

## PERMANENT ABSENTEE VOTERS LIST

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**House Bill 4228 (Substitute H-3)**

**Sponsor: Rep. Chris Ward**

**Committee: House Oversight, Elections, and Ethics**

### **First Analysis (2-27-06)**

**BRIEF SUMMARY:** The bill would prohibit a local election official from furnishing an absent voter ballot application to an elector, unless the elector had requested one. However, a state or local election official could give electors a form (prescribed by the secretary of state) to request an application, and any request would be for all elections designated by the elector.

**FISCAL IMPACT:** There is no information at present.

### **THE APPARENT PROBLEM:**

Currently under the law, a voter may, at any time during the 75 days before a primary election, special primary election, or general election (but not later than 2 pm on the Saturday immediately before the election), apply for an absent voter ballot.

The elector must apply in person or by mail with the clerk of the township, city, or village in which he or she is registered. The application for an absent voter ballot is made by a signed written request, on an application form, or on a federal postcard application. Clerks must have forms available at all times, and furnish them to anyone who makes a verbal or written request.

Further, a voter who applies for an absentee ballot must explain the reason for his absence, selecting any one of the grounds listed in statute, including: absence from the community; physically unable to attend the polls without the assistance of another; unable to attend the polls because of religious beliefs; appointment as an election precinct inspector in a precinct other than where the voter resides; 60 years of age or older; or unable to attend the polls because of incarceration. A person who makes a false statement is guilty of a misdemeanor.

It has become customary in many Michigan counties for local election officials—city, township, and county clerks—to automatically mail absent voter ballot applications to all senior citizens 60 years of age or older who are registered to vote in their jurisdictions. According to press reports and committee testimony, this is the practice in cities like Rochester, Rochester Hills, Troy, Huntington Woods, Pontiac, Farmington Hills, Bloomfield Hills, and Detroit. The local clerks mail the absent voter ballot applications as a courtesy and service to the elders in their communities, enabling those over 60 years old to vote from their residences and mail in their ballots, rather than going to the polls to

vote on Election Day. In the City of Detroit, the practice of mailing absent ballot applications is a 30-year old tradition.

The Michigan Election Law does not authorize this practice. Indeed, following the August 2005 primary election for city council members in Detroit, a failed candidate, Maureen Taylor, filed a lawsuit claiming that unsolicited ballot applications could lead to election fraud. On September 1, Wayne County circuit judge Mary Beth Kelly issued an order to investigate why the city clerk, Jackie Currie, sent out the ballot applications, and named two monitors to investigate why the ballot applications were mailed. She also said absent ballot applications should not be sent out. Despite that order, Currie mailed 132,000 absent ballot applications before the November 2005 general election. As a result, she was fined \$250 and ordered to come up with a plan to better supervise the counting of absentee ballots in the city's November 8<sup>th</sup> election.

Many local election officials who keep a list of those 60 years of age and older, and then mail absentee ballot applications to those on that list before every election, fear they, too, may be found guilty of violating the law. To avoid that possibility, legislation has been proposed that would allow senior citizens to request absentee ballot applications—for one election or many—thereby enabling local clerks to lawfully fulfill their requests.

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

House Bill 4228 would amend the Michigan Election Law to specify that unless a city, township, or village clerk received a request from a qualified and registered elector for an absent voter ballot application, the clerk would be prohibited from furnishing an absent voter ballot application to the elector.

Under the bill, a request from an elector for an absent voter ballot application would be considered a request for all elections indicated by the elector. Also under the bill, a state or local election official could furnish a form to an elector for the purpose of requesting an absent voter ballot application. The bill requires the secretary of state to prescribe the form for requesting an absent voter ballot application.

MCL 168.759C

#### ***ARGUMENTS:***

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

Many local clerks maintain a list of permanent absent voters over the age of 60, and automatically send the absent voters an application to vote absentee without visiting the polls before every election. Recently this practice was challenged in a lawsuit brought by a failed Detroit City Council candidate who charged that the practice invited voter fraud during the August 2005 primary election. In early September 2005, a Wayne County Circuit Judge issued an order to appoint two monitors to revise the process, and to stop the automatic mailings, saying that absent ballot applications must be requested by

voters. When the city clerk's office mailed 132,000 absent voter applications later that month, the judge found the city clerk in criminal contempt, and fined her \$250.

Senior citizens should be able to vote absentee upon request. In order to accomplish this, local election officials must be able to tally their names and addresses, and mail them ballot applications. This bill sets up a standardized process that can be followed statewide, allowing local clerks to provide an automatic absent ballot application service to the senior citizens in their communities.

***Against:***

The Michigan Townships Association observes that lists of regular absent voters can grow large, and are costly to mail. They suggest an amendment to the bill which would allow a local clerk to remove an absent voter's name from the list if the voter failed to vote in two consecutive general (November) elections.

***POSITIONS:***

The Office of the Secretary of State supports the bill. (2-22-06)

The Michigan Association of Municipal Clerks supports the bill. (2-22-06)

The Council of Election Officials supports the bill. (2-22-06)

The Michigan Municipal League supports the bill. (2-22-06)

The Michigan Townships Association supports the bill with amendments. (2-22-06)

Legislative Analyst: J. Hunault

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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.