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BILL ANALYSIS



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Senate Bill 757 (as introduced 1-28-20)
Sponsor: Senator Ruth Johnson
Committee: Elections and Government Reform

Date Completed: 1-29-20

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Require the manufacturer or distributor of an absent voter ballot secrecy envelope container to submit the container to the Secretary of State for approval before it was sold to a city or township.**
- **Require a board of county canvassers to examine absent voter ballot secrecy containers and designate them as compliant or noncompliant with the bill.**
- **Specify that a city or township clerk who used or permitted the use of a noncompliant container would be guilty of a misdemeanor.**
- **Allow a clerk in a city or township with a population of 40,000 or more to perform certain absent voter ballot preprocessing activities on the day before election day if notice had been given to the Secretary of State at least 40 days before election day.**
- **Require the Secretary of State to post a notice received from a city or township clerk for this purpose on the Department's website.**
- **Allow challengers to be present during preprocessing activities.**

Absent Voter Ballot Secrecy Envelope Containers

The bill specifies that the manufacturer or distributor of an absent voter ballot secrecy envelope container would have to submit a container to the Secretary of State for approval before it could be sold to a city or township for use at an election. The Secretary of State could not approve a container unless it met both of the following requirements:

- The container was made of metal, plastic, fiberglass, or other material that provided resistance to tampering.
- The container was capable of being sealed.

As used in the Act, "absent voter ballot secrecy envelope container" would mean an absent voter ballot secrecy envelope container (ballot bag, box, transfer case, or other container used to store and secure absent voter ballot secrecy envelopes) that is used for storing and securing absent voter ballot secrecy envelopes that are removed from the absent voter ballot return envelopes on the day before election day.

Before June 1, 2020, and before June 1 of every fourth year after 2020, each board of county canvassers would have to examine the containers to be used in any election conducted under the Election Law. The board of county canvassers would have to designate on the container

whether met the requirements for approval. A container that was not approved could not be used to store and secure absent voter ballot secrecy envelopes.

A city or township clerk could procure, at the expense of the respective city or township, approved containers.

A clerk who used or permitted the use of an unapproved container, would be guilty of a misdemeanor.

Preprocessing Absent Voter Ballots

Currently, the Law prohibits a clerk from opening an absent voter ballot return envelope containing the marked ballots of an absentee voter before delivering it to the board of election inspectors. The city or township clerk must safely keep in his or her office until election day any absentee voter ballot return envelopes received by the clerk before election day.

Under the bill, if the clerk of a city or township with a population of 40,000 or more notified the Secretary of State at least 40 days before election day, that clerk, or his or her authorized designee, could, between the hours of 9 AM and 5 PM on the day before election day, perform the absent voter ballot preprocessing activities, described below.

The written notice provided to the Secretary of State would have to include the location and hours that the absent voter ballot return envelopes would be opened in that city or township. The Secretary of State would have to post any notices received for this purpose on the Department's website.

After notifying the Secretary of State, a city or township clerk, or his or her authorized designee, would be authorized only to open voter ballot return envelopes on the day before election day and would not be authorized to remove them from the secrecy envelopes. The opening of the ballot return envelopes would have to be done at a location designated by the city or township clerk, and the location and opening of ballot return envelopes would have to be accessible to challengers described in Section 730. (Under Section 730, at an election, a political party or an incorporated organization or organized committee of citizens interested in the adoption or defeat of a ballot question being voted for or upon at the election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in the Election Law.)

Once the absent voter ballot return envelopes were opened as described above, the envelopes containing the absentee ballots to be counted would have to be stored and secured in an absent voter ballot secrecy envelope container and sealed. The city or township clerk then would have to record the seal number and follow all other policies and procedures adopted by the Secretary of State regarding absentee voter ballots. The city or township clerk would have to store the container containing the absent voter secrecy envelopes in a secure location until election day.

New & Spoiled Ballots

Currently, an elector who has returned an absent voter ballot may, before 4 PM on the day before an election (except Sunday or a legal holiday) appear in person at his or her city or township clerk's office to do both of the following:

- Spoil his or her absentee ballot by submitting a signed, written statement to the clerk indicating that the elector wishes to have his or her ballot spoiled.
- Vote a new absent voter ballot in the clerk's office.

Under the bill, if the clerk of the city or township used the provisions allowing preprocessing of absent voter ballots as described above, then an elector who had voted and returned his or her absent voter ballot to the city or township clerk would not be permitted to spoil his or her ballot after 9 AM on the day before election day.

MCL 168.765 et al.

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill would have a minor negative fiscal impact on the Department of State and on local units of government. The bill would allow city or township clerks to procure absent voter ballot secrecy envelope containers at the expense of their respective cities or townships. The costs incurred through this provision would depend on the number of purchases made and the price of the containers. The containers would have to be approved for sale to local units by the Secretary of State before the sale, and every four years, each board of county canvassers would have to examine the containers to ensure they met the bill's requirements. These additional costs would be covered within existing appropriations.

A city or township clerk who used or permitted the use of an absent voter ballot secrecy envelope container that was not approved by the Secretary of State would be guilty of a misdemeanor. An increase in misdemeanor arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any additional fine revenue would be dedicated to public libraries.

The costs associated with providing a written notice to the Secretary of State and the posting of those notices likely would be covered by existing appropriations.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.