

# SENATE BILL NO. 756

January 28, 2020, Introduced by Senators JOHNSON, WOJNO, BULLOCK, LUCIDO, NESBITT, RUNESTAD, MACDONALD, MCBROOM, MACGREGOR and HOLLIER and referred to the Committee on Elections.

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

1 ballot form of the election day precinct for which it is  
2 established. After the polls close on election day, the county,  
3 city, or township clerk responsible for producing the accumulation  
4 report of the election results submitted by the boards of precinct  
5 election inspectors shall format the accumulation report to clearly  
6 indicate all of the following:

7 (a) The election day precinct returns.

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

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

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

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

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

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

25           (6) Absent voter ballots received by the clerk before election  
26 day must be delivered to the absent voter counting board by the  
27 clerk or the clerk's authorized assistant at the time the election  
28 inspectors of the absent voter counting boards report for duty,  
29 which time must be established by the board of election

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

24 (7) This chapter does not prohibit an absent voter from voting  
25 in person within the voter's precinct at an election,  
26 notwithstanding that the voter may have applied for an absent voter  
27 ballot and the ballot may have been mailed or otherwise delivered  
28 to the voter. The voter, the election inspectors, and other  
29 election officials shall proceed in the manner prescribed in

1 section 769. The clerk shall preserve the canceled ballots for 2  
2 years.

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

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

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

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

absent voter counting board in that city or township to work in shifts. The secretary of state shall post any written notice received from the clerk of a city or township under this subsection on the department of state website. If the clerk of a city or township provides written notice to the secretary of state under this subsection, a second or subsequent shift of election inspectors appointed for an absent voter counting board may begin that shift at any time after the polls close on election day as provided in the written notice. If the election inspectors appointed to an absent voter counting board are authorized to work in shifts, at no time shall there be a gap between shifts and the election inspectors must never leave the absent voter ballots unattended. At all times, at least 1 election inspector from each major political party must be present at the absent voter counting place and the policies and procedures adopted by the secretary of state regarding the counting of absent voter ballots must be followed. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

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

(12) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, an employee of the state

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

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

**1** county, city, or township.