

ABSENT VOTER DROP BOXES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4697 (H-1) as passed by the House
Sponsor: Rep. Matt Koleszar
Committee: Elections
Complete to 6-19-23

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

(Enacted as Public Act 85 of 2023)

SUMMARY:

House Bill 4697 would amend provisions of the Michigan Election Law that address absent voter (AV) drop boxes, largely to incorporate the following requirements of section 4 of Article II of the state constitution, which was approved by voters as Ballot Proposal 2 of 2022:

- That there be at least one secure drop box for every municipality and at least one drop box for each 15,000 registered voters in municipalities with more than 15,000 voters.
- That the drop boxes described above be funded by the state.
- That the drop boxes be used for the return of completed absent voter ballot applications as well as voted absent voter ballots.
- That secure drop boxes be distributed equitably throughout the municipality.
- That secure drop boxes be accessible 24 hours a day during the 40 days before an election and until 8 p.m. on election day.

Drop box distribution and placement

The bill would require each city or township to have at least one absent voter ballot drop box for use in returning completed absent voter ballot applications and voted absent voter ballots. Cities or townships with more than 15,000 registered electors would have to have at least one AV drop box for every 15,000 registered electors (as determined 150 days before the election).

The secretary of state would have to facilitate the procurement and distribution of AV drop boxes for cities and townships to meet the required minimum number of AV drop boxes. Upon application by a city or township clerk for one or more AV drop boxes to meet those requirements, the secretary of state would have to facilitate their procurement and distribution at no cost to that clerk. The secretary of state would be responsible for the cost of delivery, installation, repair, and video monitoring¹ for each drop box provided under these provisions to ensure that each meets the requirements of the bill (described below). The secretary of state would have to issue instructions to city and township clerks on applying for AV drop boxes and on the payment or reimbursement of costs as described above.

A city or township could have more than this minimum number of AV drop boxes. Any additional drop boxes would have to conform to the requirements of the bill (below).

Each city or township clerk would have to ensure that AV ballot drop boxes are distributed equitably throughout the city or township. In determining a drop box location, the clerk would have to consider at least all of the following:

- Population density and distribution.
- Proximity to public transportation and parking.

¹ Not including video data storage.

- Accessibility, including for electors with disabilities.
- Any other factors the clerk considers relevant.

Each city or township clerk would have to ensure that the secretary of state has the information necessary to include the location of each AV drop box on the Department of State’s website to enable a voter to determine the location of AV each drop box in their city or township.

Drop box requirements

Currently, an absent voter ballot drop box must meet all of the following:

- Be clearly labeled as an absent voter ballot drop box.
- Be securely locked and designed to prevent ballots from being removed when locked.
- If located in an area that is not continuously staffed, be secured to prevent it from being removed from its location.
- If located outdoors, be securely locked and bolted to the ground or another stationary object.
- If located outdoors, be equipped with a single slot or mailbox-style lever to allow ballot return envelopes to be put in it. All other openings on the drop box must be securely locked.
- If located outdoors, be in a publicly accessible, well-lit area with good visibility.

Under the bill, an absent voter ballot drop box would have to meet all of the following:

- Be clearly labeled an absent voter ballot drop box that can be used to return completed absent voter ballot applications and voted absent voter ballots.
- Be securely locked, be affixed to the ground or another stationary object, and be designed to prevent applications and ballots from being removed when locked.
- Be accessible 24 hours each day during the 40 days before election day.
- Be accessible until 8 p.m. on election day.
- Be equipped with a slot or mailbox-style lever to allow ballot applications and ballot return envelopes to be put in it. All other openings on the drop box must be securely locked.
- Be located in a publicly accessible, well-lit area with good visibility.

In addition, under current law, for an AV drop box located outdoors that was ordered or installed on or after October 1, 2020, the city or township clerk must use video monitoring of the drop box to ensure its effective monitoring. For an AV drop box located outdoors, the city or township clerk must immediately report to local law enforcement any vandalism involving it or any suspicious activity occurring in its immediate vicinity.

Under the bill, the city or township clerk would have to use video monitoring of an AV drop box that was ordered or installed in a city or township on or after October 1, 2020, during the 75 days before each election and on election day to ensure its effective monitoring. Beginning January 1, 2026, video monitoring would have to be used for *all* drop during the 75 days before each election and on election day.

The city or township clerk would have to immediately report to local law enforcement any vandalism involving the drop box or any suspicious activity occurring in its immediate vicinity.

A city or township clerk, deputy clerk, or sworn member of the clerk's staff would have to collect election materials deposited in a drop box every day beginning 35 days before each election.

