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BILL ANALYSIS

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Senate Bill 367 (as enacted)
Senate Bill 370 (as enacted)
Senate Bill 373 (as enacted)
House Bill 4696 (as enacted)
House Bill 4697 (as enacted)

PUBLIC ACT 81 of 2023
PUBLIC ACT 82 of 2023
PUBLIC ACT 87 of 2023
PUBLIC ACT 83 of 2023
PUBLIC ACT 85 of 2023

Sponsor: Senator Jeremy Moss (S.B. 367)
Senator Sylvia Santana (S.B. 370)
Senator Stephanie Chang (S.B. 373)
Representative Penelope Tsernoglou (H.B. 4696)
Representative Matt Koleszar (H.B. 4697)

Senate Committee: Elections and Ethics, Committee of the Whole
House Committee: Elections

Date Completed: 8-11-23

RATIONALE

In the 2018 gubernatorial election, 4.4 million Michigan voters cast their ballot, representing an almost 14% increase in turnout among the voting age population from the 2014 gubernatorial election.¹ In 2020, 5.5 million Michiganders voted in the Presidential Election, representing the greatest turnout in the State's recorded history. (Michigan's voting age population grew an estimated 1.3% from 2016 to 2020, whereas voter turnout increased an estimated 8% from the 2016 Presidential Election to the 2020 Presidential Election).² Of these voters, 3.3 million Michiganders voted absentee. Clerks saw a 73% increase in the number of absentee ballots requested from the 2018 Midterm Election to the 2022 General Election.³ During the 2022 Gubernatorial Election, Michigan voters broke another record, with 37% of electors aged 18-29 voting, the highest turnout for that age group by state in the country.⁴ Overall, more Michiganders are voting than ever before.

This increased voter turnout has led to concern about the timeliness of elections. For example, testimony before the Senate Committee on Elections and Ethics indicates that allowing voters only one day to vote in-person placed an undue burden on voters who dealt with long lines and wait times. Additionally, some believe that the increase in absentee voting made ballot counting more difficult and time-consuming for clerks, who were not allowed to begin counting until election day. In November 2022, Proposal 2 addressed some of these concerns by amending the State Constitution to require nine days of early voting for eight hours each day, to require the State to fund absent ballot drop boxes and absent voter ballot return postage, and to clarify photo identification requirements. Accordingly, with the next presidential primary occurring in February 2024, it was suggested that the Michigan Election Law be amended to further govern the implementation of Proposal 22-2 and to make additional changes to ease the election process.

¹ Legislative Service Bureau, "Voter Registration and Election Turnout Statistics for Michigan General Elections, 1948-2020", Michigan Manual 2021-2022, p. 782. 2021.

² 86 FR 24379, 5-6-2021.

³ Benander, Angela, "One week before Election Day, nearly 2 million Michiganders have requested absentee ballots", *Michigan Department of State*, Nov. 2022.

⁴ Benander, Angela, "Report: Michigan's youth turnout in the 2022 election was best in the nation", *Michigan Department of State*, April 2023.

CONTENT

Senate Bill 367 amends the Michigan Election Law to do the following:

- Require a municipality to provide nine consecutive days of early voting, for eight hours per day, for every statewide and Federal election.
- Require the Secretary of State (SOS) to supervise the implementation and conduct of early voting and provide resources to county and municipal election officials that prevent an elector from casting more than one ballot per election.
- Require each municipality to provide at least one suitable early voting site for each voting precinct located in the municipality.
- Prescribe the types of buildings that may or may not be used as a polling place or early voting site.
- Allow the clerk of a municipality to set additional hours and days for early voting and allow early voting for an election that is not a statewide or Federal election, by resolution.
- Establish the requirements and process for entering into a municipal or county early voting agreement.
- Require a single municipality or participants in a municipal agreement to submit to the appropriate county clerk an early voting plan and require a county clerk participating in a county agreement to prepare an early voting plan.
- Establish requirements a clerk must fulfill while administering early voting.
- Prescribe security measures that election officials must follow.
- Exempt ballots used for early voting purposes produced by an on-demand ballot printing system from certain requirements.
- Require the SOS to issue instructions regarding ballots that are subject to challenge and those produced by an on-demand ballot printing system.
- Prohibit an individual from intentionally disclosing an election result from an early voting site before 8 PM on election day and prescribe a felony penalty for such a violation.
- Allow a city or township to establish election day vote centers to tabulate ballots cast by electors who register to vote or update their voter registration on election day under certain conditions.
- Modify requirements for processing and tabulating absent voter ballots.
- Allow an elector to tabulate the elector's absent voter ballot in person at the elector's polling place or an appropriate early voting site.
- Allow a city or township to authorize an absent voter counting board that may process and tabulate absent voter ballots approved for tabulation and received after 4 PM on the day before an election and before 8 PM on election day.
- Prohibit an individual from taking photographs or audio or video recordings within an absent voter counting place, except in specified circumstances, and prescribe a misdemeanor for a violation of this provision.
- Allow a city or township with a population of at least 5,000 to establish an absent voter counting board to process and tabulate absent voter ballots during specific hours on the eight days before election day.
- Prescribe requirements for the processing and tabulation of absent voter ballots during the early voting period.
- Extend, from the Friday immediately before an election to the second Friday before an election, the deadline before which an elector may submit a request that the clerk spoil the elector's absent voter ballot.
- Repeal Sections 14b, 24k, and 767 of the Michigan Election Law, which govern the use of absent voter ballot secrecy envelope containers.

Senate Bill 370 amends the Michigan Election Law to do the following:

Modify the absent voter application and ballot submission process to reflect Proposal 22-2's constitutional amendments, in addition to other modifications.

- Require that absent voter applications and ballots sent by mail include prepaid envelopes for return provided by the clerk of a city or township.**
- Modify the absent voter application form to specify that an applicant may opt-in for an absent voter ballot for all following elections.**
- Modify the absent voter application form to include telephone and email contact information from the applicant and require a clerk to use that information to inform an applicant if the application has been rejected for missing a deadline.**

Senate Bill 373 amends the Michigan Election Law to allow a current photo identification card issued by a local government to be used for election purposes by including it in the definition of "identification for election purposes" and to define "educational institution".

House Bill 4696 amends the Code of Criminal Procedure to do the following:

- Add a felony penalty for disclosing an election result from an early voting site before election day.**
- Remove an extraneous provision specifying that disclosing election results or how a ballot was voted is a felony.**

House Bill 4697 amends the Michigan Election Law to do the following:

- Require a city or township to install at least one absent voter ballot drop box.**
- Allow voted absent ballots and absent ballot applications to be placed in a drop box.**
- Require a city or township to have at least one drop box per 15,000 registered electors.**
- Require the SOS to facilitate and bear the cost of the procurement, distribution, repair, and video monitoring of absent voter ballot drop boxes.**
- Require a city or township clerk to use video monitoring for certain absent voter ballot drop boxes during the 75 days before an election and on election day.**
- Require the clerk of each city or township to ensure that absent voter ballot drop boxes are distributed equitably throughout the city or township.**
- Require a drop box to be accessible 24 hours each day during the 40 days before election day and be accessible until 8 PM on election day.**
- Require an authorized individual to collect election material from a drop box beginning 35 days before an election.**

Senate Bill 367 is tie-barred to Senate Bill 370 and House Bill 4697. Senate Bill 370 is tie-barred to Senate Bills 367 and 339, which requires the SOS to establish an electronic tracking system that allows each elector who voted by absentee ballot to track the application or ballot through a website or mobile application. Senate Bill 373 is tie-barred to Senate Bill 367. House Bill 4696 is tie-barred to Senate Bills 367 and 370.

