

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 812

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending section 794b (MCL 168.794b), as amended by 1990 PA 109,  
and by adding sections 37a, 37b, and 765a; and to repeal acts and  
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 37A. THE SECRETARY OF STATE SHALL ALLOW A COUNTY CLERK,  
2        IN CONSULTATION WITH THE CLERK OF EACH CITY AND TOWNSHIP LOCATED IN  
3        THAT COUNTY, TO DETERMINE WHICH ELECTRONIC VOTING SYSTEM WILL BE  
4        USED IN THE COUNTY AS LONG AS THE ELECTRONIC VOTING SYSTEM SELECTED  
5        MEETS BOTH OF THE FOLLOWING CRITERIA:

6        (A) THE ELECTRONIC VOTING SYSTEM IS THE SAME TYPE OF  
7        ELECTRONIC VOTING SYSTEM AS THE UNIFORM VOTING SYSTEM.

8        (B) THE ELECTRONIC VOTING SYSTEM IS APPROVED AND CERTIFIED AS

1 PROVIDED IN SECTION 795A.

2 SEC. 37B. THE GOVERNING BODY OF A GOVERNMENTAL UNIT IN THIS  
3 STATE MAY CONTRACT WITH THE GOVERNING BODY OF ANOTHER GOVERNMENTAL  
4 UNIT IN THIS STATE WITH REGARD TO THE USE OF THE ELECTRONIC VOTING  
5 SYSTEM OWNED BY EITHER OF THE CONTRACTING UNITS.

6 SEC. 765A. (1) IF A CITY OR TOWNSHIP DECIDES TO USE ABSENT  
7 VOTER COUNTING BOARDS, THE BOARD OF ELECTION COMMISSIONERS OF THAT  
8 CITY OR TOWNSHIP SHALL ESTABLISH AN ABSENT VOTER COUNTING BOARD FOR  
9 EACH ELECTION DAY PRECINCT IN THAT CITY OR TOWNSHIP. THE BALLOT  
10 FORM OF AN ABSENT VOTER COUNTING BOARD MUST CORRESPOND TO THE  
11 BALLOT FORM OF THE ELECTION DAY PRECINCT FOR WHICH IT IS  
12 ESTABLISHED. AFTER THE POLLS CLOSE ON ELECTION DAY, THE COUNTY,  
13 CITY, OR TOWNSHIP CLERK RESPONSIBLE FOR PRODUCING THE ACCUMULATION  
14 REPORT OF THE ELECTION RESULTS SUBMITTED BY THE BOARDS OF PRECINCT  
15 ELECTION INSPECTORS SHALL FORMAT THE ACCUMULATION REPORT TO CLEARLY  
16 INDICATE ALL OF THE FOLLOWING:

17 (A) THE ELECTION DAY PRECINCT RETURNS.

18 (B) THE CORRESPONDING ABSENT VOTER COUNTING BOARD RETURNS.

19 (C) A TOTAL OF EACH ELECTION DAY PRECINCT RETURN AND EACH  
20 CORRESPONDING ABSENT VOTER COUNTING BOARD RETURN.

21 (2) THE BOARD OF ELECTION COMMISSIONERS SHALL ESTABLISH THE  
22 ABSENT VOTER COUNTING BOARDS. THE BOARD OF ELECTION COMMISSIONERS  
23 SHALL APPOINT THE ELECTION INSPECTORS TO THOSE ABSENT VOTER  
24 COUNTING BOARDS NOT LESS THAN 21 DAYS OR MORE THAN 40 DAYS BEFORE  
25 THE ELECTION AT WHICH THEY ARE TO BE USED. SECTIONS 673A AND 674  
26 APPLY TO THE APPOINTMENT OF ELECTION INSPECTORS TO ABSENT VOTER  
27 COUNTING BOARDS UNDER THIS SECTION. THE BOARD OF ELECTION

1 COMMISSIONERS SHALL DETERMINE THE NUMBER OF BALLOTS THAT MAY BE  
2 EXPEDITIOUSLY COUNTED BY AN ABSENT VOTER COUNTING BOARD IN A  
3 REASONABLE PERIOD OF TIME, TAKING INTO CONSIDERATION THE SIZE AND  
4 COMPLEXITY OF THE BALLOT TO BE COUNTED PURSUANT TO THE GUIDELINES  
5 OF THE SECRETARY OF STATE. COMBINED BALLOTS MUST BE REGARDED AS THE  
6 NUMBER OF BALLOTS AS THERE ARE SECTIONS TO THE BALLOT.

