



**House  
Legislative  
Analysis  
Section**

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**ALLOW NON-METAL BALLOT BOXES,  
POLLING PLACE FLAG CHANGES**

**House Bill 5139 as enrolled  
Public Act 207 of 2000  
Second Analysis (6-27-00)**

**Sponsor: Rep. Janet Kukuk  
House Committee: Constitutional Law and  
Ethics  
Senate Committee: Government Operations**

***THE APPARENT PROBLEM:***

Currently, although the Election Law does not define “ballot box,” the Department of State’s administrative rules define “transfer cases” (which are used to transfer voted ballots to be counted) to require that they be made of metal. Unlike transfer cases, however, ballot boxes do not have to be made of metal, though reportedly they historically have been. Reportedly, some election clerks have already bought ballot boxes made of non-metallic, tamper-proof materials, and wish these non-metallic boxes to be recognized in statute. In addition, apparently one county clerk has noticed that some election volunteers were having trouble transporting the heavy metal election boxes, and believes that lighter-weight, non-metallic boxes would be preferable, at least from the perspective of the volunteers being able to handle the boxes more easily.

Legislation has been introduced that would allow ballot containers made of materials other than metal to be used beginning with the August elections of this year.

***THE CONTENT OF THE BILL:***

The bill would amend the Election Law to allow for the use of non-metal ballot containers, and would update requirements for the display of American flags at polling places.

Ballot boxes and ballot containers. The bill would add a definition of “ballot container” to the act, as well as certain requirements that ballot containers would have to meet. “Ballot container” would mean “a container that [was] used for transporting and storing voted ballots, as described and approved under [the act].” The definition would include ballot boxes, transfer cases, or other containers used to secure ballots, including optical scan ballots and electronic voting systems and data. Manufacturers or distributors of ballot containers would be required to submit nonmetal ballot containers

to the secretary of state for approval before selling them to counties, cities, townships, villages, or school districts for use at elections.

Boards of county canvassers, which currently are required to examine ballot boxes to be used in any election conducted under the act, could not approve a ballot container unless the container met two requirements: (1) It was made of a material (including metal, plastic, and fiberglass) that provided resistance to tampering, and (2) it was capable of being sealed with a metal seal. (See BACKGROUND INFORMATION.) Instead of requiring boards of county canvassers to examine and approve “ballot boxes,” the bill would require them to examine and approve “ballot containers.”

Currently, ballot boxes not approved by boards of county canvassers cannot be used to store voted ballots. The bill would change this language to say that unapproved “ballot containers” could not be so used, and a clerk who used or allowed the use of a non-approved ballot container (instead of a “disapproved ballot box”) would continue to be guilty of a misdemeanor.

Finally, the act currently requires township, village and city boards of election commissioners to provide their respective clerks with a “sufficient” number of ballot boxes (with an opening through the “inside” lid of the box “of the proper size to admit a single folded ballot”), along with locks and keys. Each ballot box must be provided with a second cover or a metal or wooden device for closing the slot in the box so that it can’t be opened without unlocking the ballot box and breaking the seal. The bill would rewrite these provisions to require boards of election commissioner to provide each election precinct with an approved ballot box that met the new requirements added under

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the bill, or, “if another ballot container in addition to a ballot box” were used in the precinct, with an approved ballot container that met these requirements.

Sealing devices for ballot boxes. Currently, the secretary of state is required to furnish county clerks, among other things, with devices that, when used with self-sealing metal seals, enable ballot boxes to be sealed easily and securely. The bill would rewrite this language to say that the secretary of state would have to furnish county clerks “devices to enable ballot boxes or other ballot containers to be sealed easily and securely with self-sealing metal seals.”

American flags at polling places. Currently, the Election Law requires that American flags be displayed at polling places. These flags are required to be made of “first class bunting,” and can only be used during elections at polling places. The rest of the year the polling place flags must be properly stored and cared for by the clerks.

The bill would require only that a United States flag be displayed at each polling place, and would delete the requirement that the flag be made of “first class bunting.”

Effective date. The bill would take effect June 8, 2000.

MCL 168.14j et al.

### **BACKGROUND INFORMATION:**

Locks and seals. The act defines “locked and sealed,” when used to refer to locking and sealing ballot boxes, to mean “sealed with a numbered flat metal seal furnished by the election commission and do[es] not mean that a padlock is required.” Public Act 261 of 1995, which amended the Election Law, among other things added a new section to the law that allows the secretary of state to approve seals to be used for the same purpose as metal seals, if the non-metal seal meets certain requirements. The non-metal seal must be designed and manufactured “for the purpose of proving authenticity, attesting to accuracy, or closing to outside interference or influence”; be made out of “metal, plastic, fiberglass, or any combination of these materials that would provide resistance or evidence of a force tending to break the seal”; and contain an embossed or imprinted serial number. (MCL 168.26)

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

### **ARGUMENTS:**

#### ***For:***

Reportedly, although “ballot box” is not defined in the Election Law, ballot boxes historically have been made of metal, apparently because metal had once provided the best “tamper proof” material. However, with the advances in materials technology, materials other than metal can provide acceptable levels of security for ballots, which the bill would acknowledge by allowing ballot containers to be made of non-metallic materials that provided resistance to tampering. The bill also would allow election officials to use containers made from a number of different materials to store and transport ballots, many of which would be lighter and easier to handle than the traditional metal ballot boxes.

Rather than requiring individual election clerks to check with the Bureau of Elections in the Department of State to find out which ballot containers would be acceptable, the bill would require ballot container manufacturers or distributors to submit nonmetal ballot containers to the secretary of state for approval before selling them for use at any election. Reportedly, the secretary of state will keep a list of acceptable ballot containers, and elections clerks will be able to telephone the Department of State for a list of approved ballot containers, or at least to find out whether a ballot container had been approved. Since, reportedly, some election clerks already have bought nonmetal ballot containers, the bill, if enacted, would take effect on June 8, 2000, so these clerks could use the already-purchased election containers (if approved by the secretary of state) for any elections after that date.

Finally, although the definition of “ballot container” would include “ballot box,” the bill would continue to refer to “ballot boxes” (and to “transfer cases”) in addition to adding references to “ballot containers,” thereby preserving reference to the traditional use of metal ballot boxes.

#### ***For:***

The bill would update provisions regarding the display and composition of the American flags that are required to be displayed at polling places during elections. Since many polling places already have American flags on permanent or semi-permanent

display, the current requirement that a flag be brought to a polling place for each election (and stored, unused, the rest of the year) can impose an unnecessary hardship of clerks. The bill would eliminate the current requirement that special American flags -- made of "class 'A' bunting" only and used only during polling-- be used. Instead, it would simply require that an American flag of a specific size (three feet by five feet), but not made from a specific material, be displayed at each polling place during elections.

***Against:***

If the current Election Law does not require that ballot boxes be made out of metal (which it does not), why is the bill needed? And given that the bill would define "ballot container" to include ballot boxes, isn't it redundant to keep referring to "ballot boxes or ballot containers"? Why not just use the newly defined phrase "ballot container"?

***Response:***

Although the act itself doesn't require that either ballot boxes or transfer cases, which are another kind of ballot container, be made out of metal, the Department of State's administrative rules do specify, in their definition of "transfer case," that transfer cases be made of metal. And reportedly, ballot boxes historically have been made of metal, though that is not required in statute or rule. The bill, by adding an inclusive definition of "ballot container" that includes both ballot boxes and transfer cases, would be a clean way of addressing this issue.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.