

HOUSE BILL No. 5398

January 17, 1990, Introduced by Reps. Dolan and Richard A. Young
and referred to the Committee on Elections.

A bill to amend section 726 of Act No. 116 of the Public
Acts of 1954, entitled

"Michigan election law,"

being section 168.726 of the Michigan Compiled Laws; and to add
sections 750a, 750b, 750c, 750d, 750e, 750f, 750g, 750h, 750i,
750j, 750k, 750l, 750m, and 750n.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 726 of Act No. 116 of the Public Acts of
2 1954, being section 168.726 of the Michigan Compiled Laws, is
3 amended and sections 750a, 750b, 750c, 750d, 750e, 750f, 750g,
4 750h, 750i, 750j, 750k, 750l, 750m, and 750n are added to read as
5 follows:

6 Sec. 726. ~~No ballots~~ A BALLOT shall NOT be delivered to
7 an elector by ~~any~~ A person other than 1 of the inspectors of
8 election and only within the polling place, except as provided in

1 this act for absent voters' ballots AND ELECTION BY MAIL
2 BALLOTS.

3 SEC. 750A. (1) THE LEGISLATIVE BODY OF A CITY, TOWNSHIP,
4 VILLAGE, OR SCHOOL DISTRICT MAY DETERMINE BY RESOLUTION THAT AN
5 ELECTION BY MAIL SHALL BE HELD IN THE CITY, TOWNSHIP, VILLAGE, OR
6 SCHOOL DISTRICT. THE RESOLUTION TO CONDUCT AN ELECTION BY MAIL
7 SHALL STATE THE DATE THAT IS THE FINAL DATE FOR RETURN OF BALLOTS
8 FOR THAT ELECTION BY MAIL.

9 (2) AN ELECTION BY MAIL MAY BE HELD ONLY IF THE ELECTION
10 INCLUDES ONLY 1 OR MORE PROPOSALS. AN ELECTION BY MAIL SHALL NOT
11 BE HELD IF THE ELECTION INCLUDES THE NOMINATION OF A CANDIDATE
12 FOR FEDERAL, STATE, OR LOCAL OFFICE OR THE ELECTION OR RECALL OF
13 A FEDERAL, STATE, OR LOCAL OFFICER. AN ELECTION BY MAIL SHALL BE
14 CONDUCTED IN COMPLIANCE WITH THIS ACT. IF OTHER PROVISIONS OF
15 THIS ACT CONFLICT WITH SECTIONS 750B TO 750N, SECTIONS 750B TO
16 750N ARE CONTROLLING FOR AN ELECTION BY MAIL.

17 SEC. 750B. AS USED IN SECTIONS 750A TO 750N:

18 (A) "CLERK" MEANS THE CLERK OF A CITY, TOWNSHIP, OR
19 VILLAGE.

20 (B) "SECRETARY" MEANS THE SECRETARY OF A SCHOOL DISTRICT.

21 SEC. 750C. WITHIN 3 DAYS AFTER A RESOLUTION TO HOLD AN
22 ELECTION BY MAIL IS ADOPTED BY THE LEGISLATIVE BODY OF A CITY,
23 TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT, THE APPROPRIATE CLERK OR
24 SECRETARY SHALL NOTIFY THE SECRETARY OF STATE IN WRITING OF THE
25 DECISION TO HOLD AN ELECTION BY MAIL.

1 SEC. 750D. (1) IN ADDITION TO THE REQUIREMENTS OF
2 SECTION 653A, NOTICE OF AN ELECTION BY MAIL SHALL BE PUBLISHED AS
3 PROVIDED IN THIS SECTION.

4 (2) NOTICE SHALL BE PUBLISHED AT LEAST TWICE IN A NEWSPAPER
5 PUBLISHED, OR OF GENERAL CIRCULATION, IN THE CITY, TOWNSHIP, VIL-
6 LAGE, OR SCHOOL DISTRICT HOLDING THE ELECTION BY MAIL. THE FIRST
7 NOTICE OF THE ELECTION BY MAIL SHALL BE PUBLISHED NOT LESS THAN
8 21 DAYS BEFORE THE FINAL DATE FOR RETURN OF ELECTION BY MAIL BAL-
9 LOTS AND THE SECOND NOT MORE THAN 14 DAYS BEFORE THE FINAL DATE
10 FOR RETURN OF ELECTION BY MAIL BALLOTS.

11 (3) THE NOTICE SHALL STATE ALL OF THE FOLLOWING:

12 (A) THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT HOLDING
13 THE ELECTION BY MAIL.

14 (B) THAT THE ELECTION IS AN ELECTION BY MAIL.

15 (C) A BRIEF EXPLANATION OF THE PROPOSALS APPEARING ON THE
16 ELECTION BY MAIL BALLOT.

17 (D) THE DATES OF THE MAILING OF THE ELECTION BY MAIL
18 BALLOTS.

19 (E) THE FINAL DATE AND TIME FOR RETURN OF ELECTION BY MAIL
20 BALLOTS.