7 (3) IF MORE THAN 1 ABSENT VOTER COUNTING BOARD IS TO BE USED,  
8 THE CITY OR TOWNSHIP CLERK SHALL DETERMINE THE NUMBER OF ELECTRONIC  
9 VOTING SYSTEMS OR THE NUMBER OF BALLOT BOXES AND THE NUMBER OF  
10 ELECTION INSPECTORS TO BE USED IN EACH OF THE ABSENT VOTER COUNTING  
11 BOARDS AND TO WHICH ABSENT VOTER COUNTING BOARD THE ABSENT VOTER  
12 BALLOTS FOR EACH PRECINCT ARE ASSIGNED FOR COUNTING.

13 (4) IN A CITY OR TOWNSHIP THAT USES ABSENT VOTER COUNTING  
14 BOARDS UNDER THIS SECTION, ABSENT VOTER BALLOTS MUST BE COUNTED IN  
15 THE MANNER PROVIDED IN THIS SECTION AND ABSENT VOTER BALLOTS MUST  
16 NOT BE DELIVERED TO THE POLLING PLACES. THE BOARD OF ELECTION  
17 COMMISSIONERS SHALL PROVIDE A PLACE FOR EACH ABSENT VOTER COUNTING  
18 BOARD TO COUNT THE ABSENT VOTER BALLOTS. SECTION 662 APPLIES TO THE  
19 DESIGNATION AND PRESCRIBING OF THE ABSENT VOTER COUNTING PLACE OR  
20 PLACES IN WHICH THE ABSENT VOTER COUNTING BOARD PERFORMS ITS DUTIES  
21 UNDER THIS SECTION, EXCEPT THE LOCATION MAY BE IN A DIFFERENT  
22 JURISDICTION IF THE COUNTY PROVIDES A TABULATOR FOR USE AT A  
23 CENTRAL ABSENT VOTER COUNTING BOARD LOCATION IN THAT COUNTY. THE  
24 PLACES MUST BE DESIGNATED AS ABSENT VOTER COUNTING PLACES. EXCEPT  
25 AS OTHERWISE PROVIDED IN THIS SECTION, LAWS RELATING TO PAPER  
26 BALLOT PRECINCTS, INCLUDING LAWS RELATING TO THE APPOINTMENT OF  
27 ELECTION INSPECTORS, APPLY TO ABSENT VOTER COUNTING PLACES. THE

1 PROVISIONS OF THIS SECTION RELATING TO PLACING OF ABSENT VOTER  
2 BALLOTS ON ELECTRONIC VOTING SYSTEMS APPLY. MORE THAN 1 ABSENT  
3 VOTER COUNTING BOARD MAY BE LOCATED IN 1 BUILDING.

4 (5) THE CLERK OF A CITY OR TOWNSHIP THAT USES ABSENT VOTER  
5 COUNTING BOARDS SHALL SUPPLY EACH ABSENT VOTER COUNTING BOARD WITH  
6 SUPPLIES NECESSARY TO CARRY OUT ITS DUTIES UNDER THIS ACT. THE  
7 SUPPLIES MUST BE FURNISHED TO THE CITY OR TOWNSHIP CLERK IN THE  
8 SAME MANNER AND BY THE SAME PERSONS OR AGENCIES AS FOR OTHER  
9 PRECINCTS.

