

SENATE BILL NO. 41

January 26, 1999, Introduced by Senator A. SMITH and referred
to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 726 (MCL 168.726) and by adding sections 750a
and 750b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 726. ~~No ballots~~ A BALLOT shall NOT be delivered to
2 an elector by ~~any~~ A person other than 1 of the inspectors of
3 election and only within the polling place, except as provided in
4 this act for absent ~~voters~~ VOTER ballots AND ELECTION BY MAIL
5 BALLOTS.

6 SEC. 750A. (1) SUBJECT TO THIS SECTION AND SECTION 750B, A
7 CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF A SCHOOL
8 DISTRICT MAY CONDUCT A LOCAL ELECTION BY MAIL IN THE CITY,
9 TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT, UNDER THE SUPERVISION OF
10 THE SECRETARY OF STATE. IN DECIDING TO CONDUCT A LOCAL ELECTION

1 BY MAIL, A CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF A
2 SCHOOL DISTRICT SHALL CONSIDER REQUESTS FROM THE GOVERNING BODY
3 OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT AND WHETHER
4 CONDUCTING THE ELECTION BY MAIL IS ECONOMICALLY AND ADMINISTRA-
5 TIVELY FEASIBLE.

6 (2) THE AUGUST PRIMARY HELD PURSUANT TO SECTION 534, THE
7 GENERAL NOVEMBER ELECTION, AND ANY OTHER ELECTION IN WHICH A CAN-
8 DIDATE FOR STATEWIDE OFFICE, JUDICIAL OFFICE, LEGISLATIVE OFFICE,
9 OR COUNTYWIDE OFFICE IS NOMINATED OR ELECTED SHALL BE CONDUCTED
10 AS AN ELECTION BY MAIL.

11 (3) NOT LATER THAN JANUARY 21, 2000, A CITY, TOWNSHIP, OR
12 VILLAGE CLERK OR THE SECRETARY OF A SCHOOL DISTRICT SHALL ADVISE
13 THE GOVERNING BODY OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DIS-
14 TRICT FOR WHICH THE CLERK OR SECRETARY IS THE ELECTION OFFICIAL
15 AS TO EACH LOCAL ELECTION HELD IN THAT CITY, TOWNSHIP, VILLAGE,
16 OR SCHOOL DISTRICT THAT WILL BE CONDUCTED AS AN ELECTION BY
17 MAIL. PERIODICALLY, THE CLERK OR SECRETARY MAY REVIEW ITS DECI-
18 SION OF WHETHER A LOCAL ELECTION WILL BE CONDUCTED AS AN ELECTION
19 BY MAIL. IF AN EARLIER DECISION TO CONDUCT OR NOT CONDUCT A
20 LOCAL ELECTION AS AN ELECTION BY MAIL IS CHANGED, THE CLERK OR
21 SECRETARY SHALL NOTIFY THE GOVERNING BODY OF THE CITY, TOWNSHIP,
22 VILLAGE, OR SCHOOL DISTRICT NOT LATER THAN THE THIRD TUESDAY IN
23 JANUARY OF THE YEAR IN WHICH THE ELECTION IS TO BE HELD OF THAT
24 CHANGE. THIS SUBSECTION DOES NOT APPLY TO AN ELECTION REQUIRED
25 TO BE HELD AS AN ELECTION BY MAIL UNDER SUBSECTION (2).

1 (4) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN THE
2 MANNER PRESCRIBED IN THIS ACT TO PROVIDE PROCEDURES FOR
3 CONDUCTING AN ELECTION BY MAIL.

4 SEC. 750B. (1) A CITY, TOWNSHIP, OR VILLAGE CLERK OR A SEC-
5 RETARY OF A SCHOOL DISTRICT THAT CONDUCTS AN ELECTION BY MAIL
6 PURSUANT TO SECTION 750A SHALL CONDUCT THE ELECTION BY MAIL AS
7 PROVIDED IN THIS SECTION.

