

**HOUSE 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), sections 765 and 765a as amended by 2020 PA 95,
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 October 15, 2020, each board of county canvassers
17 shall examine the absent voter ballot secrecy envelope containers
18 to be used at the November 3, 2020 general election conducted under
19 this act. The board of county canvassers shall designate on the
20 absent voter ballot secrecy envelope container that the absent
21 voter ballot secrecy envelope container does or does not meet the
22 requirements under subsection (3). An absent voter ballot secrecy
23 envelope container that is not approved by a board of county
24 canvassers must not be used to store and secure any absent voter
25 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, or may
29 use a ballot container approved under section 24j, to store and



1 secure any absent voter ballot secrecy envelopes.

2 (6) A city or township clerk who does not use 1 of the
3 following, or permits the use of a container other than 1 of the
4 following, to store and secure any absent voter ballot secrecy
5 envelopes is guilty of a misdemeanor:

6 (a) An absent voter ballot secrecy envelope container approved
7 under this section.

8 (b) A ballot container approved under section 24j.

9 (7) This section does not apply after December 31, 2020.

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

19 (2) Before the opening of the polls on election day or as soon
20 after the opening of the polls as possible, the clerk shall deliver
21 the absent voter ballot return envelopes to the chairperson or
22 other member of the board of election inspectors in the absent
23 voter's precinct, together with the signed absent voter ballot
24 applications received by the clerk from any voters of that precinct
25 and the clerk's list or record kept relative to those absent
26 voters. However, if higher numbered ballots are used under section
27 717, the clerk shall retain the applications and lists in his or
28 her office and shall keep the applications and lists open to public
29 inspection at all reasonable hours. Absent voter ballots must not



1 be tabulated before the opening of the polls on election day.

2 (3) The city or township clerk, or authorized designee of the
3 clerk, shall call for and receive absent voter ballots from the
4 post office at which the city or township clerk regularly receives
5 mail addressed to the city or township clerk on election day. Any
6 envelopes containing absent voter ballots that are received from
7 the post office or from voters who voted by absentee ballot in
8 person in the clerk's office on election day must be delivered to
9 the board of election inspectors or, except as otherwise provided
10 in section 764d, the absent voter counting boards to be tabulated.

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

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



1 voter counting boards under this act. As soon as possible after all
2 precincts in the city or township are processed, the clerk shall
3 post in the clerk's office or otherwise make public the number of
4 absent voter ballot return envelopes containing the marked ballots
5 of absent voters received by the election inspectors at the
6 precincts on election day, along with the total number of absent
7 voter ballot return envelopes containing the marked ballots of
8 absent voters received in the city or township for that election.
9 This subsection applies only to elections in which a federal or
10 state office appears on the ballot.

11 **(6) For the November 3, 2020 general election only, if the**
12 **clerk of a city or township with a population of at least 25,000**
13 **provides written notice in compliance with this subsection to the**
14 **secretary of state 20 days or more before election day, that city**
15 **or township clerk, or his or her authorized designee, may between**
16 **the hours of 10 a.m. and 8 p.m. on the day before election day**
17 **perform certain absent voter ballot pre-processing activities as**
18 **described in this subsection. The written notice provided to the**
19 **secretary of state must include the location and hours that the**
20 **absent voter ballot return envelopes will be opened in that city or**
21 **township. The secretary of state shall post any written notice**
22 **received from the clerk of a city or township under this subsection**
23 **on the department of state website. In addition, the clerk of the**
24 **city or township shall post the written notice provided to the**
25 **secretary of state on the city or township website. The board of**
26 **election commissioners shall appoint election inspectors to the**
27 **location where absent voter ballot return envelopes will be opened**
28 **in that city or township not less than 21 days or more than 40 days**
29 **before the day at which they are to be used. Election inspectors**



1 may be appointed by the board of election commissioners under this
2 subsection before written notice, that includes the location and
3 hours that the absent voter ballot return envelopes will be opened
4 in that city or township, is provided to the secretary of state.
5 Sections 673a and 674 apply to the appointment of election
6 inspectors under this subsection. All requirements for election
7 inspectors appointed to an absent voter counting board under
8 section 765a apply to election inspectors appointed under this
9 subsection. At all times, at least 1 election inspector from each
10 major political party must be present at the location and the
11 policies and procedures adopted by the secretary of state regarding
12 the handling of absent voter ballot return envelopes and absent
13 voter ballot secrecy envelopes must be followed. After providing
14 written notice to the secretary of state in compliance with this
15 subsection, a city or township clerk, or his or her authorized
16 designee, on the day before election day is only authorized to
17 perform standard processing activities up to and including the
18 opening of absent voter ballot return envelopes and the removal of
19 absent voter ballot secrecy envelopes containing absent voter
20 ballots and to verify that the ballot number on the ballot stub
21 agrees with the ballot number on the absent voter ballot return
22 envelope label. The city or township clerk, or his or her
23 authorized designee, is not authorized to remove absent voter
24 ballots from the absent voter ballot secrecy envelopes. If an
25 opened absent voter ballot return envelope contains an absent voter
26 ballot that is not contained in an absent voter ballot secrecy
27 envelope, the city or township clerk, or his or her designee, shall
28 immediately insert that absent voter ballot into an absent voter
29 ballot secrecy envelope. The opening of absent voter ballot return



