

HOUSE BILL NO. 5091

June 22, 2021, Introduced by Rep. Carra and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
(MCL 168.1 to 168.992) by adding section 646e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 646e. (1) The state election audit board is created and
2 consists of the following 7 members:

3 (a) One member appointed by the majority leader of the senate,
4 after consulting with the members of his or her caucus.

5 (b) One member appointed by the minority leader of the senate,

1 after consulting with the members of his or her caucus.

2 (c) One member appointed by the speaker of the house of
3 representatives, after consulting with the members of his or her
4 caucus.

5 (d) One member appointed by the minority leader of the house
6 of representatives, after consulting with the members of his or her
7 caucus.

8 (e) The auditor general, or his or her authorized designee.

9 (f) One member who was a poll challenger at the 2020 general
10 November election and who is randomly selected and appointed by the
11 major political party whose candidate for secretary of state
12 received the highest number of votes at the immediately preceding
13 general November election at which the secretary of state was
14 elected.

15 (g) One member who was a poll challenger at the 2020 general
16 November election and who is randomly selected and appointed by the
17 major political party whose candidate for secretary of state
18 received the second highest number of votes at the immediately
19 preceding general November election at which the secretary of state
20 was elected.

21 (2) Members must be appointed to the state election audit
22 board within 28 days after the effective date of the amendatory act
23 that added this section.

24 (3) Not more than 40 days after the effective date of the
25 amendatory act that added this section, the state election audit
26 board must enter into a contract with an impartial, nonpartisan,
27 and bonded third-party corporation to commence and conduct an audit
28 of the 2020 general November election as required under this
29 section.

1 (4) Not more than 45 days after the effective date of the
2 amendatory act that added this section, the third-party corporation
3 must commence an audit of the qualified voter file and provide a
4 log of all additions, revisions, and deletions to the qualified
5 voter file occurring between January 1, 2020 and the date the audit
6 is commenced. The log described in this subsection must include,
7 but not be limited to, all of the following:

8 (a) The name of each individual who executed an addition,
9 revision, or deletion to the qualified voter file.

10 (b) The location from which an individual described in
11 subdivision (a) executed each addition, revision, or deletion to
12 the qualified voter file.

13 (c) Whether a transaction was an addition, revision, or
14 deletion to the qualified voter file.

15 (d) If a transaction was an addition or revision to the
16 qualified voter file, a detailed description of the records in the
17 qualified voter file that were modified and how these records were
18 modified.

19 (5) Not more than 45 days after the effective date of the
20 amendatory act that added this section, the third-party corporation
21 must randomly select at least 10% of the election precincts in each
22 county in this state from the 2020 general November election to
23 audit the poll books, ballots, and vote tallies from those randomly
24 selected election precincts. In addition, not more than 45 days
25 after the effective date of the amendatory act that added this
26 section, the third-party corporation must randomly select at least
27 20% of the election precincts in each city with a population of
28 more than 500,000 from the 2020 general November election to audit
29 the poll books, ballots, and vote tallies from those randomly

1 selected election precincts. The audit under this subsection must
2 review the ballots and vote tallies for the electors of President
3 and Vice President of the United States and for the office of
4 United States Senator. The audit under this subsection must
5 include, but not be limited to, a log of all of the following
6 information:

7 (a) For each poll book, at a minimum, all of the following
8 must be included:

9 (i) The time and date the poll book was generated and
10 downloaded for use on election day, and the time and date any
11 supplemental poll book was generated and downloaded for use on
12 election day.

13 (ii) A determination of whether the electronic poll book was
14 connected to any network after being downloaded from the qualified
15 voter file.

16 (iii) A determination of whether any changes, other than regular
17 updates, were made to the poll book.

18 (iv) If changes other than regular updates were made to the
19 poll book, the name of the individual who made the changes and the
20 date those changes were made.

21 (v) The name of each elector who voted on election day without
22 providing identification for election purposes, and a determination
23 of how the identification of each of those electors who voted on
24 election day without providing identification for election purposes
25 was confirmed.

26 (vi) A notation of which poll challenger entries were captured.

27 (vii) The total number of ballots issued.

28 (viii) The total number of votes cast.

29 (ix) The total number of absent voter ballots that were voted.

1 (x) The total number of ballots cast in person at the polling
2 place.

3 (b) For ballots, at a minimum, all of the following must be
4 included:

5 (i) The total number of ballots printed.

6 (ii) The total number of absent voter ballots returned by mail.

7 (iii) The total number of absent voter ballots returned on
8 election day.

9 (iv) The time of day each absent voter ballot returned on
10 election day was received by the city or township clerk.

11 (v) The time and date the city or township clerk delivered the
12 absent voter ballots to the board of election inspectors for
13 signature verification and tabulation.

14 (vi) The total number of ballots that were spoiled.

15 (c) For each vote tally, at a minimum, all of the following
16 must be included:

17 (i) The electronic voting system that was used to tally each
18 ballot.