The bills will take effect on the 91st day after the Legislature adjourns sine die.

Senate Bill 367

Implementation of Early Voting

Under the bill, in accordance with Proposal 22-2's constitutional amendments, a registered and qualified elector in the State has the right to vote in person in each statewide and Federal

election at an early voting site before election day. An elector at an early voting site has the same rights and is subject to the same requirements as an elector at a polling place on election day. (Under the bill, "early voting" means casting a ballot in person before election day in the same manner as a ballot is cast on election day, including depositing the ballot into a tabulator).

Under the bill, early voting must be provided in each statewide and Federal election for at least nine consecutive days beginning on the second Saturday and ending on the Sunday before the election. Early voting must be provided for at least eight hours each day during the required days. Beginning January 1, 2026, early voting may be offered on the Monday before an election but will have to end by 4 PM.

The SOS must supervise the implementation and conduct of early voting required under Article II of the State Constitution of 1963 to provide each elector an opportunity to cast a ballot. For early voting required under Article II, the SOS must do all the following:

- Advise, direct, and issue instructions and procedures to county and municipal election officials on the administration and conduct of early voting.
- Develop, acquire, or approve new technology for the early voting poll book to implement, administer, and conduct early voting efficiently and securely.
- Create a model municipal agreement template and model county agreement template and ensure that each template may be completed online by a county or municipality.
- Create model early voting plan templates for municipalities and counties to complete and ensure that each template can be electronically transmitted to the Bureau of Elections.
- Evaluate new voting system technologies that produce ballots on demand or that may be used to cast and tabulate early voting ballots, and, if appropriate, submit new technology to the Board of State Canvassers for approval.

The bill requires the SOS to provide resources to county and municipal election officials that prevent an elector from intentionally or inadvertently casting more than one ballot at an election. The resources required may be technological, procedural, or a combination of both. In addition, the SOS must provide guidance to county and municipal election officials regarding the process for securing equipment and ballots at the conclusion of each day of early voting.

Early Voting Sites

Generally, the Michigan Election Law requires the legislative body of each city and township to designate and prescribe the place or places of holding an election for a city, village, or township election, and to provide a suitable polling place for each precinct located in the city or township. Publicly owned or controlled buildings, such as schools and fire stations, must be used as polling places. The bill modifies these provisions to require a legislative body to provide a suitable polling place for each precinct located in a municipality for use on election day. (Under the bill, "municipal" or "municipality" means a city or township).

Additionally, under the bill, the legislative body of a municipality must provide a suitable early voting site for each precinct located in the municipality for each election for which the municipality conducts early voting: a Federal election, a statewide election, and, by resolution, a municipal election. A publicly owned or controlled building must be used as an early voting site, unless one cannot be found.

(As used above, "early voting site" means that term as described in Article II of the State Constitution of 1963: A polling place subject to the same requirements as an election day polling place, except that an early voting site may serve voters from more than six precincts and may serve voters from more than one municipality within a county.)

The bill deletes provisions allowing the following to be used as a polling place, if a publicly owned or controlled building is not found:

- A building owned or controlled by an organization that is exempt from Federal income tax as provided by certain sections of the Internal Revenue Code.
- A for profit or nonprofit residence or facility in which 150 individuals or more aged 62 or older reside or at an apartment building or complex in which 150 individuals or more reside.
- If neither of the above were reasonably available or convenient to use, any privately owned banquet or conference center or recreation clubhouse if the clerk of the city or township in which that building is located obtained a signed affidavit from the owner or manager of the building that certifies that he or she is not a sponsor of a political committee or independent committee or is not a candidate for election.

The bill specifies that a building owned or leased by an elected official, an individual who is a candidate up for election, or a person regulated under the Michigan Campaign Finance Act may not be designated as a polling or early voting site. If such an individual owns or leases a *portion* of a building, and that portion is *not* located within 100 feet from the entrance of the polling place or early voting site located inside the building, the building may be used.

Under current Law, the legislative body of a city or township may not establish, move, or abolish a polling place within 60 days of an election unless necessary because the site has been damaged, destroyed, or rendered inaccessible or unusable for its intended purpose. The bill applies this and similar provisions to early voting sites and central polling places and allows a board of county election commissioners to assume responsibilities related to polling places, early voting sites, and central polling places in place of a municipal legislative body.

A city, township, or county may not use as a polling place, early voting site, or central polling place a building that does not meet these requirements. For early voting sites, if a city or township cannot secure a building that meets these requirements, that city or township must enter into a municipal agreement or a county agreement (see Municipal and County Agreements below).

The bill requires the location and number of early voting sites to be selected by taking into consideration expected turnout, population density, public transportation, accessibility, travel time, traffic patterns, and any other factors that election officials consider necessary to enhance site accessibility. The location of each early voting site must be finalized at least 60 days before election day. On each day of early voting, each registered and qualified elector present and in line at the early voting site at the hour prescribed for the closing of the early voting site must be allowed to vote.

Notice Requirements

Under the bill, after a polling place or early voting site is approved, the appropriate clerk must provide a notice specifying the location of the polling place or early voting site to each registered elector entitled to vote at that polling place or early voting site. A city or township clerk may provide notice by sending each elector his or her updated voter identification card or by sending a separate notice by mail or other method designed to provide actual notice to the registered elector. A city or township clerk may only use the latter method to notify electors of

an approved early voting site. This notice must provide the site's hours of operation.

In addition to providing this required notice, the appropriate clerk must post a sign indicating the new polling place location or early voting site at the location of the former polling place location or early voting site.

This requirement does not apply to permanent and temporary changes to polling places and early voting sites. The notice must be provided at least 45 days before an election for a polling place or early voting site established or changed 60 or more days before an election. For temporary changes made to a polling place or early voting site, the notice must be provided at least 21 days before an election for a polling place or before the first day of early voting for an early voting site.

For temporary changes to a polling place within 20 days before an election or to an early voting site within 20 days before the start of early voting, the appropriate clerk must provide notice by posting a sign indicating the new polling place location or early voting site at the location of the former place or site, on the municipality or county's website, and on the Department of State's website.

Additional Early Voting

The bill allows a clerk of a municipality to set additional hours for early voting on any of the required nine consecutive days of early voting. The clerk also may offer early voting on additional days beyond the required nine. The clerk of the municipality may set the hours for those additional days of early voting without regard to the hours on the required days of early voting. Additional days must take place within 29 days of an election.