8 (2) THE CLERK OR SECRETARY SHALL DESIGNATE 1 OR MORE PLACES
9 OF DEPOSIT IN THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT FOR
10 VOTERS TO RETURN VOTED BALLOTS FOR THE ELECTION BY MAIL. THE
11 CLERK OR SECRETARY SHALL PROVIDE THAT THE PLACES DESIGNATED FOR
12 THE DEPOSIT OF VOTED BALLOTS IN THE CITY, TOWNSHIP, VILLAGE, OR
13 SCHOOL DISTRICT BE OPEN ON THE DATE OF THE ELECTION FOR A PERIOD
14 OF 13 HOURS OR MORE, BEGINNING NO LATER THAN 7 A.M. AND ENDING NO
15 EARLIER THAN 8 P.M., AS DETERMINED BY THE CLERK OR SECRETARY.

16 (3) THE CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF
17 A SCHOOL DISTRICT SHALL SEND BY NONFORWARDABLE MAIL AN OFFICIAL
18 BALLOT WITH A PRE-ADDRESSED, POSTAGE PAID RETURN IDENTIFICATION
19 ENVELOPE AND A SECRECY ENVELOPE TO EACH VOTER WHO IS REGISTERED
20 IN THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT AS OF THE
21 THIRTIETH DAY BEFORE THE DATE OF THE ELECTION BY MAIL. THE CLERK
22 OR SECRETARY SHALL ADDRESS THE BALLOT TO THE REGISTERED VOTER AS
23 THAT VOTER'S NAME APPEARS ON THE REGISTRATION RECORDS OF THAT
24 VOTER. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
25 CLERK OR SECRETARY SHALL MAIL THE OFFICIAL BALLOTS AND ENVELOPES
26 DURING THE PERIOD BEGINNING ON THE TWENTIETH DAY BEFORE THE DATE
27 OF THE ELECTION BY MAIL AND ENDING ON THE FOURTEENTH DAY BEFORE

1 THE DATE OF THE ELECTION BY MAIL. FOR A STATEWIDE ELECTION BY
2 MAIL, THE SECRETARY OF STATE SHALL PRESCRIBE IN RULES PROMULGATED
3 PURSUANT TO SECTION 750A(4) THE DATE ON WHICH THE OFFICIAL BAL-
4 LOTS AND ENVELOPES FOR THE STATEWIDE ELECTION BY MAIL ARE TO BE
5 MAILED BY A CLERK OR SECRETARY UNDER THIS SUBSECTION. HOWEVER,
6 THE SECRETARY OF STATE SHALL PROVIDE IN THOSE RULES THAT ALL BAL-
7 LOTS SHALL BE MAILED BY THE FOURTEENTH DAY BEFORE THE DATE OF THE
8 ELECTION BY MAIL.

9 (4) FOR A PRIMARY ELECTION, THE ELECTION BY MAIL BALLOT
10 SHALL CONTAIN A SECTION FOR THE SELECTION OF CANDIDATES FROM EACH
11 POLITICAL PARTY THAT IS PARTICIPATING IN THE PRIMARY ELECTION.
12 THE INSTRUCTIONS ACCOMPANYING THE PRIMARY ELECTION BY MAIL BAL-
13 LOTS SHALL STATE CLEARLY THAT THE VOTER MAY VOTE FOR THE APPRO-
14 PRIATE NUMBER OF CANDIDATES OF 1 PARTY ONLY AND THAT A PRIMARY
15 BALLOT ON WHICH CANDIDATES FROM MORE THAN 1 PARTY ARE SELECTED
16 WILL NOT BE COUNTED.

17 (5) FOR AN ELECTOR WHO HAS APPLIED TO REGISTER TO VOTE ON OR
18 BEFORE THE CLOSE OF REGISTRATION AND IS NOT LISTED IN THE REGIS-
19 TRATION RECORDS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DIS-
20 TRICT, THE CLERK OR SECRETARY SHALL PROCEED AS PRESCRIBED IN SEC-
21 TION 509Y. IF THE ELECTOR MEETS THE REQUIREMENTS OF SECTION
22 509Y, THE CLERK OR SECRETARY SHALL MAKE THE OFFICIAL BALLOT, THE
23 RETURN IDENTIFICATION ENVELOPE, AND THE SECRECY ENVELOPE AVAIL-
24 ABLE AT THE CLERK'S OR SECRETARY'S OFFICE OR OTHER PLACE DESIG-
25 NATED BY THE CLERK OR SECRETARY. THE ELECTOR WHO RECEIVES THE
26 OFFICIAL BALLOTS AND ENVELOPES UNDER THIS SUBSECTION SHALL DO ALL
27 OF THE FOLLOWING:

1 (A) VOTE AT THE ELECTION IN THE CLERK'S OR SECRETARY'S
2 OFFICE OR OTHER PLACE DESIGNATED BY THE CLERK OR SECRETARY OR
3 VOTE BY MAIL.

