

Legislative Analysis



2025 IMPLEMENTATION OF ELECTRONIC VOTING FOR MILITARY MEMBERS

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Senate Bill 470 as passed by the Senate
Sponsor: Sen. Paul Wojno
House Committee: Appropriations
Senate Committee: Elections and Ethics
Complete to 10-12-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 192 of 2023)

SUMMARY:

Senate Bill 470 would amend the Michigan Election Law to delay the implementation of electronic voting for certain members of the military to September 1, 2025. Under current law, electronic voting does not begin until 2024.

Public Acts 196 and 197 of 2022 authorized electronic voting in Michigan for overseas active-duty military members with the use of a Department of Defense verified signature.¹ Beginning January 1, 2024, a member of a uniformed service on active duty or a member of the merchant marine who, because of active duty or service, is absent from the U.S. and does not expect to return to the residence where they are otherwise qualified to vote before an election could electronically return a voted ballot to the appropriate city or township clerk to be counted under rules developed by the secretary of state (SOS).

The SOS is currently required to do all of the following:

- Promulgate rules that establish policies and procedures for the electronic return of voted ballots by *eligible members* (defined as members of the military on active duty or members of the merchant marine).
- In promulgating rules, require the eligible member to use a U.S. Department of Defense verified electronic signature,² so that the identity of the eligible member can be verified. (A member who is unwilling to provide the Department of Defense verified signature is ineligible to vote electronically.)
- Take reasonable efforts to ensure the integrity and secrecy of those ballots.
- *By January 1, 2024*, promulgate rules to implement these requirements, in accordance with the Administrative Procedures Act.
- *By the 2024 statewide presidential primary election*, allow for the electronic return of voted ballots by eligible members.

Senate Bill 470 would instead allow eligible members to vote electronically beginning September 1, 2025, which would be the new deadline for the SOS to promulgate rules. The SOS also would no longer have to allow for electronic voting by the 2024 presidential primary.

MCL 168.759a

¹ A summary of 2022 PA 196 and 2022 PA 197 can be found here: <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0311-B5F35D59.pdf>.

² The Michigan Election Law defines a *U.S. Department of Defense verified signature*, for purposes of the act, as the certificate-based digital identification code issued to qualified personnel by the U.S. Department of Defense as part of the Common Access Card (CAC), or its successor.

BACKGROUND:

Currently, federal³ and state⁴ law require that ballots must be electronically transmitted or mailed to active duty members of the military at least 45 days before an election. Thirty-one other states, in addition to the District of Columbia and the U.S. Virgin Islands, allow some voters to return their ballots electronically through fax, email, or an online portal.⁵

Additionally, Ballot Proposal 22-2 amended the state constitution to grant military and overseas voters, including the spouses of uniformed service members and members of the merchant marine, the right to have their absentee ballots counted if the ballot was postmarked on or before election day and received by the appropriate election official within six days of election day. This change was incorporated into the Michigan Election Law by 2023 PA 25.⁶

House Bill 4210 of the current legislative session, a bill that would allow spouses of eligible members to vote electronically, also contains provisions delaying the deadline for implementing electronic voting until September 1, 2025. The bill was passed by the House in September 2023 and has been referred to the Senate Elections and Ethics committee.

FISCAL IMPACT:

The bill would permit the Department of State to avoid costs of taking certain measures that would be needed to comply with the existing deadline under 2022 PA 197. Due to other major election reforms that are underway, the department reports that existing personnel resources are at capacity. To comply with the existing implementation date, additional temporary staff would be required, along with the associated compensation costs.

There may be additional costs without the bill's time extension related to not having the time needed to properly procure vendor services for a secure web portal for implementing electronic return of military servicemember absent voter ballots. The date extension would permit the time needed for the request for proposals process that could provide greater security and cost effectiveness with the web portal system and contract.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

³ The Uniformed and Overseas Citizens Absentee Voting Act, as amended in 2010 by the Military and Overseas Voter Act, <https://www.justice.gov/crt/uniformed-and-overseas-citizens-absentee-voting-act>.

⁴ MCL 168.759a, codified into section 4 of Article II of the Michigan Constitution by Proposal 3 of 2018. HFA summary of Proposal 3: http://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2018-3_Promote_The_Vote.pdf.

⁵ More information on electronic ballot return in each state can be found here: <https://www.ncsl.org/elections-and-campaigns/electronic-ballot-return-internet-voting>.

⁶ A summary of this change can be found here: <http://www.legislature.mi.gov/documents/2023-2024/billanalysis/House/pdf/2023-HLA-0259-D7CDB546.pdf>. Under current law, postmark means any type of mark applied to an absentee ballot return envelope that indicates when the ballot was mailed.