The legislative body of a municipality may adopt a resolution to conduct early voting in an election held in that municipality that is not a statewide or Federal election, and early voting for that election must be conducted in accordance with the prior requirements, except that the required nine consecutive days of early voting beginning on the second Saturday and ending on the Sunday before the election, and the required minimum of eight hours of early voting each day, do not apply.

The clerks of the municipalities participating in a municipal agreement may agree to jointly offer early voting on additional days and for additional hours. The legislative body of a municipality party to a municipal agreement may adopt a resolution to conduct early voting in an election to be held in the municipality that is not a statewide or Federal election. If one or more municipalities in a municipal agreement wish to conduct early voting in an election that is not a statewide or Federal election, they may do so jointly.

A county clerk and the legislative body of one or more municipalities may enter into an agreement for the county clerk to conduct early voting in an election that is not a statewide or Federal election. The legislative body of a municipality party to a county agreement may adopt a resolution to conduct early voting in an election to be held in the municipality that is not a statewide or Federal election.

Each early voting site in a municipality must be designated in the same manner as polling places. Each elector registered in the municipality may engage in early voting at any early voting site in that municipality. The Board of Election Commissioners of a municipality must appoint election inspectors for each early voting site in that municipality.

Early Voting in a Single Municipality

Under the bill, at least 150 days before the first regularly scheduled statewide or Federal election in an even numbered year, the clerk of each municipality intending to conduct early voting as a single municipality separate from any other municipality must notify the county clerk. That municipal clerk is responsible for administering early voting in that municipality and providing electors with notice about the approval of and changes to early voting sites.

If a municipality has 250 or more precincts, each ballot form that contains identical offices and names must be considered a separate precinct for purposes of early voting.

Early Voting for Multiple Municipalities

Under the bill, if a municipality does not wish to conduct early voting as a single municipality, it may enter either of the following:

- A municipal agreement to jointly conduct early voting with one or more other municipalities located in the same county.
- A county agreement to authorize the county clerk of the county in which that municipality is located to conduct early voting for one or more municipalities located in that county, with the assistance of, and in consultation with, the clerk of each municipality party to the county agreement.

At least 150 days before the first regularly scheduled statewide or Federal election in an even numbered year, the clerk of each municipality must notify the appropriate county clerk regarding whether the municipality intends to enter into a municipal agreement or a county agreement. At least 155 days beforehand, the clerk of each county must notify each municipal clerk regarding whether the county clerk intends to conduct early voting through a county agreement.

At least 125 days before the first regularly scheduled statewide or Federal election to be held in an even numbered year, the municipal clerks entering into a municipal agreement and the municipal clerks and county clerk of each county entering into a county agreement must finalize and sign those agreements. For a *special* statewide or Federal election, the municipal and county clerks must finalize and sign those agreements no later than 90 days beforehand.

A municipality that conducts early voting as a single municipality for a presidential primary election, no later than April 15 of the year in which the presidential primary election is held, may enter into a municipal or county agreement for the remaining statewide and Federal elections to be held in that year and the following year, and for any other elections included in the agreement. The municipal or county agreement entered may be a new agreement or an amendment to an existing agreement that is in effect for the presidential primary election if all the parties to the agreement agree to the amendment.

The SOS must prescribe the provisions to be included in a municipal or county agreement. For a county agreement, the county clerk must seek assistance from and consult with the clerk of each municipality that was a party to the agreement. The provisions must include all the following:

- The name of each municipality party to the agreement and, for a county agreement, the name of the county.
- The number of precincts in each participating municipality.

- The name of the coordinator who will organize and monitor the administrative requirements of early voting for the participating municipalities.
- The process for approving early voting sites by one or more legislative bodies of the participating municipalities.
- The process for approving early voting hours for the required nine consecutive days of early voting, and the process for approving any additional days and hours of early voting.
- The communication strategy for informing electors of the opportunity for early voting, and for publicizing each early voting site, along with their dates and hours of operation.
- The process to ensure that the SOS has the information necessary to include each location, along with their dates and hours of operation, on its website.
- The process for developing the early voting budget and cost sharing procedures.
- The process for determining the number of tabulators and early voting poll books necessary at each early voting site and the name of each municipality that provides those tabulators and early voting poll books.
- The name of the board of election commissioners that will conduct testing of the electronic voting equipment.
- The name of the clerk who downloads the early voting poll book; for a county agreement, this may be the county clerk or a designated municipal clerk.
- The supervision and staffing of each early voting site on each day of early voting.
- Information on how a receiving board or group of election inspectors will be appointed to canvass the early vote returns on election day and report early voting results to the county clerk.
- The process for a municipality or county clerk to withdraw from the agreement.

Additionally, a municipal agreement must include the board of election commissioners of the participating municipalities that will appoint the election inspectors for each early voting site. A county agreement must include a description of the process for determining the number of and location of early voting sites. The clerk of each municipality participating in a municipal agreement must notify the clerk's electors of the approval and change, either permanent or temporary, of an early voting site. For a county agreement, the county clerk or the clerk of each municipality party to the agreement must notify the clerk's electors.

The clerks of the participating municipalities or, for a county agreement, the county clerk, must appoint a coordinator to organize and monitor the administrative requirements of early voting. The coordinator must be a municipal clerk or, for a county agreement, the county clerk, or a member of the clerk's staff. The coordinator must provide oversight to ensure sufficient resources will be available and dispatched in a timely manner to each early voting site. For a municipal agreement, the coordinator must develop the early voting plan and the early voting budget for each election. The coordinator must develop the early voting plan in consultation with the clerks of participating municipalities.

For a municipal agreement, the coordinator must submit each early voting site to the legislative body of the municipality or municipalities designated by the municipal agreement for approval. A participating municipal clerk must recruit election inspectors at the request of the coordinator or county clerk or must provide the coordinator or county clerk with the list of election inspectors for that clerk's municipality. The board of election commissioners for a participating municipality or the Board of County Election Commissioners must appoint election inspectors for early voting. On request of the county clerk, a clerk of a participating municipality must make available, to the extent possible, tabulators, early voting poll books, and ballot containers for conducting early voting. (Under the bill, "early voting poll book" means the poll book utilized in early voting to create the poll list of registered electors voting at an early voting site and to comply with all statutory requirements of a poll book in an election. It may be electronic or a combination of electronic and paper, as the SOS prescribes).

For a county agreement, the county clerk, after consulting with the municipal clerks, must submit each early voting site location to the Board of County Election Commissioners for approval. Each early voting site submitted for approval may serve all electors covered by the county agreement, the electors in specific municipalities that are covered by an early voting site, the electors of one municipality, or any combination of these options, as long as each elector in the county is served by one or more early voting sites.

The clerks of the municipalities participating in a municipal agreement or the county clerk must appoint a municipal clerk (or member of the county clerk's staff) to act as supervisor for each day of early voting. A supervisor may delegate the supervisor's duty to a member of the supervisor's staff.

