

SENATE BILL No. 508

May 18, 2005, Introduced by Senators THOMAS and CLARKE and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 792a (MCL 168.792a), as amended by 1996 PA 583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 792a. (1) Except as otherwise provided in this
2 subsection, the absent voter ballots in a city, township, or
3 village that uses voting machines shall be counted by absent voter
4 counting boards. The board of election commissioners of a city,
5 township, or village that has 2 precincts or ~~—less—~~ **FEWER** or of a
6 city that has 500,000 or more in population may decide that the
7 absent voter ballots shall be counted in the manner provided in
8 section 791. In a city, township, or village that does not use
9 voting machines, the absent voter ballots may be counted by absent
10 voter counting boards or in the same manner as is otherwise

1 provided for precincts in which voting is not done on voting
2 machines.

3 (2) The board of election commissioners shall establish the
4 absent voter counting boards. The board of election commissioners
5 shall determine the number of absent voter counting boards to be
6 established and shall appoint the election inspectors to those
7 absent voter counting boards 10 days or more before the election at
8 which they are to be used. Sections 673a and 674 apply to the
9 appointment of election inspectors to absent voter counting boards
10 under this section. The board of election commissioners shall
11 determine the number of ballots that may be expeditiously counted
12 by an absent voter counting board in a reasonable period of time,
13 taking into consideration the size and complexity of the ballot to
14 be counted pursuant to the guidelines of the secretary of state.
15 Combined ballots shall be regarded as the number of ballots as
16 there are sections to the ballot.

17 (3) If more than 1 absent voter counting board is to be used,
18 the city, township, or village clerk shall determine the number of
19 voting machines or the number of ballot boxes and the number of
20 election inspectors to be used in each of the absent voter counting
21 boards and to which absent voter counting board the absent voter
22 ballots for each precinct shall be assigned for counting. The clerk
23 shall make the determination under this subsection 2 days or more
24 before the election and shall not assign an absent voter counting
25 board more ballots than the maximum number authorized by the board
26 of election commissioners under subsection (2). The clerk is not
27 required to use all of the absent voter counting boards authorized

1 by the board of election commissioners under subsection (2).

2 (4) In a city, township, or village that uses absent voter
3 counting boards under this section, absent voter ballots shall be
4 counted in the manner provided in this section and absent voter
5 ballots shall not be delivered to the polling places. The board of
6 election commissioners shall provide a place for each absent voter
7 counting board to count the absent voter ballots. Section 662
8 applies to the designation and prescribing of the absent voter
9 counting place or places in which the absent voter counting board
10 performs its duties under this section. The places shall be
11 designated as absent voter counting places. Except as otherwise
12 provided in this section, laws relating to paper ballot precincts,
13 including laws relating to the appointment of election inspectors,
14 apply to absent voter counting places. If a counting place uses
15 voting machines, the provisions of this section relating to placing
16 of absent voter ballots on voting machines apply. More than 1
17 absent voter counting board may be located in 1 building.

18 (5) The clerk of a city, township, or village that uses absent
19 voter counting boards shall supply each absent voter counting board
20 with supplies necessary to carry out their duties under this act.
21 The supplies shall be furnished to the city, township, or village
22 clerk in the same manner and by the same persons or agencies as for
23 other precincts.

24 (6) Absent voter ballots received by the clerk before election
25 day shall be delivered to the absent voter counting board by the
26 clerk at the time the election inspectors of the absent voter
27 counting boards report for duty, which time shall be established by

1 the board of election commissioners. Absent voter ballots received
2 by the clerk on election day shall be delivered to the absent voter
3 counting boards before the time set for the closing of the polls.
4 Absent voter ballots shall be delivered to the absent voter
5 counting boards in the sealed absent voter ballot return envelopes
6 in which they were returned to the clerk. Written or stamped on
7 each of the return envelopes shall be the time and the date that
8 the envelope was received by the clerk and a statement by the clerk
9 that the signatures of the absent voters on the envelopes have been
10 checked and found to agree with the signatures of the voters on the
11 registration cards. If ~~a signature~~ **THE SIGNATURES** on the
12 registration card and on the absent voter ballot return envelope
13 ~~does~~ **DO** not agree, if the absent voter failed to sign the
14 envelope, or if the statement of the absent voter is not properly
15 executed, the clerk shall mark the envelope "rejected" and **INDICATE**
16 the reason for the rejection and shall place his or her name under
17 the notation. An envelope marked "rejected" shall not be delivered
18 to the absent voter counting board but shall be preserved by the
19 clerk until other ballots are destroyed in the manner provided in
20 this act. The clerk shall also comply with section 765(5).

21 (7) At the time of issuing or mailing absent voter ballots to
22 qualified applicants, the clerk of a city, township, or village
23 that uses absent voter counting boards shall mark the letters
24 "A.V." and the date of **THE** election on the registration card of the
25 applicant in the precinct registration file.

26 (8) This chapter does not prohibit an absent voter from voting
27 in person within the voter's precinct at an election,

1 notwithstanding that the voter may have applied for an absent voter
2 ballot and the ballot may have been mailed or otherwise delivered
3 to the voter. The voter, the election inspectors, and other
4 election officials shall proceed in the manner prescribed in
5 section 769. The clerk shall preserve the canceled ballots for 2
6 years.

