Senate Bill 339 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Mallory McMorrow
Committee: Elections and Ethics

Date Completed: 6-7-23

CONTENT

The bill would amend Chapter 28 (Holding of Elections) of the Michigan Election Law to do the following, in accordance with Proposal 22-2 (see BACKGROUND):

-- **Require the Secretary of State (SOS) to establish, acquire, or approve an electronic tracking system that allowed each elector who voted by absentee ballot to track his or her voter application or absent voter ballot through a website or mobile application.**
-- **Require the electronic tracking system to record certain dates and information, including, if an application or ballot was denied, a reason for the rejection, instructions on how to fix the issue, and the deadline for fixing the issue.**
-- **Allow an elector to opt into notifications from the electronic tracking system by email, text, or both.**
-- **Specify that an elector's email address or telephone number provided to receive notifications from the electronic tracking system could only be accessed by qualified individuals and would be confidential and exempt from disclosure under the Freedom of Information Act (FOIA).**

The Law currently requires a city or township clerk, if that city or township has access to the ballot tracker program provided by the State, to use the ballot tracker program and allow electors to track their absent voter ballots online. Michigan's ballot tracker program records the following information:

-- Whether the elector's absent voter application has been received.
-- Whether the clerk has sent out the elector's absent voter ballot.
-- Whether the clerk has received the elector's absent voter ballot.

The bill would delete this requirement and replace it with the following provisions, in accordance with Proposal 22-2.

Electronic Tracking System

The bill would require the SOS to establish, acquire, or approve an electronic tracking system that allowed each elector who applied to vote by absentee ballot to track, on a website or mobile application, that elector's application and absent voter ballot.

The electronic tracking system would have to indicate the date a city or township clerk mailed or delivered the absent voter ballot to the elector, or, for an absent uniformed overseas or overseas voter, the date the uniformed services voter or overseas voter's city or township clerk mailed or electronically transmitted the absent voter ballot to the absent uniformed

services voter or overseas voter. The system also would have to indicate whether an elector's absent voter ballot was returned to the city or township clerk as undeliverable.

The electronic tracking system would have to indicate the date an elector's city or township clerk received the elector's absent voter ballot application and absent voter ballot return envelope containing the elector's completed ballot. Generally, if an elector is a member of a uniformed service on active duty or a member of the merchant marine, he or she may return his or her absent voter ballot electronically using a United States Department of Defense verified electronic signature. The electronic tracking system would have to record the date the eligible member's absent voter ballot was electronically received.

If an absent voter ballot application or absent voter ballot return envelope was accepted, the electronic tracking system would have to indicate the date of acceptance. If an application or absent voter ballot return envelope was rejected, the system would have to include the following:

-- A brief statement of the reason for the rejection.
-- Instructions on fixing the issue with the elector's absent voter ballot application or voter ballot return envelope.
-- The deadline for fixing the issue.

If the elector fixed the issue with his or her absent voter application or absent voter ballot return envelope, and his or her application or absent voter ballot was accepted by his or her city or township clerk, the electronic tracking system would have to include an update that the elector's absent voter ballot application or absent voter ballot was accepted and list the date of acceptance. Additionally, for an absent voter ballot, the system would have to include a statement that the absent voter ballot was eligible to be tabulated.

System notifications

Under the bill, an elector would have to be permitted to opt in to receive notifications from the electronic tracking system by email, text message, or both. If an elector opted into these notifications, each time any of the above events occurred, the electronic tracking system would have to immediately notify the elector according to the elector's communication preferences.

Confidentiality

Under the bill, an email address or telephone number provided by an elector to receive notifications from the electronic tracking system could only be used by authorized individuals who had access to the qualified voter file or by individuals authorized by the SOS to maintain the electronic tracking system and would be confidential and exempt from disclosure under FOIA.

MCL 168.764c

BRIEF RATIONALE

Currently, Michigan's absent voter ballot tracking system does not show an elector whether his or her ballot has been accepted or, if his or her ballot was rejected, identify the problem. Some argue that voters should receive a second chance to fix a mistaken absent voter ballot. In November 2022, Proposal 2 addressed this concern by amending the State Constitution to

require the SOS to develop an absent voter ballot tracking system that provides voters detailed information regarding their absent voter applications and ballots. Accordingly, it has been suggested that the Law be amended to reflect Proposal 2's provisions.

BACKGROUND

In July 2022, Promote the Vote, a coalition of Michigan organizations active in elections, circulated a petition proposing several constitutional amendments concerning voting rights. Among other amendments, the petition included a requirement that the State fund a system that voters could use to track their absent voter applications and ballots and to receive notifications concerning the status of their applications, ballots, and any deficiency in their submissions.[1] Promote the Vote submitted the petition to the Michigan Bureau of Elections after gathering enough signatures for the ballot initiative that became Proposal 22-2. Proposal 22-2 passed with 59.99% of the vote during the 2022 November general election.[2]

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bill would have start-up and ongoing costs for the Department of State to implement and maintain a ballot tracking system for electors to track their absent voter ballots following submission to their city or township clerk. The Department has estimated initial start-up/implementation costs at $450,000 for two FTEs, programming, and equipment costs over the two-year fiscal period of 2022-23 and 2023-24. Beginning in FY 2024-25 the ongoing costs would reduce to an estimated $140,000 annually and one FTE. The Senate Fiscal Agency estimates the average total annual cost of one FTE equivalent for FY 2022-23 at $142,000 consisting of salary, insurances, and retirement costs.

Fiscal Analyst: Joe Carrasco, Jr.

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[1] "November 2022 Ballot Proposal 22-2," Senate Fiscal Agency.
[2] "2022 Michigan Election results," Elections, Michigan Department of State. Retrieved on 4-11-23.