A municipal and county agreement must cover all statewide and Federal elections, and any additional elections included in the municipal or county agreement, for at least the entire election year in which a general November election is held and the year following. A municipal or county agreement may provide that the agreement has no fixed termination date. A party to a municipal or county agreement may withdraw from the agreement by providing at least 30 days' written notice to the other parties to the agreement but may not withdraw from the agreement during the period beginning 150 days before the first statewide general November election in an even numbered year and ending on the completion of the county canvass for that statewide general November election in that even numbered year. If any agreement covers any election in addition to the statewide and Federal elections, a party to that municipal agreement may not withdraw from the municipal agreement during the period beginning 150 days before the election covered under the municipal agreement and ending on the completion of the county canvass for that election. If a municipality withdraws from a municipal agreement, the municipality will have to conduct early voting as a single municipality.

A county clerk and the legislative body of one or more municipalities may enter into an agreement for the county clerk to conduct early voting in an election that is not a statewide or Federal election. The bill does not preclude a county clerk and a municipality from entering into an agreement for the county clerk to conduct early voting for an election in the municipality that is not a statewide or Federal election.

Early Voting Plan

Under the bill, at least 120 days before the first statewide or Federal election in each even numbered year, each single municipality or coordinator for the municipalities that have signed a municipal agreement must file an early voting plan with the county clerk of the county in which the municipality or municipalities are located. If a municipality fails to file an early voting plan with the county clerk at least 120 days before the first statewide or Federal election in each even numbered year, the county clerk of the county in which the municipality is located will have to immediately contact the municipal clerk and attempt to determine that municipality's plan for conducting early voting. Each county party to a county agreement must prepare an early voting plan within the same time period.

An early voting plan must provide sufficient details describing the processes created to conduct early voting. Each early voting plan must include all the following:

- Whether the plan covered a municipality providing early voting as a single municipality, a municipal agreement, or a county agreement.
- The name of each municipal clerk or county clerk executing the early voting plan.
- The number of precincts and registered electors in the municipality, the municipal agreement, or the county agreement, as applicable.

- The number of early voting sites, the location of each early voting site, if available, and the municipality or municipalities the early voting sites will serve.
- The name, position, and contact information of the coordinator for a municipal agreement or county agreement, if applicable.
- Any additional early voting days that will be offered before the required days, along with the hours that the early voting sites will be open on those additional days.
- Beginning January 1, 2026, whether early voting will be offered on the Monday before election day.
- The communication strategy for informing electors of the opportunity for early voting.
- The process to ensure that the SOS has the information necessary to include the location and dates and hours of operation of each early voting site on the Department of State's website.
- A copy of a municipal agreement or a county agreement, if applicable.
- Any other information as the SOS or county clerk considers necessary.

No later than 110 days before the first statewide or Federal election in an even numbered year, each county clerk must submit to the SOS a countywide early voting plan that included whether the county clerk was participating in a municipal or county agreement, information concerning which municipalities in the county are or are not participating in an agreement, the process planned for conducting early voting, and a copy of each early voting plan submitted, among other things.

Equipment and Technology

The bill requires, at each early voting site, ballots to be cast using electronic tabulating equipment authorized to be used on election day or specifically authorized for early voting in the county where the early voting site is located.

Tabulators and early voting poll books used at each early voting site must be configured in one of the ways laid out in Law and in the bill; however, the SOS may approve an alternate configuration of tabulators and early voting poll books. A municipal clerk, or the coordinator of a municipal agreement, must select a configuration set or sets and inform the county clerk of the selection within 90 days of an election. Under a county agreement, the county clerk, after consulting with the participating municipal clerks, must select the configuration set or sets within that time. A county clerk must program the tabulators to adhere to the configuration set or sets selected for each site.

The early voting poll book must be updated before early voting started each day to reflect new registered electors, absent voter ballots received, and ballots cast at early voting sites since the last update. After the close of the first day of early voting, the board of election inspectors must verify and seal tabulated ballots, note any discrepancy in the poll book, record the seal number, and report the number on the public counter on the tabulator at the end of the day and at the beginning of the day in the poll book, among other things. Additionally, the board of election inspectors must secure both absent voter ballots and tabulators used at an early voting site in a locked room and lock the building in which the early voting site will be located. The board must follow these procedures after the close of each subsequent day of early voting.

During the required early voting period, the municipal clerk or the early voting site supervisor, as appropriate, must take all necessary steps to secure the electronic voting equipment, ballot containers, blank ballots, and other election materials after the close of early voting each day until the opening of early voting on the following day. After the last day of early voting, the municipal clerk or the early voting site supervisor must deliver the electronic voting

equipment, each ballot container, the blank ballots, and other election materials to the clerk who oversees the closing of the election after the polls close on election day. No later than the Friday before election day, each municipal clerk must post on the municipality's website the location where the precinct canvass of early votes for that municipality takes place and the time the precinct canvass begins.

On-demand Ballot Printing

Ballots processed through electronic tabulating equipment must have an attached, numbered, perforated stub. The bill exempts ballots used for early voting that are produced by an on-demand ballot printing system from this requirement. Accordingly, the bill allows a different paper ballot design to be used for early voting ballots produced by an on-demand ballot printing system. Additionally, the bill amends the instructions required to be printed on a ballot secrecy sleeve or included with a ballot to note that ballots for a primary, general, nonpartisan, or special election may not have a numbered stub.

Currently, election inspectors must compare a ballot number with the number recorded on a poll list before a ballot can be tabulated or rejected. Under the bill, this requirement does not apply to a ballot used for early voting produced by an on-demand ballot printing system.

The SOS must issue instructions regarding ballots produced by an on-demand ballot printing system and that are subject to challenge.

Early Voting Related Felony

The bill prescribes certain requirements for early voting tabulation, including canvassing and recording requirements. The bill also requires a county clerk to report early voting results as a separate category and add these results to the total results for each precinct, except in certain circumstances.

Early voting results may not be generated or reported until after 8PM on election day. An individual may not intentionally disclose an election result from an early voting site before 8PM on election day. An individual who violates this provision is guilty of a felony.

Election Day Vote Centers

Under the bill, the board of election commissioners of a city or township may establish election day vote centers to tabulate ballots issued to electors who registered to vote or update voter registration on election day, if that city or township has processed 500 or more election day voter registrations in either two prior general November elections. No later than 90 days before an election, the board of election commissioners of a city or township that establishes an election day voter center will have to inform the county clerk that an election day voter center will be established in that city or township. No later than the fourth day before election day, the city or township clerk that establishes an election day vote center will have to post notice of the establishment and location of that election day vote center on the website of the city or township, if available, and in the clerk's office.

An election day vote center must operate as a polling place. It must have to have at least three election inspectors and be in the same building where the city or township clerk provides election day registration, which may include a satellite office. A political party, or an incorporated organization or organized committee of interested citizens, may have one challenger for every eight election inspectors assigned to an election day vote center. Only an elector who registers to vote or updates the elector's voter registration on election day is

eligible to cast a ballot at an election day vote center. The registered elector will have to present to an election inspector the voter registration receipt issued to the elector by the city or township clerk on election day. The elector will have to comply with all other requirements for electors.