21 (F) INSTRUCTIONS STATING THE MEANS BY WHICH A REGISTERED
22 ELECTOR WHO FAILS TO RECEIVE AN ELECTION BY MAIL BALLOT MAY
23 OBTAIN AN ELECTION BY MAIL BALLOT.

24 SEC. 750E. (1) THE APPROPRIATE CLERK OR SECRETARY SHALL
25 CONDUCT THE ELECTION BY MAIL.

26 (2) THE CLERK OR SECRETARY CONDUCTING THE ELECTION BY MAIL
27 SHALL DELIVER AN OFFICIAL ELECTION BY MAIL BALLOT WITH A RETURN

1 IDENTIFICATION ENVELOPE TO EACH REGISTERED ELECTOR IN THE
2 ELECTORAL UNIT NOT MORE THAN 20 AND NOT LESS THAN 14 DAYS BEFORE
3 THE FINAL DATE FOR RETURN OF THE ELECTION BY MAIL BALLOT.
4 HOWEVER, AN ELECTOR WHO WOULD BE ENTITLED TO VOTE BY ABSENTEE
5 BALLOT UNDER THIS ACT MAY APPLY FOR AN ELECTION BY MAIL BALLOT AT
6 ANY TIME AFTER THE ADOPTION OF THE RESOLUTION TO HOLD THE ELEC-
7 TION BY MAIL, AND THE ELECTION BY MAIL BALLOT SHALL BE MAILED TO
8 THAT ELECTOR AS SOON AS THAT BALLOT IS AVAILABLE.

9 SEC. 750F. (1) AN ELECTOR MAY OBTAIN A REPLACEMENT ELECTION
10 BY MAIL BALLOT IF THE ORIGINAL ELECTION BY MAIL BALLOT IS
11 DESTROYED, SPOILED, LOST, OR NOT RECEIVED BY THE ELECTOR. AN
12 ELECTOR SEEKING A REPLACEMENT ELECTION BY MAIL BALLOT SHALL SIGN
13 A SWORN STATEMENT THAT THE ELECTION BY MAIL BALLOT WAS DESTROYED,
14 SPOILED, LOST, OR NOT RECEIVED AND SHALL PRESENT THE STATEMENT TO
15 THE CLERK OR SECRETARY BEFORE 8 P.M. ON THE FINAL DATE FOR RETURN
16 OF ELECTION BY MAIL BALLOTS. UPON RECEIPT OF THE SWORN STATE-
17 MENT, THE CLERK OR SECRETARY SHALL ISSUE A REPLACEMENT BALLOT TO
18 THE ELECTOR.

19 (2) THE CLERK OR SECRETARY SHALL MAINTAIN A RECORD OF EACH
20 REPLACEMENT ELECTION BY MAIL BALLOT ISSUED. IF THE CLERK OR SEC-
21 RETARY DETERMINES THAT AN ELECTOR TO WHOM A REPLACEMENT ELECTION
22 BY MAIL BALLOT HAS BEEN ISSUED HAS RETURNED MORE THAN 1 BALLOT,
23 ANY ELECTION BY MAIL BALLOT CAST BY THAT ELECTOR SHALL NOT BE
24 COUNTED.

25 SEC. 750G. (1) IF AN ELECTOR WISHES TO VOTE IN AN ELECTION
26 BY MAIL, THE ELECTOR SHALL MARK THE BALLOT AND SIGN THE RETURN
27 IDENTIFICATION ENVELOPE IN COMPLIANCE WITH THE INSTRUCTIONS

1 PROVIDED WITH THE ELECTION BY MAIL BALLOT. THE INSTRUCTIONS
2 SHALL INCLUDE A STATEMENT OF THE REQUIREMENTS OF SECTION 750K.

3 (2) AN ELECTION BY MAIL BALLOT SHALL BE RETURNED TO THE
4 CLERK OR SECRETARY CONDUCTING THE ELECTION BY EITHER OF THE FOL-
5 LOWING METHODS:

6 (A) PLACING THE NECESSARY POSTAGE UPON THE RETURN IDENTIFI-
7 CATION ENVELOPE AND DEPOSITING THE ENVELOPE IN THE UNITED STATES
8 MAIL.

9 (B) DELIVERING THE ELECTION BY MAIL BALLOT TO THE OFFICE OF
10 THE CLERK OR SECRETARY, TO THE CLERK OR SECRETARY, TO A PLACE
11 DESIGNATED BY THE CLERK OR SECRETARY, OR TO AN AUTHORIZED ASSIST-
12 ANT OF THE CLERK OR SECRETARY.

13 (3) A PARENT, CHILD, BROTHER, SISTER, SPOUSE, FATHER-IN-LAW,
14 MOTHER-IN-LAW, BROTHER-IN-LAW, OR SISTER-IN-LAW OF THE ELECTOR,
15 OR A PERSON RESIDING IN THE ELECTOR'S HOUSEHOLD, MAY MAIL OR
16 DELIVER AN ELECTION BY MAIL BALLOT FOR THE ELECTOR.