Other amendments

The bill would remove a provision that requires a city or township clerk to document the total number of ballot return envelopes collected from each AV drop box. (It would retain the other documentation requirements that now apply.) The bill also would add the ability to return absent voter ballot *applications* using AV drop box to provisions where the law now refers only to returning absent voter ballot *return envelopes*.

All AV ballot return envelopes collected from a drop box would have to be transported in an approved ballot container. (Currently, absent voter ballot secrecy envelope containers can also be used.)

MCL 168.761d

FISCAL IMPACT:

House Bill 4697 would codify in statute provisions of Proposal 22-2 regarding absent voter drop boxes that entail significant costs to the state and to local units of government. While some of these costs are already incurred by the state and local units independently from HB 4697, this summary provides details of cost estimates of both the bill and the ballot proposal for full cost transparency.

The bill would entail substantial one-time implementation and ongoing costs to the state government and no substantial fiscal impact to local units of government. The bill would require at least one state-funded AV drop box for every municipality (cities and townships) and one drop box for every 15,000 registered voters for municipalities with more than 15,000 registered voters. The bill would require the secretary of state to support the full costs of procurement, distribution, and installation of drop boxes to municipalities to meet the distribution requirement of one for every 15,000 voters.

Implementation Costs

Total AV drop box-related costs would depend on interpretations of Proposal 22-2 and the bill regarding the number of AV drop boxes required for the state to meet its legal obligation. Proposal 22-2 language provides the right "to at least one (1) *state-funded* secure drop box" for every 15,000 registered voters. The Department of State estimates equipment needs and costs based on a reading of the language that means that only "state-funded" drop boxes count toward achieving the required distribution and that existing drop boxes do not count toward the distribution requirement.

As of August 2022, there were just over 1,100 AV drop boxes available to the public. To meet the distribution requirement, approximately 1,790 drop boxes total are required. The Department of State estimates the need for 1,783 drop boxes, or the full amount, at a cost of \$14.4 million, or \$8,100 per drop box, including delivery, installation, and security video equipment. The department's estimate includes the cost of security video data storage. AV drop boxes generally range in price between \$1,000 and \$6,000, depending on their size and features. If both Proposal 22-2 and the bill allow existing drop boxes to count toward the

distribution requirement, the state would only need to provide approximately 690 drop boxes. If the state does not provide for video monitoring and data storage, estimated costs would be approximately \$11.8 million for all 1,783 drop boxes and \$4.6 million for 690 drop boxes.

If the state is not required to replace all existing drop boxes, estimated costs would be \$5.6 million for procurement, delivery, and installation.

Ongoing Costs

The department reports that additional staffing would be required to provide delivery, installation, and maintenance services for all state-funded drop boxes at an annual cost of \$382,000.

Under the proposal, the state may be responsible to fund any additional new drop boxes or costs of modifications should they no longer be considered a “secure drop box” and not comply with state law or Bureau of Elections (BOE) directives. Modifications to bring older drop boxes into compliance could cost between \$200 and \$350 per drop box. Other equipment costs municipalities may incur would be for BOE-approved ballot bags or containers for transporting AV ballots. These generally range between \$80 and \$250 each, depending on the size. One larger-sized ballot bag can hold up to 2,000 ballots.

Local clerks would be responsible for the costs of video storage and maintenance under the revised bill. The department estimates these costs to be \$1,000 per box, or approximately \$2.0 million per year across all local units of government. If local clerks’ existing video monitoring capabilities are counted towards the distribution requirement, the annual cost would be reduced to approximately \$1.0 million.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-8-23):

- Michigan Association of Municipal Clerks
- Promote the Vote

The following entities indicated support for the bill:

- American Association of University Women of Michigan (6-8-23)
- American Civil Liberties Union of Michigan (6-8-23)
- Campaign Legal Center (6-8-23)
- Detroit Disability Power (6-13-23)
- Detroit Regional Chamber (6-8-23)
- Healthy Democracy Healthy People Michigan (6-8-23)
- League of Women Voters of Michigan (6-13-23)
- Michigan Association of Counties (6-13-23)
- Michigan Democratic Party (6-8-23)
- Michigan League of Conservation Voters (6-13-23)
- Michigan League for Public Policy (6-8-23)
- Michigan Nonprofit Association (6-8-23)
- Michigan State Employee Retirees Association (6-8-23)
- Michigan Townships Association (6-8-23)

- National Vote at Home Initiative (6-8-23)
- NextGen America (6-8-23)
- Protect Democracy (6-8-23)
- Voters Not Politicians (6-13-23)

A representative of Pure Integrity for Michigan Elections testified with concerns about the bill. (6-8-23)

Heritage Action for America indicated opposition to the bill. (6-8-23)

Legislative Analyst: Holly Kuhn
Fiscal Analyst: Michael Clossen

■ 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.