

**SUBSTITUTE FOR
SENATE BILL NO. 756**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 765a (MCL 168.765a), as added by 2018 PA 123.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 765a. (1) If a city or township decides to use absent
2 voter counting boards, the board of election commissioners of that
3 city or township shall establish an absent voter counting board for
4 each election day precinct in that city or township. The ballot
5 form of an absent voter counting board must correspond to the
6 ballot form of the election day precinct for which it is
7 established. After the polls close on election day, the county,
8 city, or township clerk responsible for producing the accumulation
9 report of the election results submitted by the boards of precinct



1 election inspectors shall format the accumulation report to clearly
2 indicate all of the following:

3 (a) The election day precinct returns.

4 (b) The corresponding absent voter counting board returns.

5 (c) A total of each election day precinct return and each
6 corresponding absent voter counting board return.

7 (2) The board of election commissioners shall establish the
8 absent voter counting boards. The board of election commissioners
9 shall appoint the election inspectors to those absent voter
10 counting boards not less than 21 days or more than 40 days before
11 the election at which they are to be used. Sections 673a and 674
12 apply to the appointment of election inspectors to absent voter
13 counting boards under this section. The board of election
14 commissioners shall determine the number of ballots that may be
15 expeditiously counted by an absent voter counting board in a
16 reasonable period of time, taking into consideration the size and
17 complexity of the ballot to be counted pursuant to the guidelines
18 of the secretary of state. Combined ballots must be regarded as the
19 number of ballots as there are sections to the ballot.

20 (3) If more than 1 absent voter counting board is to be used,
21 the city or township clerk shall determine the number of electronic
22 voting systems or the number of ballot boxes and the number of
23 election inspectors to be used in each of the absent voter counting
24 boards and to which absent voter counting board the absent voter
25 ballots for each precinct are assigned for counting.

26 (4) In a city or township that uses absent voter counting
27 boards under this section, absent voter ballots must be counted in
28 the manner provided in this section and absent voter ballots must
29 not be delivered to the polling places. The board of election



1 commissioners shall provide a place for each absent voter counting
2 board to count the absent voter ballots. Section 662 applies to the
3 designation and prescribing of the absent voter counting place or
4 places in which the absent voter counting board performs its duties
5 under this section, except the location may be in a different
6 jurisdiction if the county provides a tabulator for use at a
7 central absent voter counting board location in that county. The
8 places must be designated as absent voter counting places. Except
9 as otherwise provided in this section, laws relating to paper
10 ballot precincts, including laws relating to the appointment of
11 election inspectors, apply to absent voter counting places. The
12 provisions of this section relating to placing of absent voter
13 ballots on electronic voting systems apply. More than 1 absent
14 voter counting board may be located in 1 building.

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

21 (6) Absent voter ballots received by the clerk before election
22 day must be delivered to the absent voter counting board by the
23 clerk or the clerk's authorized assistant at the time the election
24 inspectors of the absent voter counting boards report for duty,
25 which time must be established by the board of election
26 commissioners. Absent voter ballots received by the clerk before
27 the time set for the closing of the polls on election day must be
28 delivered to the absent voter counting boards. Absent voter ballots
29 must be delivered to the absent voter counting boards in the sealed



1 absent voter ballot return envelopes in which they were returned to
2 the clerk. Written or stamped on each of the return envelopes must
3 be the time and the date that the envelope was received by the
4 clerk and a statement by the clerk that the signatures of the
5 absent voters on the envelopes have been checked and found to agree
6 with the signatures of the voters on the registration cards or the
7 digitized signatures of voters contained in the qualified voter
8 file as provided under section 766. If a signature on the
9 registration card or a digitized signature contained in the
10 qualified voter file and on the absent voter ballot return envelope
11 does not agree as provided under section 766, if the absent voter
12 failed to sign the envelope, or if the statement of the absent
13 voter is not properly executed, the clerk shall mark the envelope
14 "rejected" and the reason for the rejection and shall place his or
15 her name under the notation. An envelope marked "rejected" must not
16 be delivered to the absent voter counting board but must be
17 preserved by the clerk until other ballots are destroyed in the
18 manner provided in this act. The clerk shall also comply with
19 section 765(5).

