsible for producing the accumulation
 22 report of the election results submitted by the boards of precinct
 23 election inspectors shall format the accumulation report to clearly
 24 indicate all of the following:

- 25 (a) The election day precinct returns.
- 26 (b) The corresponding absent voter counting board returns.
- 27 (c) A total of each election day precinct return and each
 28 corresponding absent voter counting board return.
- 29 (2) The board of election commissioners shall establish the



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

13 (3) If more than 1 absent voter counting board is to be used,
14 the city or township clerk shall determine the number of electronic
15 voting systems or the number of ballot boxes and the number of
16 election inspectors to be used in each of the absent voter counting
17 boards and to which absent voter counting board the absent voter
18 ballots for each precinct are assigned for counting.

19 (4) In a city or township that uses absent voter counting
20 boards under this section, absent voter ballots must be counted in
21 the manner provided in this section and absent voter ballots must
22 not be delivered to the polling places. The board of election
23 commissioners shall provide a place for each absent voter counting
24 board to count the absent voter ballots. Section 662 applies to the
25 designation and prescribing of the absent voter counting place or
26 places in which the absent voter counting board performs its duties
27 under this section, except the location may be in a different
28 jurisdiction if the county provides a tabulator for use at a
29 central absent voter counting board location in that county. The



1 places must be designated as absent voter counting places. Except
2 as otherwise provided in this section, laws relating to paper
3 ballot precincts, including laws relating to the appointment of
4 election inspectors, apply to absent voter counting places. The
5 provisions of this section relating to placing of absent voter
6 ballots on electronic voting systems apply. More than 1 absent
7 voter counting board may be located in 1 building.

8 (5) The clerk of a city or township that uses absent voter
9 counting boards shall supply each absent voter counting board with
10 supplies necessary to carry out its duties under this act. The
11 supplies must be furnished to the city or township clerk in the
12 same manner and by the same persons or agencies as for other
13 precincts.

14 (6) Absent voter ballots received by the clerk before election
15 day must be delivered to the absent voter counting board by the
16 clerk or the clerk's authorized assistant at the time the election
17 inspectors of the absent voter counting boards report for duty,
18 which time must be established by the board of election
19 commissioners. Absent voter ballots received by the clerk before
20 the time set for the closing of the polls on election day must be
21 delivered to the absent voter counting boards. ~~Absent~~ **Except as**
22 **otherwise provided in section 765(6), absent** voter ballots must be
23 delivered to the absent voter counting boards in the sealed absent
24 voter ballot return envelopes in which they were returned to the
25 clerk. Written or stamped on each of the return envelopes must be
26 the time and the date that the envelope was received by the clerk
27 and a statement by the clerk that the signatures of the absent
28 voters on the envelopes have been checked and found to agree with
29 the signatures of the voters on the registration cards or the



1 digitized signatures of voters contained in the qualified voter
2 file as provided under section 766. If a signature on the
3 registration card or a digitized signature contained in the
4 qualified voter file and on the absent voter ballot return envelope
5 does not agree as provided under section 766, if the absent voter
6 failed to sign the envelope, or if the statement of the absent
7 voter is not properly executed, the clerk shall mark the envelope
8 "rejected" and the reason for the rejection and shall place his or
9 her name under the notation. An envelope marked "rejected" must not
10 be delivered to the absent voter counting board but must be
11 preserved by the clerk until other ballots are destroyed in the
12 manner provided in this act. The clerk shall also comply with
13 section 765(5).