1 envelopes must be done at a location designated by the city or
2 township clerk, and the location and opening of absent voter ballot
3 return envelopes must be accessible to challengers as described in
4 section 730. The election inspectors appointed to the location
5 where absent voter ballot return envelopes will be opened in that
6 city or township must never leave the absent voter ballot secrecy
7 envelopes unattended. Once the absent voter ballot return envelopes
8 have been opened as provided in this subsection, the absent voter
9 ballot secrecy envelopes containing the absent voter ballots to be
10 counted must be stored, secured, and sealed in an absent voter
11 ballot secrecy envelope container, as described in section 24k, or
12 stored, secured, and sealed in a ballot container approved under
13 section 24j. The city or township clerk shall record the seal
14 number in the poll book, or an addendum to the poll book, and
15 follow all other policies and procedures adopted by the secretary
16 of state regarding absent voter ballots. The poll book, or an
17 addendum to the poll book, must be signed and dated by 1 election
18 inspector from each major political party who is present at the
19 location on the day before election day. The city or township clerk
20 shall store the absent voter ballot secrecy envelope container
21 containing the absent voter ballot secrecy envelopes in a secure
22 location until election day.

23 (7) The election inspectors who are appointed under subsection
24 (6) shall record in the poll book, or an addendum to the poll book,
25 all of the following:

26 (a) The number of absent voter ballot return envelopes that
27 were opened on the day before election day.

28 (b) The number of absent voter ballot return envelopes
29 delivered to the election inspectors that did not contain an



1 elector's signature and that were returned to the city or township
2 clerk.

3 (c) The number of absent voter ballot return envelopes that
4 were challenged, not opened by the election inspectors, and set
5 aside to be processed by the election inspectors on election day.

6 (8) The election inspectors who are appointed to an absent
7 voter counting board on election day as provided in section 765a
8 shall do all of the following:

9 (a) Verify the seal number recorded in the poll book, or an
10 addendum to the poll book, for any absent voter ballot secrecy
11 envelope container delivered to the absent voter counting board.

12 (b) Count and record in the poll book, or an addendum to the
13 poll book, both of the following:

14 (i) The number of absent voter ballot return envelopes opened
15 by the election inspectors on the day before election day as
16 provided under subsection (6) and the number of absent voter ballot
17 secrecy envelopes delivered to the absent voter counting board on
18 election day.

19 (ii) The number of absent voter ballot return envelopes that
20 were challenged, not opened by the election inspectors on the day
21 before election day, and set aside to be processed by the election
22 inspectors on election day.

23 (9) Not later than March 1, 2021, the secretary of state shall
24 provide a written report to the house and senate committees dealing
25 with elections that contains all of the following information:

26 (a) The number of cities and townships that performed absent
27 voter ballot pre-processing activities as described in subsection
28 (6).

29 (b) The names of the cities and townships that performed



1 absent voter ballot pre-processing activities as described in
2 subsection (6), and all of the following information for each of
3 those cities and townships:

4 (i) The number of registered electors in each city or township.

5 (ii) The number of active registered electors in each city or
6 township.

7 (iii) The number of electors who voted by absent voter ballot in
8 each city or township.

9 (iv) The number of electors who voted in person on election day
10 in each city or township.

11 (v) The number of absent voter ballots that were not returned
12 in each city or township.

13 (vi) The number of electors on a permanent absent voter list in
14 each city or township, if applicable.

15 (vii) The number of ballots that had to be duplicated in each
16 city or township.

17 (c) The total number of absent voter ballot return envelopes
18 that were opened on the day before election day.

19 (d) The total number of absent voter ballot return envelopes
20 delivered to the election inspectors that did not contain an
21 elector's signature and that were returned to the city or township
22 clerk.

23 (e) The total number of absent voter ballot return envelopes
24 that were challenged, not opened by the election inspectors, and
25 set aside to be processed by the election inspectors on election
26 day.