10 (6) ABSENT VOTER BALLOTS RECEIVED BY THE CLERK BEFORE ELECTION  
11 DAY MUST BE DELIVERED TO THE ABSENT VOTER COUNTING BOARD BY THE  
12 CLERK OR THE CLERK'S AUTHORIZED ASSISTANT AT THE TIME THE ELECTION  
13 INSPECTORS OF THE ABSENT VOTER COUNTING BOARDS REPORT FOR DUTY,  
14 WHICH TIME MUST BE ESTABLISHED BY THE BOARD OF ELECTION  
15 COMMISSIONERS. ABSENT VOTER BALLOTS RECEIVED BY THE CLERK BEFORE  
16 THE TIME SET FOR THE CLOSING OF THE POLLS ON ELECTION DAY MUST BE  
17 DELIVERED TO THE ABSENT VOTER COUNTING BOARDS. ABSENT VOTER BALLOTS  
18 MUST BE DELIVERED TO THE ABSENT VOTER COUNTING BOARDS IN THE SEALED  
19 ABSENT VOTER BALLOT RETURN ENVELOPES IN WHICH THEY WERE RETURNED TO  
20 THE CLERK. WRITTEN OR STAMPED ON EACH OF THE RETURN ENVELOPES MUST  
21 BE THE TIME AND THE DATE THAT THE ENVELOPE WAS RECEIVED BY THE  
22 CLERK AND A STATEMENT BY THE CLERK THAT THE SIGNATURES OF THE  
23 ABSENT VOTERS ON THE ENVELOPES HAVE BEEN CHECKED AND FOUND TO AGREE  
24 WITH THE SIGNATURES OF THE VOTERS ON THE REGISTRATION CARDS OR THE  
25 DIGITIZED SIGNATURES OF VOTERS CONTAINED IN THE QUALIFIED VOTER  
26 FILE AS PROVIDED UNDER SECTION 766. IF A SIGNATURE ON THE  
27 REGISTRATION CARD OR A DIGITIZED SIGNATURE CONTAINED IN THE

1 QUALIFIED VOTER FILE AND ON THE ABSENT VOTER BALLOT RETURN ENVELOPE  
2 DOES NOT AGREE AS PROVIDED UNDER SECTION 766, IF THE ABSENT VOTER  
3 FAILED TO SIGN THE ENVELOPE, OR IF THE STATEMENT OF THE ABSENT  
4 VOTER IS NOT PROPERLY EXECUTED, THE CLERK SHALL MARK THE ENVELOPE  
5 "REJECTED" AND THE REASON FOR THE REJECTION AND SHALL PLACE HIS OR  
6 HER NAME UNDER THE NOTATION. AN ENVELOPE MARKED "REJECTED" MUST NOT  
7 BE DELIVERED TO THE ABSENT VOTER COUNTING BOARD BUT MUST BE  
8 PRESERVED BY THE CLERK UNTIL OTHER BALLOTS ARE DESTROYED IN THE  
9 MANNER PROVIDED IN THIS ACT. THE CLERK SHALL ALSO COMPLY WITH  
10 SECTION 765(5).

11 (7) THIS CHAPTER DOES NOT PROHIBIT AN ABSENT VOTER FROM VOTING  
12 IN PERSON WITHIN THE VOTER'S PRECINCT AT AN ELECTION,  
13 NOTWITHSTANDING THAT THE VOTER MAY HAVE APPLIED FOR AN ABSENT VOTER  
14 BALLOT AND THE BALLOT MAY HAVE BEEN MAILED OR OTHERWISE DELIVERED  
15 TO THE VOTER. THE VOTER, THE ELECTION INSPECTORS, AND OTHER  
16 ELECTION OFFICIALS SHALL PROCEED IN THE MANNER PRESCRIBED IN  
17 SECTION 769. THE CLERK SHALL PRESERVE THE CANCELED BALLOTS FOR 2  
18 YEARS.