17 (4) AN ELECTION BY MAIL BALLOT ACCEPTED BY THE CLERK OR SEC-
18 RETARY SHALL NOT BE REJECTED SOLELY BECAUSE OF THE METHOD OF
19 RETURN.

20 SEC. 750H. (1) EXCEPT AS PROVIDED IN SECTION 750G, A PERSON
21 WHO RETURNS, SOLICITS TO RETURN, OR AGREES TO RETURN AN ELECTION
22 BY MAIL BALLOT TO THE CLERK OR SECRETARY, OR WHO HAS POSSESSION
23 OF AN ELECTION BY MAIL BALLOT MAILED OR DELIVERED TO ANOTHER
24 PERSON, WHETHER THE ELECTION BY MAIL BALLOT HAS BEEN VOTED OR
25 NOT, IS GUILTY OF A MISDEMEANOR.

26 (2) A PERSON, OTHER THAN A PERSON LEGALLY INVOLVED IN THE
27 COUNTING OF BALLOTS, WHO HAS POSSESSION OF AN ELECTION BY MAIL

1 BALLOT MAILED OR DELIVERED TO ANOTHER PERSON AND WHO OPENS THE
2 ENVELOPE CONTAINING THE BALLOT, OR MAKES ANY MARKING ON, ALTERS
3 IN ANY WAY, OR SUBSTITUTES ANOTHER BALLOT FOR THE ELECTION BY
4 MAIL BALLOT, IS GUILTY OF A FELONY.

5 SEC. 750I. (1) THE CLERK OR SECRETARY SHALL VERIFY A
6 RETURNED ELECTION BY MAIL BALLOT BY A COMPARISON OF THE SIGNATURE
7 ON THE RETURN IDENTIFICATION ENVELOPE WITH THE SIGNATURE OF THE
8 ELECTOR ON THE REGISTRATION RECORDS.

9 (2) FOLLOWING VERIFICATION OF THE SIGNATURE ON THE RETURN
10 IDENTIFICATION ENVELOPE, THE CLERK OR SECRETARY SHALL SECURE THE
11 ELECTION BY MAIL BALLOTS IN THE SAME MANNER THAT ABSENT VOTER
12 BALLOTS ARE SECURED BEFORE COUNTING.

13 SEC. 750J. ELECTION BY MAIL BALLOTS SHALL BE COUNTED BY A
14 COUNTING BOARD APPOINTED IN THE MANNER PROVIDED IN SECTION 792A.
15 THE BALLOTS SHALL BE COUNTED IN COMPLIANCE WITH SECTIONS 750K AND
16 792A. THE FINAL DATE FOR RETURN OF ELECTION BY MAIL BALLOTS
17 SHALL BE CONSIDERED THE DAY OF THE ELECTION FOR AN ELECTION BY
18 MAIL.

19 SEC. 750K. AN ELECTION BY MAIL BALLOT SHALL NOT BE COUNTED
20 IF 1 OR MORE OF THE FOLLOWING ARE TRUE:

21 (A) THE BALLOT IS NOT RETURNED IN THE RETURN IDENTIFICATION
22 ENVELOPE.

23 (B) THE ENVELOPE IS NOT SIGNED BY THE ELECTOR TO WHOM THE
24 ELECTION BY MAIL BALLOT WAS ISSUED.

25 (C) THE ELECTOR'S SIGNATURE IS NOT VERIFIED AS PROVIDED IN
26 SECTION 750I.

1 (D) THE BALLOT IS NOT RECEIVED BY THE CLERK OR SECRETARY BY
2 8 P.M. ON THE FINAL DATE FOR RETURN OF THE ELECTION BY MAIL
3 BALLOT.

4 SEC. 750L. THE LEGISLATIVE BODY CALLING AN ELECTION BY MAIL
5 SHALL DETERMINE BY RESOLUTION IF RETURN IDENTIFICATION ENVELOPES
6 SHALL BE POSTAGE PREPAID AND IF COUNTING SHALL BE DONE BY PRE-
7 CINCTS OR DISTRICTS.

8 SEC. 750M. IN ADDITION TO OTHER REPORTS REQUIRED BY THIS
9 ACT, THE CLERK OR SECRETARY CONDUCTING THE ELECTION BY MAIL SHALL
10 FURNISH TO THE SECRETARY OF STATE A REPORT ON THE ELECTION BY
11 MAIL ON A FORM TO BE FURNISHED BY THE SECRETARY OF STATE.

12 SEC. 750N. AN ELECTION BY MAIL BALLOT RETURNED UNDELIVERA-
13 BLE BY THE POST OFFICE MAY BE CONSIDERED RELIABLE INFORMATION
14 THAT THE ELECTOR HAS MOVED AWAY FROM THE MUNICIPALITY. A CLERK
15 MAY CANCEL THAT ELECTOR'S REGISTRATION AS PROVIDED IN
16 SECTION 513.