27 (f) The total number of absent voter ballot secrecy envelopes
28 that were stored in an absent voter ballot secrecy envelope
29 container.



1 (g) For each city or township that performed absent voter
 2 ballot pre-processing activities as described in subsection (6),
 3 whether the number of absent voter ballot return envelopes opened
 4 on the day before election day matched the number of absent voter
 5 ballot secrecy envelopes delivered to the absent voter counting
 6 board on election day.

7 Sec. 765a. (1) Subject to section 764d, if a city or township
 8 decides to use absent voter counting boards, the board of election
 9 commissioners of that city or township shall establish an absent
 10 voter counting board for each election day precinct in that city or
 11 township. The ballot form of an absent voter counting board must
 12 correspond to the ballot form of the election day precinct for
 13 which it is established. After the polls close on election day, the
 14 county, city, or township clerk responsible for producing the
 15 accumulation report of the election results submitted by the boards
 16 of precinct election inspectors shall format the accumulation
 17 report to clearly indicate all of the following:

- 18 (a) The election day precinct returns.
 19 (b) The corresponding absent voter counting board returns.
 20 (c) A total of each election day precinct return and each
 21 corresponding absent voter counting board return.

22 (2) Subject to section 764d, the board of election
 23 commissioners shall establish the absent voter counting boards.
 24 Subject to section 764d, the board of election commissioners shall
 25 appoint the election inspectors to those absent voter counting
 26 boards not less than 21 days or more than 40 days before the
 27 election at which they are to be used. Sections 673a and 674 apply
 28 to the appointment of election inspectors to absent voter counting
 29 boards under this section. The board of election commissioners



1 shall determine the number of ballots that may be expeditiously
2 counted by an absent voter counting board in a reasonable period of
3 time, taking into consideration the size and complexity of the
4 ballot to be counted pursuant to the guidelines of the secretary of
5 state. Combined ballots must be regarded as the number of ballots
6 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, except as otherwise
16 provided in section 764d, absent voter ballots must not be
17 delivered to the polling places. Subject to section 764d, the board
18 of election commissioners shall provide a place for each absent
19 voter counting board to count the absent voter ballots. Section 662
20 applies to the designation and prescribing of the absent voter
21 counting place or places in which the absent voter counting board
22 performs its duties under this section, except the location may be
23 in a different jurisdiction if the county provides a tabulator for
24 use at a central absent voter counting board location in that
25 county. The places must be designated as absent voter counting
26 places. Except as otherwise provided in this section, laws relating
27 to paper ballot precincts, including laws relating to the
28 appointment of election inspectors, apply to absent voter counting
29 places. The provisions of this section relating to placing of



1 absent voter ballots on electronic voting systems apply. More than
2 1 absent voter counting board may be located in 1 building.

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

9 (6) Subject to section 764d, absent voter ballots received by
10 the clerk before election day must be delivered to the absent voter
11 counting board by the clerk or the clerk's authorized assistant at
12 the time the election inspectors of the absent voter counting
13 boards report for duty, which time must be established by the board
14 of election commissioners. Except as otherwise provided in section
15 764d, absent voter ballots received by the clerk before the time
16 set for the closing of the polls on election day must be delivered
17 to the absent voter counting boards. ~~Absent~~ **Except as otherwise**
18 **provided in section 765(6), absent** voter ballots must be delivered
19 to the absent voter counting boards or combined absent voter
20 counting boards in the sealed absent voter ballot return envelopes
21 in which they were returned to the clerk. Written or stamped on
22 each of the return envelopes must be the time and the date that the
23 envelope was received by the clerk and a statement by the clerk
24 that the signatures of the absent voters on the envelopes have been
25 checked and found to agree with the signatures of the voters on the
26 registration cards or the digitized signatures of voters contained
27 in the qualified voter file as provided under section 766. If a
28 signature on the registration card or a digitized signature
29 contained in the qualified voter file and on the absent voter



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

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

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

27 (9) An election inspector, challenger, or any other person in
28 attendance at an absent voter counting place or combined absent
29 voter counting place at any time after the processing of ballots



1 has begun shall take and sign the following oath that may be
2 administered by the chairperson or a member of the absent voter
3 counting board or combined absent voter counting board:

