

# HOUSE BILL NO. 5123

October 17, 2019, Introduced by Rep. Bollin and referred to the Committee on Elections and Ethics.

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,~~ **has more than 1 election precinct,** the board  
3 of election commissioners of that city or township shall establish  
4 an absent voter counting board for each election day precinct in  
5 that city or township. **If a city or township has only 1 election**



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1 precinct and that city or township decides to use an absent voter  
2 counting board, the board of election commissioners of that city or  
3 township shall establish the absent voter counting board for the  
4 election day precinct in that city or township. The ballot form of  
5 an absent voter counting board must correspond to the ballot form  
6 of the election day precinct for which it is established. After the  
7 polls close on election day, the county, city, or township clerk  
8 responsible for producing the accumulation report of the election  
9 results submitted by the boards of precinct election inspectors  
10 shall format the accumulation report to clearly indicate all of the  
11 following:

12 (a) The election day precinct returns.

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

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

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

29 (3) If more than 1 absent voter counting board is to be used,



1 the city or township clerk shall determine the number of electronic  
2 voting systems or the number of ballot boxes and the number of  
3 election inspectors to be used in each of the absent voter counting  
4 boards and to which absent voter counting board the absent voter  
5 ballots for each precinct are assigned for counting.

6 (4) In a city or township that uses absent voter counting  
7 boards under this section, absent voter ballots must be counted in  
8 the manner provided in this section and absent voter ballots must  
9 not be delivered to the polling places. The board of election  
10 commissioners shall provide a place for each absent voter counting  
11 board to count the absent voter ballots. Section 662 applies to the  
12 designation and prescribing of the absent voter counting place or  
13 places in which the absent voter counting board performs its duties  
14 under this section, except the location may be in a different  
15 jurisdiction if the county provides a tabulator for use at a  
16 central absent voter counting board location in that county. The  
17 places must be designated as absent voter counting places. Except  
18 as otherwise provided in this section, laws relating to paper  
19 ballot precincts, including laws relating to the appointment of  
20 election inspectors, apply to absent voter counting places. The  
21 provisions of this section relating to placing of absent voter  
22 ballots on electronic voting systems apply. More than 1 absent  
23 voter counting board may be located in 1 building.

24 (5) The clerk of a city or township that uses absent voter  
25 counting boards shall supply each absent voter counting board with  
26 supplies necessary to carry out its duties under this act. The  
27 supplies must be furnished to the city or township clerk in the  
28 same manner and by the same persons or agencies as for other  
29 precincts.



(6) Absent voter ballots received by the clerk before election day must be delivered to the absent voter counting board by the clerk or the clerk's authorized assistant at the time the election inspectors of the absent voter counting boards report for duty, which time must be established by the board of election commissioners. Absent voter ballots received by the clerk before the time set for the closing of the polls on election day must be delivered to the absent voter counting boards. Absent voter ballots must be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes must be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" must not be delivered to the absent voter counting board but must be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) This chapter does not prohibit an absent voter from voting

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

8 (8) The absent voter counting boards shall process the ballots  
9 and returns in as nearly as possible the same manner as ballots are  
10 processed in paper ballot precincts. The poll book may be combined  
11 with the absent voter list or record required by section 760, and  
12 the applications for absent voter ballots may be used as the poll  
13 list. The processing and tallying of absent voter ballots ~~may~~**must**  
14 **not** commence ~~at~~**earlier than** 7 a.m. on the day of the election.

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

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

24 (10) The oaths administered under subsection (9) must be  
25 placed in an envelope provided for the purpose and sealed with the  
26 red state seal. Following the election, the oaths must be delivered  
27 to the city or township clerk. Except as otherwise provided in  
28 subsection (12), a person in attendance at the absent voter  
29 counting place shall not leave the counting place after the



1 tallying has begun until the polls close. A person who causes the  
2 polls to be closed or who discloses an election result or in any  
3 manner characterizes how any ballot being counted has been voted in  
4 a voting precinct before the time the polls can be legally closed  
5 on election day is guilty of a felony.

6 (11) Voted absent voter ballots must be placed in an approved  
7 ballot container, and the ballot container must be sealed in the  
8 manner provided by this act for paper ballot precincts. The seal  
9 numbers must be recorded on the statement sheet and in the poll  
10 book.

11 (12) Subject to this subsection, a local election official who  
12 has established an absent voter counting board, the deputy or  
13 employee of that local election official, an employee of the state  
14 bureau of elections, a county clerk, an employee of a county clerk,  
15 or a representative of a voting equipment company may enter and  
16 leave an absent voter counting board after the tally has begun but  
17 before the polls close. A person described in this subsection may  
18 enter an absent voter counting board only for the purpose of  
19 responding to an inquiry from an election inspector or a challenger  
20 or providing instructions on the operation of the counting board.  
21 Before entering an absent voter counting board, a person described  
22 in this subsection must take and sign the oath prescribed in  
23 subsection (9). The chairperson of the absent voter counting board  
24 shall record in the poll book the name of a person described in  
25 this subsection who enters the absent voter counting board. A  
26 person described in this subsection who enters an absent voter  
27 counting board and who discloses an election result or in any  
28 manner characterizes how any ballot being counted has been voted in  
29 a precinct before the time the polls can be legally closed on

1 election day is guilty of a felony. As used in this subsection,  
2 "local election official" means a county, city, or township clerk.

3 (13) The secretary of state shall develop instructions  
4 consistent with this act for the conduct of absent voter counting  
5 boards. The secretary of state shall distribute the instructions  
6 developed under this subsection to city and township clerks 40 days  
7 or more before a general election in which absent voter counting  
8 boards will be used. A city or township clerk shall make the  
9 instructions developed under this subsection available to the  
10 public and shall distribute the instructions to each challenger in  
11 attendance at an absent voter counting board. The instructions  
12 developed under this subsection are binding upon the operation of  
13 an absent voter counting board used in an election conducted by a  
14 county, city, or township.