An election inspector in an election day vote center must do all the following:

- Allow an elector to cast a ballot in the same manner as an elector whose name is listed on the voter registration list in an election day precinct.
- Enter the elector's name in the poll book approved by the SOS for use in an election day vote center.
- Issue a ballot to the elector who will have to mark the ballot and deposit it in the tabulator.

The bill requires a city or township clerk to configure an election day voter center with at least one tabulator and a corresponding poll book that lists the electors issued a ballot to be cast on that tabulator. The collected voter registration receipts must serve as one of the required polls lists, and the list of electors issued a ballot in the poll book must serve as the second required poll list. The county clerk must program the tabulators to be used in an election day voter center so that the results are included in the unofficial and official election accumulation reports that are part of the election day precinct results. The number of tabulators and poll books must conform to the way the county clerk programmed tabulators for use in an election day vote center. No later than the fourth day before election day, the city or township clerk must post notice of the establish and location of an election day voter center in the city or township on the city or township's website, if available, and in the clerk's office.

An elector in line at a city or township clerk's office, including a satellite office, by 8 PM on election day to register to vote or update a voter registration will have to be allowed to complete the voter registration transaction and be allowed to cast a ballot immediately after that transaction at that city or township election day vote center. The election inspectors at an early vote center will have to allow an elector who is issued a voter registration receipt at the city or township clerk's office on election day and who is in line at that election day vote center by 8 PM on election day to cast a ballot, including after 11:59 PM on election day if necessary. The election inspectors at an election day vote center will have to follow the same process required at an election day polling place after the last elector in line cast a ballot.

Absent Voter Ballot Tabulation

Currently, a clerk who receives an absent voter ballot return envelope containing the marked ballots of an absent voter must not open the envelope before delivering the envelope to the board of election inspectors. The city or township clerk must safely keep in the clerk's office until election day any absent voter ballot return envelopes received by the clerk before election day containing the marked ballots of an absent voter. Instead, the bill specifies that a clerk must deliver sealed absent voter ballots to a precinct board of election inspectors, an absent voter counting board, or a team of election inspectors.

Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk must deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter's precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk's list or record kept relative to those absent voters. If higher numbered ballots are used, the clerk must retain the applications and lists in the clerk's office and must keep the applications and lists open to public inspection at all reasonable hours. Absent voter

ballots must not be tabulated before the opening of the polls on election day. The bill deletes these provisions.

The bill requires each city and township clerk to review each absent voter ballot return envelope to determine whether the ballot is approved for tabulation, which will include verifying the signature on each absent voter ballot return envelope. A precinct board of election inspectors or an absent voter counting board may not make any further signature verification for an absent voter ballot return envelope. The clerk will have to write or stamp on each absent voter ballot return envelope the date, and the time and date if received on election day, that the ballot envelope was received and a statement by the clerk that the absent voter ballot was approved for tabulation. If the clerk determines that the elector's signature was missing or did not agree sufficiently with the signature on file, the clerk will have to reject the absent voter ballot and provide the elector with notice and the opportunity to cure the deficiency.

The clerk of a city or township that is not processing and tabulating absent voter ballots before election day must appoint one or more teams of two election inspectors, with one election inspector appointed from each major political party, to assist the clerk in determining whether the ballots for absent uniformed services voters and overseas voters are approved for tabulation. Beginning no earlier than seven days before an election, a team of election inspectors must assist the city or township clerk with the absent voter ballots that were electronically transmitted to absent uniformed services voters and overseas voters and were returned in envelopes that did not have the elector's signature affixed to the exterior of the return envelope. The election inspectors must open the return envelope and extract the certificate that absent uniformed services voters and overseas voters are instructed to sign and return in the same envelope as the ballot, while leaving the ballot in the return envelope. The clerk must copy the certificate bearing the elector's signature, and the election inspectors must reinsert the certificate into the return envelope and reseal the return envelope. The clerk must proceed to determine whether the absent voter ballot is approved for tabulation.

Under the bill, the clerk of a city or township may deliver absent voter ballot return envelopes to a board of election inspectors of an election day precinct only if the city or township has not established an absent voter counting board. The city or township clerk must deliver to that board of election inspectors only those absent voter ballots that have been approved for tabulation, along with the clerk's list or record that was kept relative to those absent voters. The city or township clerk must retain the applications in the clerk's office and keep the applications and lists open for public inspection during regular business hours. Absent voter ballots to be tabulated by a board of election inspectors of an election day precinct may not be tabulated before the opening of the polls on election day.

Subject to the bill's provisions, if a city or township has established an absent voter counting board, the clerk will have to deliver absent voter ballots approved for tabulation to the absent voter counting board by the time the election inspectors of the absent voter counting board reported for duty on election day. Absent voter ballots received by the clerk by 8 PM on election day and approved for tabulation will have to be delivered to the absent voter counting board.

The board of election inspectors must verify that there is an elector's signature on the absent voter ballot return envelope and that the statement on the absent voter ballot return envelope that the ballot is approved for tabulation is complete. If the elector's signature is missing or the statement that the absent voter ballot is approved for tabulation is incomplete, the board of election inspectors will have to immediately contact the city or township clerk. If the elector's signature is present and the statement that the absent voter ballot is approved for

tabulation is complete, the board of election inspectors will have to open the absent voter's voter ballot return envelope and compare the ballot number on the ballot stub with the ballot number on the face of the absent voter ballot return envelope. If the ballot numbers match, the board of election inspectors will have to prepare the ballot for tabulation as directed by the SOS.

Except as otherwise provided for absent uniformed services voters and overseas voters, if an absent voter ballot return envelope is received by the clerk after the close of the polls, the clerk will have to plainly mark the absent voter ballot return envelope with the time and date of receiving the absent voter ballot return envelope and will have to file the absent voter ballot return envelope in the clerk's office. The city or township clerk will have to as soon as practicable, but no later than 90 days after the election, notify by mail, telephone, or email any elector who returned an absent voter ballot return envelope with an absent voter ballot that was not tabulated. The notification provided to an elector by the city or township clerk must inform the elector that the elector's absent voter ballot was not tabulated and give the reason why.

(The Law extends the ballot receipt deadline of absent uniformed service voters and overseas voters by six days if the voters' ballot was postmarked by election day. In addition, a clerk must send these voters their ballots at least 45 days before the election, and if the clerk fails to do so, the Law extends the ballot receipt deadline for these voters by a period equal to the number of days that the clerk missed the deadline.)

Generally, the city or township clerk must call for and receive absent voter ballots from the post office at which the city or township clerk regularly receives mail addressed to the clerk. The clerk must deliver these absent voter ballots to the board of election inspectors or the absent voter counting board to be tabulated. The bill requires the clerk to collect mail as close as possible to 8 PM on election day and review and approve for tabulation any absent voter ballots collected before delivery to the appropriate board.

The bill deletes a requirement that the clerk, on or before 9 PM on election day, post in the clerk's office or otherwise make public the number of absent voter ballots received by the clerk on election day and delivered to the board of election inspectors, along with the total number of absent voter ballots received by the clerk both before and on election day and delivered to the board of election inspectors or the absent voter counting boards.