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

8 (10) The oaths administered under subsection (9) must be
9 placed in an envelope provided for the purpose and sealed with the
10 red state seal. Following the election, the oaths must be delivered
11 to the city or township clerk. Except as otherwise provided in
12 subsection (12), a person in attendance at the absent voter
13 counting place or combined absent voter counting place shall not
14 leave the counting place after the tallying has begun until the
15 polls close. **Subject to this subsection, the clerk of a city or**
16 **township may allow the election inspectors appointed to an absent**
17 **voter counting board in that city or township to work in shifts. A**
18 **second or subsequent shift of election inspectors appointed for an**
19 **absent voter counting board may begin that shift at any time on**
20 **election day as provided by the city or township clerk. However, an**
21 **election inspector shall not leave the absent voter counting place**
22 **after the tallying has begun until the polls close. If the election**
23 **inspectors appointed to an absent voter counting board are**
24 **authorized to work in shifts, at no time shall there be a gap**
25 **between shifts and the election inspectors must never leave the**
26 **absent voter ballots unattended. At all times, at least 1 election**
27 **inspector from each major political party must be present at the**
28 **absent voter counting place and the policies and procedures adopted**
29 **by the secretary of state regarding the counting of absent voter**



1 **ballots must be followed.** A person who causes the polls to be
2 closed or who discloses an election result or in any manner
3 characterizes how any ballot being counted has been voted in a
4 voting precinct before the time the polls can be legally closed on
5 election day is guilty of a felony.

6 (11) Voted absent voter ballots must be placed in an approved
7 ballot container, and the ballot container must be sealed in the
8 manner provided by this act for paper ballot precincts. The seal
9 numbers must be recorded on the statement sheet and in the poll
10 book.

11 (12) Subject to this subsection, a local election official who
12 has established an absent voter counting board or combined absent
13 voter counting board, the deputy or employee of that local election
14 official, an employee of the state bureau of elections, a county
15 clerk, an employee of a county clerk, or a representative of a
16 voting equipment company may enter and leave an absent voter
17 counting board or combined absent voter counting board after the
18 tally has begun but before the polls close. A person described in
19 this subsection may enter an absent voter counting board or
20 combined absent voter counting board only for the purpose of
21 responding to an inquiry from an election inspector or a challenger
22 or providing instructions on the operation of the counting board.
23 Before entering an absent voter counting board or combined absent
24 voter counting board, a person described in this subsection must
25 take and sign the oath prescribed in subsection (9). The
26 chairperson of the absent voter counting board or combined absent
27 voter counting board shall record in the poll book the name of a
28 person described in this subsection who enters the absent voter
29 counting board or combined absent voter counting board. A person



1 described in this subsection who enters an absent voter counting
 2 board or combined absent voter counting board and who discloses an
 3 election result or in any manner characterizes how any ballot being
 4 counted has been voted in a precinct before the time the polls can
 5 be legally closed on election day is guilty of a felony. As used in
 6 this subsection, "local election official" means a county, city, or
 7 township clerk.

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

23 Sec. 765b. (1) Not later than ~~2~~**5** p.m. on the ~~Saturday~~**Friday**
 24 immediately before an election, an elector may submit a signed,
 25 written statement to his or her city or township clerk requesting
 26 that the clerk do both of the following:

- 27 (a) Spoil the elector's absent voter ballot.
 28 (b) Provide or mail a new absent voter ballot to the elector.
 29 (2) Upon receipt of a signed, written statement from an



1 elector as described in subsection (1), the city or township clerk
2 shall mark the absent voter ballot return envelope of that elector
3 as "spoiled" and retain the envelope. In addition, the city or
4 township clerk shall provide or mail a new absent voter ballot to
5 that elector.

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

10 (a) Spoil his or her absent voter ballot by submitting a
11 signed, written statement to the city or township clerk indicating
12 that the elector wishes to have his or her absent voter ballot
13 spoiled.

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

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

21 (5) Not later than ~~2-5 p.m.~~ on the ~~Saturday~~ **Friday** immediately
22 before an election, an elector who has lost his or her absent voter
23 ballot or not yet received his or her absent voter ballot in the
24 mail may submit a signed, written statement to his or her city or
25 township clerk requesting that the clerk do both of the following:

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

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

28 (6) Upon receipt of a signed, written statement from an
29 elector as described in subsection (5), the city or township clerk



1 shall indicate in the qualified voter file that the original ballot
2 is spoiled. In addition, the city or township clerk shall provide
3 or mail a new absent voter ballot to that elector.

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

9 (a) Spoil his or her absent voter ballot by submitting a
10 signed, written statement to the city or township clerk indicating
11 that the elector wishes to have his or her absent voter ballot
12 spoiled.

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

14 (8) Upon receipt of the signed, written statement from an
15 elector described in subsection (7) (a), the city or township clerk
16 shall indicate in the qualified voter file that the original ballot
17 is spoiled. In addition, the city or township clerk shall issue the
18 elector a new absent voter ballot that must be voted by the elector
19 in the clerk's office.