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

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

29 (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, an employee of the state
 28 bureau of elections, a county clerk, an employee of a county clerk,
 29 or a representative of a voting equipment company may enter and



1 leave an absent voter counting board after the tally has begun but
2 before the polls close. A person described in this subsection may
3 enter an absent voter counting board only for the purpose of
4 responding to an inquiry from an election inspector or a challenger
5 or providing instructions on the operation of the counting board.
6 Before entering an absent voter counting board, a person described
7 in this subsection must take and sign the oath prescribed in
8 subsection (9). The chairperson of the absent voter counting board
9 shall record in the poll book the name of a person described in
10 this subsection who enters the absent voter counting board. A
11 person described in this subsection who enters an absent voter
12 counting board and who discloses an election result or in any
13 manner characterizes how any ballot being counted has been voted in
14 a precinct before the time the polls can be legally closed on
15 election day is guilty of a felony. As used in this subsection,
16 "local election official" means a county, city, or 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. The secretary of state shall distribute the instructions
20 developed under this subsection to city and township clerks 40 days
21 or more before a general election in which absent voter counting
22 boards will be used. A city or township clerk shall make the
23 instructions developed under this subsection available to the
24 public and shall distribute the instructions to each challenger in
25 attendance at an absent voter counting board. The instructions
26 developed under this subsection are binding upon the operation of
27 an absent voter counting board used in an election conducted by a
28 county, city, or township.

29 Sec. 765b. (1) Not later than 2 p.m. on the Saturday



1 immediately before an election, an elector may submit a signed,
2 written statement to his or her city or township clerk requesting
3 that the clerk do both of the following:

4 (a) Spoil the elector's absent voter ballot.

5 (b) Provide or mail a new absent voter ballot to the elector.

6 (2) Upon receipt of a signed, written statement from an
7 elector as described in subsection (1), the city or township clerk
8 shall mark the absent voter ballot return envelope of that elector
9 as "spoiled" and retain the envelope. In addition, the city or
10 township clerk shall provide or mail a new absent voter ballot to
11 that elector.

12 (3) An elector who has returned an absent voter ballot may,
13 before ~~4 p.m.~~ **10 a.m.** on the day before an election except Sunday
14 or a legal holiday, appear in person at his or her city or township
15 clerk's office to do both of the following:

16 (a) Spoil his or her absent voter ballot by submitting a
17 signed, written statement to the city or township clerk indicating
18 that the elector wishes to have his or her absent voter ballot
19 spoiled.

20 (b) Vote a new absent voter ballot in the clerk's office.

21 (4) Upon receipt of the signed, written statement from an
22 elector as described in subsection (3) (a), the city or township
23 clerk shall mark the absent voter ballot return envelope of that
24 elector as "spoiled" and retain the envelope. In addition, the city
25 or township clerk shall issue the elector a new absent voter ballot
26 that must be voted by the elector in the clerk's office.

27 (5) Not later than 2 p.m. on the Saturday immediately before
28 an election, an elector who has lost his or her absent voter ballot
29 or not yet received his or her absent voter ballot in the mail may



1 submit a signed, written statement to his or her city or township
2 clerk requesting that the clerk do both of the following:

3 (a) Spoil the elector's absent voter ballot.

4 (b) Provide or mail a new absent voter ballot to the elector.

5 (6) Upon receipt of a signed, written statement from an
6 elector as described in subsection (5), the city or township clerk
7 shall indicate in the qualified voter file that the original ballot
8 is spoiled. In addition, the city or township clerk shall provide
9 or mail a new absent voter ballot to that elector.

10 (7) An elector who has lost his or her absent voter ballot or
11 not yet received his or her absent voter ballot in the mail may,
12 before 4 p.m. on the day before an election except Sunday or a
13 legal holiday, appear in person at his or her city or township
14 clerk's office to do both of the following:

15 (a) Spoil his or her absent voter ballot by submitting a
16 signed, written statement to the city or township clerk indicating
17 that the elector wishes to have his or her absent voter ballot
18 spoiled.

19 (b) Vote a new absent voter ballot in the clerk's office.

20 (8) Upon receipt of the signed, written statement from an
21 elector described in subsection (7) (a), the city or township clerk
22 shall indicate in the qualified voter file that the original ballot
23 is spoiled. In addition, the city or township clerk shall issue the
24 elector a new absent voter ballot that must be voted by the elector
25 in the clerk's office.