7 (9) The absent voter counting boards shall process the ballots
8 and returns in as nearly as possible the same manner as ballots are
9 processed in paper ballot precincts. The poll book may be combined
10 with the absent voter list or record required by section 760, and
11 the applications for absent voter ballots may be used as the poll
12 list. The processing and tallying of absent voter ballots may
13 commence at ~~7~~ 12:01 a.m. on the day of the election.

14 (10) An election inspector, challenger, or any other person in
15 attendance at an absent voter counting place at any time after the
16 processing of ballots has begun shall take and sign the following
17 oath that may be administered by the chairperson or a member of the
18 absent voter counting board:

19 "I (name of person taking oath) do solemnly swear (or affirm)
20 that I shall not communicate in any way any information relative to
21 the processing or tallying of votes that may come to me while in
22 this counting place until after the polls are closed.".

23 (11) The oaths administered under subsection (10) shall be
24 placed in an envelope provided for the purpose and sealed with the
25 red state seal. Following the election the oaths shall be delivered
26 to the city, township, or village clerk. Except as otherwise
27 provided in subsection (16), a person in attendance at the absent

1 voter counting place shall not leave the counting place after the
2 tallying has begun until the polls close. A person who causes the
3 polls to be closed or who discloses an election result or in any
4 manner characterizes how any ballot being counted has been voted in
5 a voting precinct before the time the polls can be legally closed
6 on election day is guilty of a felony.

7 (12) At the time the board of election commissioners provide
8 for the use of absent voter counting boards, the board of election
9 commissioners may provide that the absent voter counting boards
10 shall record the votes contained on absent voter ballots on voting
11 machines. In that case, the recording of ballots shall be done by
12 the chairperson of the absent voter counting board or another
13 member designated by the chairperson. The act of casting the votes
14 shall be performed in the presence of and under the careful
15 observation and full view of all members of the absent voter
16 counting board, party challengers, and any other persons lawfully
17 present at the absent voter counting place. The vote as indicated
18 by the voting pointers shall not be recorded until each member of
19 the absent voter counting board is satisfied that the arrangement
20 of the voting pointers fully carries out the intent of the absent
21 voter as shown by the cross marks or check marks on the absent
22 voter ballot. A certificate that the requirements of this
23 subsection were met shall be made on the election inspectors'
24 statement of returns.

25 (13) As soon as absent voter ballots have been cast on a
26 voting machine pursuant to subsection (12), but not before 8 p.m.,
27 the election inspectors shall seal the operating lever of the

1 machine against voting and shall then proceed to determine and
2 record the votes cast in the manner provided in this act.

3 (14) Voted absent voter ballots shall be placed in a ballot
4 box and the ballot bag and ballot box shall be sealed in the manner
5 provided by this act for paper ballot precincts. The seal numbers
6 shall be recorded on the statement sheet and in the poll book.

7 (15) In a city, township, or village where challenged voters
8 are required to vote on absent voter ballots, each challenged voter
9 ballot and application for ballot, after having been voted and
10 properly identified, shall be placed by the voter in an absent
11 voter ballot return envelope. The applicable information required
12 on the back of the envelope shall be completed by the board of
13 election inspectors. The envelope shall be signed by the challenged
14 voter and by the chairperson of the precinct board of election
15 inspectors. The word "challenged" shall be written across the front
16 of the envelope. The envelope and application for ballot shall be
17 sealed and delivered to the absent voter counting place by the
18 clerk of the city, township, or village. Immediately after the
19 closing of the polls, the chairperson of the precinct board of
20 election inspectors shall notify the clerk of the city, township,
21 or village of remaining challenged voter ballots to be delivered to
22 the absent voter counting place. In a city, township, or village
23 that uses voting machines where absent voter counting boards are
24 not used, challenged ballots shall be counted and tallied in the
25 precincts, in the same manner that absent voter ballots are tallied
26 and counted as provided in section 791.

27 (16) Subject to this subsection, a local election official who

1 has established an absent voter counting board, the deputy or
2 employee of that local election official, or an employee of the
3 state bureau of elections may enter and leave an absent voter
4 counting board after the tally has begun but before the polls
5 close. A person described in this subsection may enter an absent
6 voter counting board only for the purpose of responding to an
7 inquiry from an election inspector or a challenger or to provide
8 instructions on the operation of the counting board. Before
9 entering an absent voter counting board, a person described in this
10 subsection shall take and sign the oath prescribed in subsection
11 (10). The chairperson of the absent voter counting board shall
12 record in the poll book the name of a person described in this
13 subsection who enters the absent voter counting board. A person
14 described in this subsection who enters an absent voter counting
15 board and who discloses an election result or in any manner
16 characterizes how any ballot being counted has been voted in a
17 precinct before the time the polls can be legally closed on
18 election day is guilty of a felony. As used in this subsection,
19 "local election official" means a county, city, township, or
20 village clerk. ~~—, the secretary of a school board, or an employee~~
21 ~~of a school district designated to conduct a school election.~~

22 (17) The secretary of state shall develop instructions
23 consistent with this act for the conduct of absent voter counting
24 boards. The secretary of state shall distribute the instructions
25 developed under this subsection to city and township clerks 40 days
26 or more before a general election in which absent voter counting
27 boards will be used. A city or township clerk shall make the

1 instructions developed under this subsection available to the
2 public and shall distribute the instructions to each challenger in
3 attendance at an absent voter counting board. The instructions
4 developed under this subsection are binding upon the operation of
5 an absent voter counting board used in an election conducted by a
6 county, city, township, village, ~~school district,~~ or any other
7 jurisdiction empowered to conduct an election under this act.