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NOTARIZED AV APPLICATION FOR FIRST TIME VOTER WHO REGISTERS BY MAIL

House Bill 4642 as introduced First Analysis (6-5-01)

Sponsor: Rep. Nancy Cassis
Committee: Redistricting and Elections

THE APPARENT PROBLEM:

Currently, a person who registers by mail to vote in a jurisdiction within the state must vote in person the first time he or she votes in that jurisdiction. That is, he or she cannot vote by absentee ballot. (There are exceptions to this requirement. It does not apply to a person entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act; a person with a disability as defined in the federal Persons with Disabilities Civil Rights Act; a person who is 60 years of age or older; or a person who is entitled to vote other than in person under any other federal law.) The reasoning behind this is that there should be at least one face-to-face encounter between election officials and a first-time voter, in order to prevent election fraud. The difficulty with this provision is that some first-time voters, likely unaware of the requirement, find themselves unable to vote. This is said to have occurred in the most recent presidential election to some college students who had registered by mail and found themselves miles away from home at school at the time of the election. The same problem is said to have inconvenienced other voters who could not attend the polls on election day, such as long-haul truckers. Legislation has been introduced that aims at allowing first-time voters (who had registered by mail) to vote by absentee ballot, while at the same time guarding against fraud.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to allow a person who was voting for the first time in a jurisdiction in which he or she had registered by mail to use an absentee ballot, if the signature of the person on the absent voter application was notarized (and provided the voter was otherwise eligible to vote by absentee ballot).

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he or she cannot vote by absentee ballot. There are exceptions to this requirement. It does not apply to a person entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act; a person with a disability as defined in the federal Persons with Disabilities Civil Rights Act; a person who is 60 years of age or older; or a person who is entitled to vote other than in person under any other federal law.

House Bill 4642 would amend the election law to expand the exception so that it would apply to anyone entitled to vote as an absent voter under Section 758 if his or her signature on the absentee ballot application was notarized.

Section 758 of the election law currently defines an "absent voter" to mean a qualified and registered elector who is 60 years of age or older or who cannot attend the polls on the day of an election on account of a physical disability; on account of the tenets of his or her religion; because of being an election precinct inspector in another precinct; because he or she will be absent from the township or city during the entire period the polls are open; or on account of being confined in jail awaiting arraignment or trial.

MCL 168.509t

BACKGROUND INFORMATION:

A similar bill, House Bill 4554, has also been reported from the House Committee on Redistricting and Elections. That bill would also require a notarized signature, but on a form accompanying the returned absentee ballot rather than on the application for a ballot.

House Bill 4642 (6-5-01)

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on the state or on local units of government. (Fiscal note dated 5-9-01)

ARGUMENTS:**For:**

The bill provides a method for first-time voters who had registered by mail to vote by absentee ballot. This currently is not permitted, except in certain special cases. The bill requires that the application for an absentee ballot contain the notarized signature of the applicant. This is traditionally the way people attest that they are who they say they are when engaging in various transactions. It guards against a person manufacturing an identity, which appears to be the concern that lies behind the current provision. Reportedly, the current situation particularly affects college students, who on attempting to vote for the first time (probably in a presidential or gubernatorial election) discover they cannot. This is hardly a way to encourage voting among the young. Note, however, that the requirement applies to a person voting for the first time "within a jurisdiction", meaning that it applies to a voter with a lengthy voting history who moves from one jurisdiction to another and changes his or her registration by mail. This person also could not vote by absentee ballot the first time voting in the new jurisdiction. The prohibition on absentee voting can have the effect of disenfranchising registered voters who are unable to attend the polls on election day. It leads to disgruntled (possibly disaffected) voters. Local clerks bear the brunt of the dissatisfaction. This is not a healthy situation. The bill would remove this obstacle to voting while providing a safeguard against fraud.

Response:

Two alternative approaches have been suggested. One would be to make the restrictions on absentee voting apply only to a person who was voting for the first time in the state (rather than those voting for the first time within a specific jurisdiction). This would allow people with voting records to vote by absentee ballot without a notarization requirement, provided they met other statutory requirements. A second approach, found in House Bill 4554, would require a special form accompanying the returned absentee ballot to contain a notarized signature. This would put the initial onus on the local clerk to send the form and notify the voter of the need for a notarized signature. Otherwise, first-time voters will have to know of the requirement when they send in an

application for an absentee ballot. A third alternative, which some have advocated, would simply do away with the limitation on first-time absentee voting entirely.

POSITIONS:

The Department of State supports the bill. (5-31-01)

The Michigan Association of Municipal Clerks supports the bill. (6-4-01)

The Council of Election Officials supports the bill. (6-4-01)

The Michigan Association of County Clerks supports the bill. (6-4-01)

Analyst: C. Couch

■ 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.