20 (7) This chapter does not prohibit an absent voter from voting
21 in person within the voter's precinct at an election,
22 notwithstanding that the voter may have applied for an absent voter
23 ballot and the ballot may have been mailed or otherwise delivered
24 to the voter. The voter, the election inspectors, and other
25 election officials shall proceed in the manner prescribed in
26 section 769. The clerk shall preserve the canceled ballots for 2
27 years.

28 (8) The absent voter counting boards shall process the ballots
29 and returns in as nearly as possible the same manner as ballots are



1 processed in paper ballot precincts. The poll book may be combined
2 with the absent voter list or record required by section 760, and
3 the applications for absent voter ballots may be used as the poll
4 list. The processing and tallying of absent voter ballots may
5 commence at 7 a.m. on the day of the election.

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

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

15 (10) The oaths administered under subsection (9) must be
16 placed in an envelope provided for the purpose and sealed with the
17 red state seal. Following the election, the oaths must be delivered
18 to the city or township clerk. Except as otherwise provided in
19 subsection (12), a person in attendance at the absent voter
20 counting place shall not leave the counting place after the
21 tallying has begun until the polls close. **Subject to this**
22 **subsection, if the clerk of a city or township with at least 10,000**
23 **active registered electors provides written notice to the secretary**
24 **of state at least 40 days or more before election day, the clerk of**
25 **that city or township may allow the election inspectors appointed**
26 **to an absent voter counting board in that city or township to work**
27 **in shifts. The secretary of state shall post any written notice**
28 **received from the clerk of a city or township under this subsection**
29 **on the department of state website. If the clerk of a city or**



1 township provides written notice to the secretary of state under
2 this subsection, a second or subsequent shift of election
3 inspectors appointed for an absent voter counting board may begin
4 that shift at any time on election day as provided in the written
5 notice. However, an election inspector shall not leave the absent
6 voter counting place after the tallying has begun until the polls
7 close. If the election inspectors appointed to an absent voter
8 counting board are authorized to work in shifts, at no time shall
9 there be a gap between shifts and the election inspectors must
10 never leave the absent voter ballots unattended. At all times, at
11 least 1 election inspector from each major political party must be
12 present at the absent voter counting place and the policies and
13 procedures adopted by the secretary of state regarding the counting
14 of absent voter ballots must be followed. 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,
28 or a representative of a voting equipment company may enter and
29 leave an absent voter counting board after the tally has begun but



1 before the polls close. A person described in this subsection may
2 enter an absent voter counting board only for the purpose of
3 responding to an inquiry from an election inspector or a challenger
4 or providing instructions on the operation of the counting board.
5 Before entering an absent voter counting board, a person described
6 in this subsection must take and sign the oath prescribed in
7 subsection (9). The chairperson of the absent voter counting board
8 shall record in the poll book the name of a person described in
9 this subsection who enters the absent voter counting board. A
10 person described in this subsection who enters an absent voter
11 counting board and who discloses an election result or in any
12 manner characterizes how any ballot being counted has been voted in
13 a precinct before the time the polls can be legally closed on
14 election day is guilty of a felony. As used in this subsection,
15 "local election official" means a county, city, or township clerk.

16 (13) The secretary of state shall develop instructions
17 consistent with this act for the conduct of absent voter counting
18 boards. The secretary of state shall distribute the instructions
19 developed under this subsection to city and township clerks 40 days
20 or more before a general election in which absent voter counting
21 boards will be used. A city or township clerk shall make the
22 instructions developed under this subsection available to the
23 public and shall distribute the instructions to each challenger in
24 attendance at an absent voter counting board. The instructions
25 developed under this subsection are binding upon the operation of
26 an absent voter counting board used in an election conducted by a
27 county, city, or township.