19 (8) THE ABSENT VOTER COUNTING BOARDS SHALL PROCESS THE BALLOTS  
20 AND RETURNS IN AS NEARLY AS POSSIBLE THE SAME MANNER AS BALLOTS ARE  
21 PROCESSED IN PAPER BALLOT PRECINCTS. THE POLL BOOK MAY BE COMBINED  
22 WITH THE ABSENT VOTER LIST OR RECORD REQUIRED BY SECTION 760, AND  
23 THE APPLICATIONS FOR ABSENT VOTER BALLOTS MAY BE USED AS THE POLL  
24 LIST. THE PROCESSING AND TALLYING OF ABSENT VOTER BALLOTS MAY  
25 COMMENCE AT 7 A.M. ON THE DAY OF THE ELECTION.

26 (9) AN ELECTION INSPECTOR, CHALLENGER, OR ANY OTHER PERSON IN  
27 ATTENDANCE AT AN ABSENT VOTER COUNTING PLACE AT ANY TIME AFTER THE

1 PROCESSING OF BALLOTS HAS BEGUN SHALL TAKE AND SIGN THE FOLLOWING  
2 OATH THAT MAY BE ADMINISTERED BY THE CHAIRPERSON OR A MEMBER OF THE  
3 ABSENT VOTER COUNTING BOARD:

4 "I (NAME OF PERSON TAKING OATH) DO SOLEMNLY SWEAR (OR AFFIRM)  
5 THAT I SHALL NOT COMMUNICATE IN ANY WAY ANY INFORMATION RELATIVE TO  
6 THE PROCESSING OR TALLYING OF VOTES THAT MAY COME TO ME WHILE IN  
7 THIS COUNTING PLACE UNTIL AFTER THE POLLS ARE CLOSED."

8 (10) THE OATHS ADMINISTERED UNDER SUBSECTION (9) MUST BE  
9 PLACED IN AN ENVELOPE PROVIDED FOR THE PURPOSE AND SEALED WITH THE  
10 RED STATE SEAL. FOLLOWING THE ELECTION, THE OATHS MUST BE DELIVERED  
11 TO THE CITY OR TOWNSHIP CLERK. EXCEPT AS OTHERWISE PROVIDED IN  
12 SUBSECTION (12), A PERSON IN ATTENDANCE AT THE ABSENT VOTER  
13 COUNTING PLACE SHALL NOT LEAVE THE COUNTING PLACE AFTER THE  
14 TALLYING HAS BEGUN UNTIL THE POLLS CLOSE. A PERSON WHO CAUSES THE  
15 POLLS TO BE CLOSED OR WHO DISCLOSES AN ELECTION RESULT OR IN ANY  
16 MANNER CHARACTERIZES HOW ANY BALLOT BEING COUNTED HAS BEEN VOTED IN  
17 A VOTING PRECINCT BEFORE THE TIME THE POLLS CAN BE LEGALLY CLOSED  
18 ON ELECTION DAY IS GUILTY OF A FELONY.

19 (11) VOTED ABSENT VOTER BALLOTS MUST BE PLACED IN AN APPROVED  
20 BALLOT CONTAINER, AND THE BALLOT CONTAINER MUST BE SEALED IN THE  
21 MANNER PROVIDED BY THIS ACT FOR PAPER BALLOT PRECINCTS. THE SEAL  
22 NUMBERS MUST BE RECORDED ON THE STATEMENT SHEET AND IN THE POLL  
23 BOOK.

24 (12) SUBJECT TO THIS SUBSECTION, A LOCAL ELECTION OFFICIAL WHO  
25 HAS ESTABLISHED AN ABSENT VOTER COUNTING BOARD, THE DEPUTY OR  
26 EMPLOYEE OF THAT LOCAL ELECTION OFFICIAL, AN EMPLOYEE OF THE STATE  
27 BUREAU OF ELECTIONS, A COUNTY CLERK, AN EMPLOYEE OF A COUNTY CLERK,