4 (B) MARK THE BALLOT, SIGN THE RETURN IDENTIFICATION
5 ENVELOPE, AND COMPLY WITH THE INSTRUCTIONS PROVIDED WITH THE
6 BALLOT.

7 (C) RETURN THE BALLOT IN THE RETURN IDENTIFICATION ENVELOPE
8 TO THE CLERK OR SECRETARY.

9 (6) A BALLOT OR BALLOT LABEL USED IN AN ELECTION BY MAIL
10 SHALL CONTAIN THE FOLLOWING WARNING:

11 "A PERSON WHO, BY USE OF FORCE OR OTHER MEANS, UNDULY INFLU-
12 ENCES AN ELECTOR TO VOTE IN A PARTICULAR MANNER OR TO REFRAIN
13 FROM VOTING IS SUBJECT TO IMPRISONMENT OR TO A FINE, OR BOTH."

14 (7) IN ORDER TO VOTE AN ELECTION BY MAIL BALLOT RECEIVED
15 UNDER SUBSECTION (3), A REGISTERED VOTER SHALL MARK THE BALLOT,
16 SIGN THE RETURN IDENTIFICATION ENVELOPE SUPPLIED WITH THE BALLOT,
17 AND COMPLY WITH THE INSTRUCTIONS PROVIDED WITH THE BALLOT. THE
18 VOTER MAY RETURN THE MARKED BALLOT TO THE APPROPRIATE CITY, TOWN-
19 SHIP, OR VILLAGE CLERK OR SECRETARY OF A SCHOOL DISTRICT BY
20 DEPOSITING IT IN THE UNITED STATES MAIL OR WITH ANOTHER PUBLIC
21 POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR
22 COMMON CARRIER. THE VOTER MAY RETURN THE MARKED BALLOT TO THE
23 APPROPRIATE CITY, TOWNSHIP, OR VILLAGE CLERK OR SECRETARY OF A
24 SCHOOL DISTRICT BY DEPOSITING IT AT THE OFFICE OF THE CLERK OR
25 SECRETARY OR OTHER PLACE OF DEPOSIT DESIGNATED BY THE CLERK OR
26 SECRETARY. THE VOTER SHALL RETURN THE BALLOT IN THE RETURN
27 IDENTIFICATION ENVELOPE SUPPLIED WITH THE BALLOT OR THE BALLOT

1 WILL NOT BE COUNTED. AN ELECTION BY MAIL BALLOT MUST BE RECEIVED
2 AT THE OFFICE OF THE APPROPRIATE CLERK OR SECRETARY OR OTHER
3 PLACE OF DEPOSIT DESIGNATED BY THE CLERK OR SECRETARY NOT LATER
4 THAN THE END OF THE PERIOD DETERMINED UNDER SUBSECTION (2) ON THE
5 DATE OF THE ELECTION.

