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BILL



ANALYSIS

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House Bill 4242 (Substitute H-4)

Sponsor: Representative Robert Brackenridge

House Committee: Local Government

Senate Committee: Government Operations

Date Completed: 12-6-95

SUMMARY OF HOUSE BILL 4242 (Substitute H-4) as passed by the House:

The bill would amend the Michigan Election Law to revise several of the Act's current provisions regarding absent voter ballots, including restricting the number of persons who may return ballots on behalf of an absent voter; increasing penalties for certain violations from misdemeanors to felonies; specifying that certain actions would be illegal; and altering the content of the current statements on absent voter ballots. Following is a detailed description of the bill.

Currently, under the Act, a voter who is unable to return an absent voter ballot in person, by mail, or via an immediate family member may select any registered voter to return the ballot to the clerk. The person returning the ballot must sign and return a certificate at the time of delivering the ballot; the content of the certificate is prescribed in the Act. Except for this procedure, it is a misdemeanor for a person to return, solicit to return, or agree to return an absent voter ballot to the clerk, or possess an absent voter ballot mailed or delivered to another person, regardless of whether the ballot has been voted. The bill would delete all of these provisions, and provide instead that it would be a felony for a person to return, solicit to return, or agree to return an absent voter ballot to the clerk, or possess of an absent voter ballot mailed or delivered to another person, regardless of whether the ballot had been voted. The prohibition would not apply to the absent voter; a person whose job it was to handle mail before, during, or after it was transported by a public postal service, express mail service, parcel post service, or common carrier (but only during the normal course of his or her employment); a clerk or assistant of the clerk; a member of the immediate family of the absent voter including father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild; or a person residing in the absent voter's household. Further, the bill would require that a warning containing these provisions be placed on the return envelope issued with the ballot.

The bill specifies that an absent voter who knowingly made a false statement on the return envelope would be guilty of a misdemeanor; a person who assisted an absent voter and who knowingly made a false statement on the return envelope would be guilty of a felony. Currently, any person making a false statement on the return envelope is guilty of a misdemeanor.

The bill provides that a clerk who received a request by telephone from an absent voter for assistance in returning his or her absent voter ballot would have to make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant. The clerk would have to maintain a list, open to the public, that contained the names and addresses of all

authorized assistants appointed under the Act who were available to collect absent voter ballots on or before election day in that city or township.

The bill provides that it would be a felony for a person to suggest or in any manner attempt to influence an absent voter on how he or she should vote while in the presence of an absent voter who was voting; or for a person to plan or organize a meeting at which absent voter ballots were to be voted. A person who assisted an absent voter who was disabled or otherwise unable to mark the ballot could render his or her assistance only by showing the absent voter how to vote the ballot as the absent voter desired, or by marking the ballot as directed by the absent voter. It would be a felony for a person who assisted an absent voter who was disabled or otherwise unable to mark the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote or allow any other person to do so.

Currently, prosecution for any offense under the Act, other than fraudulent registration, must be commenced within one year after the offense allegedly was committed; prosecution for fraudulent registration must be commenced within two years after the offense allegedly was committed. The bill would extend the time limits to two years and three years, respectively.

The bill would require an election official who became aware of a person who voted or attempted to vote both in person and by means of an absent voter ballot to report the information to the prosecuting attorney for the county and to the Secretary of State.

The bill provides that if an absent voter did not receive an absent voter ballot, or lost or destroyed the ballot and desired to vote in person in his or her precinct, the voter would have to sign an affidavit to that effect before an election inspector and be allowed to vote as provided in the Act.

The bill would allow an election clerk to mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the box were where the absent voter normally received personal mail and the voter did not receive mail at his or her registration address.

The Act provides that absent voter ballots must be issued in the same order in which applications are received by the clerk, and each ballot must bear the lowest number available. The bill specifies that this provision would not prohibit a clerk from issuing an absent voter ballot to a voter who applied in person in the clerk's office.

MCL 168.758c et. al.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have an indeterminate impact in regard to increased penalties depending on the number of violations.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.