Additionally, current law requires a clerk to post in the clerk's office or otherwise make public, as soon as possible after all precincts in the city or township are processed, the number of absent voter ballots received by the election inspectors at the precincts on election day, along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received in the city or township for that election. Instead, the bill requires the clerk to post or otherwise make public the number of ballots tabulated for that election as soon as possible after all precincts in the city or township are processed.

Generally, voted absent voter ballots must be placed in an approved ballot container, which must be sealed in the manner provided for election day precincts. The seal number must be recorded on the statement sheet and in the poll book. The bill requires the seal number to be recorded on the ballot contained certificate and allows the seal number to be recorded in an addendum to the poll book instead of the poll book.

Under the bill, an absent voter may take the absent voter's marked absent voter ballot to the absent voter's election day polling place or to an appropriate early voting site during the early

voting period as provided under Article II of the State Constitution to personally put the absent voter's marked absent voter ballot into a tabulator to be tabulated. An absent voter must do all the following:

- Place the marked absent voter ballot in the secrecy sleeve provided to the absent voter.
- Bring the marked absent voter ballot in the secrecy sleeve to the absent voter's election day polling place or early voting site.
- Comply with the same identification requirements as an elector voting in person.

If an elector brings an absent voter ballot to an election day polling place or to an early voting site without a secrecy sleeve, an election inspector will have to provide a secrecy sleeve to that elector and instruct the elector to place the absent voter ballot in the secrecy sleeve. The election inspectors processing an absent voter under these circumstances will have to note in the poll book that the absent voter returned the absent voter's absent voter ballot to the election day polling place or early voting site and that the absent voter's absent voter ballot has been tabulated.

If the tabulators in an election day polling place may not be programmed to accept and tabulate absent voter ballots in person, an absent voter will not be authorized to return the absent voter's absent voter ballot to an election day polling place to be tabulated. An absent voter may still return the absent voter's absent voter ballot to an election day polling place, surrender the absent voter ballot to an election inspector, be issued another ballot, and vote that ballot in a polling place.

The Law allows an absent ballot voter to vote in person at the voter's precinct after the voter surrenders the absent voter ballot, which the board of election inspectors would mark as "cancelled". Under the bill, this provision does not apply to an absent voter who brought the voter's marked absent voter ballot to be cast on the tabulator at the absent voter's election day polling place or early voting site.

The bill deletes a provision specifying that, after the ballots are counted, the board of election inspectors must tie the ballots in packages or rolls, place them in a ballot bag, and attach to them an endorsed statement showing the number and kind of ballots included in the ballot bag.

Absent Voter Counting Board

A city or township may decide to use absent voter counting boards. If so, the board of election commissioners of that city or township must establish an absent voter counting board for each election day precinct. The ballot form of an absent voter counting board must correspond to the ballot form of the election day precinct for which it is established. Under the bill, a city or township with 250 or more precincts may establish at least one absent voter counting board for each ballot form containing identical offices and candidate names, and that is considered a separate precinct.

After the polls close on election day, the county, city, or township clerk responsible for producing the accumulation report of the election results must format the accumulation report.

For a city or township with 250 or more precincts using common ballot forms instead of the election day precinct format in the absent voter counting boards and early voting sites, the accumulation report will not report results from absent voter counting boards or early voting

sites as corresponding to election day precincts. Accumulation reports in each city or township will have to report the results for each election day precinct and separately report the results of each absent voter counting board and the corresponding early voting results. Each common ballot form may constitute at least one separate absent voter counting board and early voting precinct. The bill specifies that the county clerk may conduct an unofficial count to provide unofficial election returns to the public.

Currently, the board of election commissioners must establish the absent voter counting boards. Additionally, it must determine the number of ballots that may be counted expeditiously by an absent voter counting board in a reasonable period, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the SOS. Combined ballots must be regarded as the number of ballots as there are sections to the ballot. The bill deletes these provisions.

In a city or township that uses absent voter counting boards, ballots must be processed and tabulated by election inspectors assigned to the absent voter counting boards. The same laws related to election day precincts apply to absent voter counting places. Under the bill, high-speed tabulators and software to support those high-speed tabulators, as a component of an electronic voting system approved by the Board of State Canvassers for use in the State, may be used to tabulate absent voter ballots in an absent voter counting board. There is no limit on the number of absent voter counting boards that may be assigned to one building.

The bill allows the processing and tabulating of absent voter ballots to commence at the time set by the board of election commissioners, but no earlier than 7 AM on the day of the election. Additionally, it deletes a description of the duties of election inspectors who are appointed to an absent voter counting board on election day.

An election inspector, challenger, or any other individual in attendance at an absent voter counting place or combined absent voter counting place at any time after the processing of ballots has begun must take and sign an oath that may be administered by the chairperson or a member of the absent voter counting board or combined absent voter counting board. Under the bill, the clerk or a member of the clerk's staff may administer this oath. The bill also modifies the oath to the following: "I (name of individual taking the oath) do solemnly swear (or affirm) that I shall not communicate in any way information relative to any ballots or the tabulation of votes that may come to me while in this counting place until after the polls are closed. Further, I shall not photograph, or audio or video record, within the counting place, except for posted election results".

An individual may not photograph or audio or video record within an absent voter counting place. A county, city, or township clerk, or assistant of that clerk, may expel an individual from the absent voter counting place if that individual violated this provision; however, the provision will not apply to any of the following:

- An individual who photographs or audio or video records posted election results within an absent voter counting place.
- A county, city, or township clerk, or an employee, assistant, or consultant of that clerk, if the photographing or audio or video recording is done in the performance of that individual's official duties.
- If authorized by an individual in charge of an absent voter counting place, the news media that takes wide-angled photographs or video from a distance that do not disclose the face of any marked ballot.

An individual may not photograph or video record a ballot or any other election results, other than posted election results, in an absent voter counting place. An individual who violates this provision will be guilty of a misdemeanor.

The bill deletes a requirement that a person in attendance at the absent voter counting place or combined absent voter council place, including an election inspector, may not leave the counting place after the tallying begins until the polls close. Additionally, the bill deletes a provision allowing specific individuals, such as an employee of the State Bureau of Elections, to enter and leave an absent voter counting board after the tally has begun but before the polls close and associated provisions describing appropriate reasons for entering or leaving and the process for recording the individual in the poll book.

The bill specifies that, if the election inspectors appointed to an absent voter counting board are authorized to work in shifts, the absent voter ballots may not be left unattended during the transition from one shift to the next shift, or at any other time during the day after ballots were removed from the absent voter ballot return envelopes and before the absent voter ballots were sealed in the ballot container.

Instructions for Absent Voters

The Law requires specified instructions to be included with each absentee ballot. The bill adds the following step to the instructions: "Step 3. If, after voting your absent voter ballot, you wish to take your marked absent voter ballot to your polling place on election day, or to an early voting site during the early voting period, to personally put your marked absent voter ballot into a tabulator to be counted, skip Steps 4 to 7 and proceed to Step 8. If you do not proceed to Step 8, and you wish to return your marked absent voter ballot to the clerk, proceed to Steps 4 to 7."