19 (ii) A description of the software installed on each electronic
20 voting system and the name of the individual who certified the
21 software.

22 (iii) The name of the individual who examined the hardware
23 configuration on each electronic voting system.

24 (iv) A determination of whether any network communication
25 devices were embedded in the hardware on any electronic voting
26 system.

27 (v) A determination of whether any electronic voting system
28 was connected to any network from the date of the final test of

1 equipment accuracy before the election until the date the election
2 certification was issued.

3 (vi) A detailed timestamped log of each vote tally transfer and
4 what the vote tallies were during each transfer.

5 (6) During the audit conducted under subsections (4) and (5),
6 the third-party corporation must determine who advised, and what
7 procedures were followed for, the secretary of state to send out
8 unsolicited absent voter ballot applications in 2020.

9 (7) During the audit conducted of the randomly selected
10 precincts as provided under subsection (5), the third-party
11 corporation must do all of the following:

12 (a) Use cameras to record the entire audit process to verify
13 the chain of custody of all poll books, ballots, and vote tallies
14 used during the audit.

15 (b) Require that only certain types of pens and other writing
16 instruments approved by the third-party corporation are to be used
17 during the audit.

18 (c) Require wardrobe differentiation for those individuals
19 working on the audit based on the role of the individual during the
20 audit.

21 (d) Inspect each ballot for proper ink markings and
22 depressions to confirm that the ballot was completed by an
23 individual and not by a machine.

24 (e) Inspect each absent voter ballot for folded crease marks.

25 (8) During the audit conducted under this section, the state
26 election audit board and the third-party corporation must review
27 any affidavits that were submitted to the senate oversight
28 committee or house oversight committee concerning the 2020 general
29 November election.

1 (9) During the audit conducted under this section, the third-
2 party corporation is authorized to review the qualified voter file
3 to do all of the following:

4 (a) Determine the 2,000 youngest voters who voted by absent
5 voter ballot at the 2020 general November election, and investigate
6 all of the following regarding those absent voters:

7 (i) That the voter actually voted at the election.

8 (ii) That the voter voted by absent voter ballot at the
9 election.

10 (iii) How the voter applied for his or her absent voter ballot.

11 (b) Determine the 2,000 oldest voters under the age of 80 who
12 never voted before and voted for the first time at the 2020 general
13 November election, and investigate all of the following regarding
14 those voters:

15 (i) That the voter actually voted at the election.

16 (ii) How the voter voted, whether in person or by absent voter
17 ballot.

18 (10) The investigation under subsection (9) by the third-party
19 corporation is for audit purposes only, and any individual who
20 cooperates with the investigation under subsection (9) is not
21 subject to criminal prosecution or civil liability for conduct
22 associated with voting at the 2020 general November election.

23 (11) The third-party corporation must complete the audit
24 described in this section, and must prepare and present a
25 preliminary audit report to the state election audit board, the
26 governor, the secretary of state, and the legislature, not more
27 than 90 days after the audit is commenced. The preliminary audit
28 report must include, but not be limited to, all of the following
29 information:

1 (a) An executive summary of the audit.

2 (b) The log required under subsection (4) for the audit of the
3 qualified voter file.

4 (c) The log required under subsection (5) (a) for the poll book
5 in each randomly selected precinct.

6 (d) The log required under subsection (5) (b) for the ballots
7 in each randomly selected precinct.

8 (e) The log required under subsection (5) (c) for the vote
9 tallies in each randomly selected precinct.

10 (f) The determination required under subsection (6) regarding
11 the secretary of state sending out unsolicited absent voter ballot
12 applications in 2020.

13 (g) The determination of each investigation conducted under
14 subsection (9).

15 (12) Not more than 14 days after the completion of the audit
16 under this section, the state election audit board must submit a
17 final audit report to the governor, the secretary of state, and the
18 legislature that includes, but is not limited to, all of the
19 following information:

20 (a) All of the information included in the preliminary audit
21 report under subsection (11).

22 (b) Any recommendations for corrective action needed by law
23 enforcement, the judiciary, the secretary of state, or the
24 legislature.

25 (13) In addition to subsection (12), not more than 14 days
26 after completion of the audit under this section, each member of
27 the state election audit board may prepare and present his or her
28 own audit report to the governor, the secretary of state, and the
29 legislature.

1 (14) The state election audit board is dissolved 30 days after
2 the state election audit board issues its final audit report under
3 subsection (12).

4 (15) For the 2020-2021 fiscal year, \$2,500,000.00 is
5 appropriated from the general fund to the state election audit
6 board to conduct the audit described in this section. In addition,
7 any private funds received by the state election audit board are
8 appropriated to conduct the audit described in this section.

9 (16) As used in this section, "third-party corporation" means
10 the impartial, nonpartisan, and bonded third-party corporation
11 contracted with by the state election audit board as provided under
12 subsection (3) to conduct the audit required under this section.