6 (8) A VOTER MAY OBTAIN A REPLACEMENT ELECTION BY MAIL BALLOT
7 IF THE BALLOT IS DESTROYED, SPOILED, LOST, OR NOT RECEIVED BY THE
8 VOTER. A VOTER WHO SEEKS A REPLACEMENT BALLOT SHALL SIGN A SWORN
9 STATEMENT THAT THE BALLOT WAS DESTROYED, SPOILED, LOST, OR NOT
10 RECEIVED BY THE VOTER TO THE APPROPRIATE CLERK OR SECRETARY
11 BEFORE THE END OF THE PERIOD DETERMINED UNDER SUBSECTION (2).
12 THE CLERK OR SECRETARY SHALL KEEP A RECORD OF EACH REPLACEMENT
13 ELECTION BY MAIL BALLOT PROVIDED UNDER THIS SUBSECTION. THE
14 CLERK OR SECRETARY SHALL DESIGNATE THE CLERK'S OR SECRETARY'S
15 OFFICE OR A CENTRAL LOCATION IN THE CITY, TOWNSHIP, VILLAGE, OR
16 SCHOOL DISTRICT IN WHICH THE ELECTION IS HELD AS THE SINGLE PLACE
17 TO OBTAIN A REPLACEMENT ELECTION BY MAIL BALLOT UNDER THIS
18 SUBSECTION. NOTWITHSTANDING SUBSECTION (3), A CLERK OR SECRETARY
19 MAY MAIL REPLACEMENT BALLOTS 5 DAYS OR MORE BEFORE THE DATE OF
20 THE ELECTION BY MAIL. THE CLERK OR SECRETARY MAY DELIVER IN
21 PERSON TO A REGISTERED VOTER A REPLACEMENT BALLOT UP UNTIL AND
22 INCLUDING THE DATE OF THE ELECTION BY MAIL.

23 (9) ELECTION OFFICIALS SHALL COUNT AN ELECTION BY MAIL
24 BALLOT ONLY IF THAT BALLOT MEETS ALL OF THE FOLLOWING
25 REQUIREMENTS:

26 (A) THE BALLOT IS RETURNED IN THE RETURN IDENTIFICATION
27 ENVELOPE.

1 (B) THE RETURN IDENTIFICATION ENVELOPE IS SIGNED BY THE
2 VOTER TO WHOM THE BALLOT WAS ISSUED.

3 (C) THE SIGNATURE IS VERIFIED AS PROVIDED IN SUBSECTION
4 (10).

5 (10) THE CITY, TOWNSHIP, OR VILLAGE CLERK OR SECRETARY OF A
6 SCHOOL DISTRICT SHALL VERIFY THE SIGNATURE OF EACH VOTER ON THE
7 RETURN IDENTIFICATION ENVELOPE WITH THE SIGNATURE OF THE VOTER ON
8 THE VOTER'S REGISTRATION CARD, ACCORDING TO THE PROCEDURES PRE-
9 SCRIBED IN THIS ACT AND RULES PROMULGATED BY THE SECRETARY OF
10 STATE.

11 (11) IF THE CLERK, SECRETARY, OR OTHER ELECTION OFFICIAL
12 DETERMINES THAT A VOTER TO WHOM A REPLACEMENT ELECTION BY MAIL
13 BALLOT HAS BEEN ISSUED HAS VOTED MORE THAN ONCE, AN ELECTION
14 OFFICIAL SHALL NOT COUNT ANY BALLOT CAST BY THAT VOTER. A PERSON
15 WHO KNOWINGLY VOTES AT AN ELECTION BY MAIL BY MEANS OF BOTH AN
16 ORIGINAL BALLOT AND A REPLACEMENT BALLOT OR A PERSON WHO KNOW-
17 INGLY ATTEMPTS TO VOTE BY MEANS OF BOTH AN ORIGINAL BALLOT AND A
18 REPLACEMENT BALLOT IS GUILTY OF A FELONY. A CLERK, SECRETARY, OR
19 OTHER ELECTION OFFICIAL WHO BECOMES AWARE OF A PERSON WHO VOTES
20 OR ATTEMPTS TO VOTE BY MEANS OF BOTH AN ORIGINAL BALLOT AND A
21 REPLACEMENT BALLOT SHALL REPORT THAT INFORMATION TO THE PROSECUT-
22 ING ATTORNEY FOR THAT COUNTY AND TO THE SECRETARY OF STATE.

23 (12) AN ELECTION BY MAIL BALLOT OR A VOTER CASTING A BALLOT
24 AT AN ELECTION BY MAIL, OR BOTH, IS SUBJECT TO CHALLENGE AS PRE-
25 SCRIBED IN THIS ACT.

26 (13) A PERSON WHO, BY USE OF FORCE OR OTHER MEANS, UNDULY
27 INFLUENCES A VOTER TO VOTE IN A PARTICULAR MANNER OR TO REFRAIN

1 FROM VOTING IN AN ELECTION BY MAIL HELD PURSUANT TO THIS SECTION
2 IS GUILTY OF A FELONY.