Additionally, the bill adds Step 8: "This step applies only if, after marking your absent voter ballot, you wish to take your marked absent voter ballot to your polling place on election day, or to an early voting site during the early voting period, to personally put your marked ballot into a tabulator to be counted. Bring your marked absent voter ballot that you placed in the secrecy sleeve under Step 2 to your polling place on election day, or to an early voting site during the early voting period, and indicate to the election inspectors that you are there to put your marked absent voter ballot into the tabulator to be counted. Before tabulating your ballot, you will be required to provide identification for election purposes to the election inspectors, or sign an affidavit that you do not have identification for election purposes, and complete the ballot application."

Under the bill, an absent voter ballot may be tabulated at an election day polling place or early voting site only as authorized in the instructions provided to an absent voter, in addition to being delivered to the clerk for tabulation.

Currently, the instructions included with each absent voter ballot instruct an elector to return the absent voter return envelope through two methods. The first method is as follows: "Place the necessary postage upon the return envelope and deposit it in the United States mail, or with another public postal service, express mail service, parcel post service, or common carrier." The bill amends these instructions to read: "Deposit the postage prepaid return envelope in the United States mail or place the necessary postage on the return envelope and deposit the return envelope with another public postal service, express mail service, parcel post service, or common carrier."

If a city or township decides to use absent voter counting boards, the board of election commissioners of that city or township must establish an absent voter counting board for each election day precinct in that city or township. The ballot form of an absent voter counting board must correspond to the ballot form of the election day precinct for which it is established. Under the bill, if a city or township with 250 or more precincts is unable to program an election day tabulator to accept an absent voter ballot in any election in an election year, the appropriate city or township clerk will have to provide a modified version of the instructions for absent voters that remove the ability of an elector to return the elector's marked absent voter ballot to the elector's election day polling place to be tabulated.

At least 75 days before the day of an election, the clerk of a city or township may enter into one of the following agreements:

- An agreement with one or more clerks of other cities or townships located in the same county to establish a combined absent voter counting board to count the absent voter ballots for each participating city or township.
- An agreement with the clerk of another city or township located in the same county that authorizes the clerk of one participating city or township to process and count the absent voter ballots for both participating entities by utilizing the absent voter counting board of that participating city or township.
- An agreement with the clerk of the county in which that city or township is located to establish an absent voter counting board to count the absent voter ballots for that city or township. If a city or township has boundaries located in more than one county, the clerk of the city or township may only enter into an agreement with the county clerk of the county in which the majority of the electors of the city or township reside.

Generally, if the clerk of a city or township enters into one of these agreements, any absent voter ballot received by that city or township clerk after 4 PM on the day before an election must not be delivered to the absent voter counting board but instead delivered to the voting precinct of the elector on election day to be processed and counted. The bill provides an alternative by allowing a city or township to authorize an absent voter counting board that may only process and tabulate absent voter ballots approved for tabulation and received after 4 PM on the day before an election and before 8 PM on election day. To use this alternative method, the clerk of that city or township will have to inform the county clerk that the absent voter counting board has been authorized by that city or township's board of election commissioners at least 60 days before an election.

Pre-Election Absent Voter Tabulation

Under the bill, the board of election commissioners of a city or township with a population of at least 5,000, or a board of county election commissioners, may authorize that absent voter counting boards be established to process and tabulate absent voter ballots between the hours of 7 AM and 8 PM on any of the eight days before election day, beginning on the second Monday before election day and ending on the Monday immediately before election day. The board of election commissioners of any city or township, regardless of population size, may authorize and establish an absent voter counting board to process and tabulate absent voter ballots between the hours of 7 AM and 8 PM on the Monday immediately before election day.

To participate in the processing and tabulation of absent voter ballots before election day, the clerk of a county, city, or township must submit a written notice to the SOS no later than 28 days before election day stating the clerk's intent to participate in the processing and tabulation of absent voter ballots before election day. No later than 20 days before an election, the SOS must publish on the Department of State's website a list of those cities and townships

that notified the SOS of an intent to process and tabulate absent voter ballots before election day. No later than 18 days before an election, a clerk who notifies the SOS of the clerk's intent to process and tabulate absent voter ballots before election day must post on the website of the city or township, if available, and in the clerk's office, a notice providing the location of the absent voter counting place, the dates and hours of operation of the absent voter counting place, and the number of election inspectors who will process and tabulate absent voter ballots at the absent voter counting place. If the location, dates, hours, or number of election inspectors changes, the clerk will have to publicly post a revised notice as soon as possible, but no later than 11 days before an election, on the website of the city or township, if available, and in the clerk's office. A revised notice will have to include the updated location, dates, hours, and number of election inspectors.

If the clerk changes the number of election inspectors on subsequent days after processing and tabulating began, the clerk will have to post the updated number of election inspectors on the website of the city or township, and in the clerk's office, no later than 10 AM on the day before the changes occurred. If a city or township clerk fails to post a notice by 10 AM on the day before a change reducing the number election inspectors occurred, the clerk will have to allow the number of challengers to remain at the same level even though the reduction in the number of election inspectors may have reduced the number of allowed challengers.

For each day of processing and tabulation of absent voter ballots before election day, a participating city or township clerk must deliver the absent voter ballots approved for tabulation to an absent voter counting board. The instructions and procedures adopted by the SOS regarding the processing and tabulating of absent voter ballots before election day must be followed. Absent voter ballots must be processed and tabulated in the same manner and under the same requirements as absent voter ballots are processed and tabulated on election day. Election results may not be generated, printed, or reported before 8 PM on election day.

During the processing and tabulation of absent voter ballots before election day, each political party, and each incorporated organization or organized committee of interested citizens, may designate one challenger for every eight election inspectors serving at the absent voter counting place. If there are seven or fewer election inspectors serving at an absent voter counting place, each political party, and each incorporated organization or organized committee of interested citizens, may designate one challenger.

During the processing and tabulation of absent voter ballots before election day, the election inspectors will have to secure tabulated ballots in a sealed ballot container at the end of each day. Tabulated ballots may be added to a ballot container used on a previous day or may be placed in an unused ballot container. The election inspectors will have to complete the poll book ballot summary at the conclusion of each day to account for absent voter ballot return envelopes and absent voter ballots processed and tabulated on that day. The poll book, or an addendum to the poll book, will have to be signed and dated by one election inspector from each major political party who was present at the location after tabulation was completed each day. The city or township clerk will have to post the number of absent voter ballots tabulated each day on the website of that city or township, if available, and in the clerk's office.

A clerk may not deliver any absent voter ballots received on a day early voting is being conducted to an absent voting counting board to be processed or tabulated until the following day. An absent voter ballot may be processed and tabulated only after receipt of the absent voter ballot appears on the registration list or an addendum to the registration list in an early voting site and the voter history of electors casting an early voting ballot on the previous day

is recorded in the Qualified Voter File (QVF). An absent voter ballot will have to be canceled if the absent voter cast a ballot at an early voting site.