1 OR A REPRESENTATIVE OF A VOTING EQUIPMENT COMPANY MAY ENTER AND  
2 LEAVE AN ABSENT VOTER COUNTING BOARD AFTER THE TALLY HAS BEGUN BUT  
3 BEFORE THE POLLS CLOSE. A PERSON DESCRIBED IN THIS SUBSECTION MAY  
4 ENTER AN ABSENT VOTER COUNTING BOARD ONLY FOR THE PURPOSE OF  
5 RESPONDING TO AN INQUIRY FROM AN ELECTION INSPECTOR OR A CHALLENGER  
6 OR PROVIDING INSTRUCTIONS ON THE OPERATION OF THE COUNTING BOARD.  
7 BEFORE ENTERING AN ABSENT VOTER COUNTING BOARD, A PERSON DESCRIBED  
8 IN THIS SUBSECTION MUST TAKE AND SIGN THE OATH PRESCRIBED IN  
9 SUBSECTION (9). THE CHAIRPERSON OF THE ABSENT VOTER COUNTING BOARD  
10 SHALL RECORD IN THE POLL BOOK THE NAME OF A PERSON DESCRIBED IN  
11 THIS SUBSECTION WHO ENTERS THE ABSENT VOTER COUNTING BOARD. A  
12 PERSON DESCRIBED IN THIS SUBSECTION WHO ENTERS AN ABSENT VOTER  
13 COUNTING BOARD AND WHO DISCLOSES AN ELECTION RESULT OR IN ANY  
14 MANNER CHARACTERIZES HOW ANY BALLOT BEING COUNTED HAS BEEN VOTED IN  
15 A PRECINCT BEFORE THE TIME THE POLLS CAN BE LEGALLY CLOSED ON  
16 ELECTION DAY IS GUILTY OF A FELONY. AS USED IN THIS SUBSECTION,  
17 "LOCAL ELECTION OFFICIAL" MEANS A COUNTY, CITY, OR TOWNSHIP CLERK.

18 (13) THE SECRETARY OF STATE SHALL DEVELOP INSTRUCTIONS  
19 CONSISTENT WITH THIS ACT FOR THE CONDUCT OF ABSENT VOTER COUNTING  
20 BOARDS. THE SECRETARY OF STATE SHALL DISTRIBUTE THE INSTRUCTIONS  
21 DEVELOPED UNDER THIS SUBSECTION TO CITY AND TOWNSHIP CLERKS 40 DAYS  
22 OR MORE BEFORE A GENERAL ELECTION IN WHICH ABSENT VOTER COUNTING  
23 BOARDS WILL BE USED. A CITY OR TOWNSHIP CLERK SHALL MAKE THE  
24 INSTRUCTIONS DEVELOPED UNDER THIS SUBSECTION AVAILABLE TO THE  
25 PUBLIC AND SHALL DISTRIBUTE THE INSTRUCTIONS TO EACH CHALLENGER IN  
26 ATTENDANCE AT AN ABSENT VOTER COUNTING BOARD. THE INSTRUCTIONS  
27 DEVELOPED UNDER THIS SUBSECTION ARE BINDING UPON THE OPERATION OF

Senate Bill No. 812 as amended April 10, 2018

1 AN ABSENT VOTER COUNTING BOARD USED IN AN ELECTION CONDUCTED BY A  
2 COUNTY, CITY, OR TOWNSHIP.

3 Sec. 794b. ~~The~~ **IF FEDERAL FUNDING OR STATE FUNDING IS NOT**  
4 **AVAILABLE, THE** board of commissioners of a county, the legislative  
5 body of a city, ~~or village,~~ **OR** the township board of a township, ~~or~~  
6 ~~the school board of a school district,~~ on the adoption and  
7 acquisition of an electronic voting system, shall provide for **ALL**  
8 **OR THE BALANCE OF THE** payment for the system. ~~in the same manner as~~  
9 ~~is provided for the payment for voting machines in section 774.~~

10 Enacting section 1. Sections 769a to 793 of the Michigan  
11 election law, 1954 PA 116, MCL 168.769a to 168.793, are repealed.

12 [Enacting section 2. This amendatory act takes effect December 31,  
13 2018. ]