Currently, the Law allows the clerk of a city or township with a population of at least 10,000 to perform certain absent voter ballot pre-processing activities between 7 AM and 8 PM on the Sunday and Monday before an election if the clerk provides written notice to the SOS 20 days or more before election day. This written notice must include the location and hours that the absent voter ballot return envelopes will be opened. Additionally, the city or township clerk must make this information publicly available. The board of election commissions must appoint election inspectors to the location where the absent voter return envelopes will be opened, with one inspector representing each major political party. The bill deletes these provisions, as well as associated provisions describing the duties of election inspectors during this pre-election processing.

Spoiling a Ballot

Generally, not later than 5 PM on the Friday immediately before an election, an elector may submit a signed, written statement to the elector's city or township clerk requesting that the clerk spoil the elector's absent voter ballot and provide or mail a new absent voter ballot to the elector. An elector who has returned an absent voter ballot also may appear in person at the elector's city or township clerk's office to submit a signed, written statement indicating that the elector wished to have the prior absent voter ballot spoiled and vote a new absent voter ballot in the clerk's office. The bill modifies these deadlines to be the second Friday before an election. Under the bill, an elector may not spoil a ballot that has been tabulated.

Damaged or Defective Ballots

Under the bill, if an absent voter ballot is damaged or defective so that the absent voter ballot may not be properly counted by the electronic tabulating equipment, a true duplicate copy of that absent voter ballot will have to be made by the election inspectors from different political parties and substituted for the damaged or defective absent voter ballot. A damaged or defective absent voter ballot that cannot be properly counted by the electronic tabulating equipment must include an absent voter ballot issued to an elector that was for the wrong precinct. The election inspectors must duplicate the absent voter ballot on the correct precinct ballot only for the candidates and ballot proposals that remained the same. Each duplicate ballot must be clearly labeled "duplicate" by the election inspectors, and that duplicate ballot must bear a serial number that is recorded on the damaged or defective absent voter ballot under procedures provided by the SOS.

Reporting Requirements

The Law requires the SOS to provide a written report to the House and Senate committees dealing with elections that contains specific information. The bill deletes this requirement.

Repeal

The bill repeals Sections 14b, 24k, and 767 of the Michigan Election Law. Section 14b defines the term "absent voter ballot secrecy envelope container". Section 24k prescribes the requirements for an absent voter ballot secrecy envelope container. Section 767 describes the process by which ballots are identified, rejected, and marked as illegal.

Senate Bill 370

Current Absent Voter Registration Process; Delete

Under the Law, a person must apply in person at the clerk's office before 8 PM on election day to vote as an absent voter. Unless otherwise specified, only the individual who is not a registered elector, or an individual who is not registered to vote in the city or township in which he or she is registering to vote, and who registers to vote on election day in person with the clerk if the city or township in which the individual resides may apply for and complete an absent voter ballot in person at the clerk's office on election day. Unless otherwise specified, the clerk of a city or a township is prohibited from issuing an absent voter ballot after 4 PM on the day before an election. The applicant will receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter applications, except emergency absent voter ballots, must be mailed or delivered to the registration address of the applicant unless the application requests delivery outside the city or township or to a hospital or similar institution. In such cases, the absent voter application must be mailed or delivered to the address given in the application. Upon request of the absent voter, a clerk may mail or deliver an absent voter ballot to a post office box, if the post office box is where the absent voter normally receives personal mail, and the absent voter does not receive mail at his or her registration.

The Law allows an elector to apply for an absent voter ballot at any time during the 75 days before a *primary, special primary*, or election but no later than 8 PM on the day of a primary, special primary, or election. The elector can apply in person or by mail with the clerk of the township the elector is registered. The clerk of a city or township is prohibited from mailing an absent voter ballot to an elector after 5 PM of the Friday immediately before an election. The clerk of a city or township is prohibited from issuing an absentee voter ballot to a registered elector in that city or township after 4 PM on the day before the election. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after the individual's voter registration application and absent voter ballot application are approved by the clerk or deputy clerk the individual may complete an absent voter ballot at the clerk's office so long as the individual meets certain identification requirements.

At any time during the 75 days before an election but no later than 8 PM on the day of a primary, special primary, or election, the elector can apply in person or by mail with the clerk of the township the elector is registered. The clerk of a city or township is prohibited from mailing an absent voter ballot to an elector after 5 PM of the Friday immediately before an election. The clerk of a city or township is prohibited from issuing an absentee voter ballot to a registered elector in that city or township after 4 PM on the day before the election. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after the individual's voter registration application and absent voter ballot application are approved by the clerk or deputy clerk the individual may complete an absent voter ballot at the clerk's office so long as the individual meets certain identification requirements.

The clerk or assistant clerk is prohibited from delivering the absent voter ballot to an applicant who does not sign the absent voter ballot. Other than the applicant, only the following individuals can be in possession of a signed absent voter ballot:

- A member of the applicant's immediate family.

- A person residing in the applicant's household.
- A person whose job normally includes the handling of mail, but only during his or her employment.
- A registered elector, requested by the applicant to return the application who signs the certificate on the absent voter ballot application.
- A clerk, assistant of the clerk, or other authorized election official.

If an elector obtains his or her absent voter ballot in person from the clerk of the city or township in which he or she is registered, the clerk of the city or township may not provide the absent voter ballot to that elector until the elector identifies himself or herself to the clerk by presenting identification for election purposes. If an elector does not have identification for election purposes, the elector may sign an affidavit to that effect before the clerk of the city or township and be allowed to obtain his or her absent voter ballot in person from the clerk. The clerk of the city or township must indicate to each elector who is registered in that city or township and who obtains his or her absent voter ballot in person from the clerk that the elector may sign an affidavit indicating that the elector does not have identification for election purposes in order to obtain his or her absent voter ballot in person from the clerk. However, if an elector obtains his or her absent voter ballot in person from the clerk and votes by absent voter ballot without providing identification for election purposes required under this subsection, the absent voter ballot of that elector must be prepared as a challenged ballot as provided in Section 727 and must counted as any other ballot is counted unless determined otherwise by a court of law under Section 747 or 748 or any other applicable law. (Generally, Section 727 prescribes the duty of an election inspector to challenge an application that is known or suspected to be not qualified. Sections 747 and 748 specify a trial in the case of a contested election and the qualification of electors in a contested election, respectively.)

The bill deletes these provisions.

Absent Voter Ballot Application Process

Currently, an application for an absent voter ballot may be made in the following ways:

- By a written request signed by the voter.
- On an absent voter ballot application as provided for that purpose by the clerk of the city or township.
- On a Federal postcard application.

Under the bill, an application for an absent voter ballot also may be made using an online absent voter ballot application as provided by the SOS.

Additionally, the bill allows a registered elector to submit an absent voter ballot application in the following ways:

- By mail or email to the clerk of the city or township in which the elector resides.
- By using the online absent voter ballot application as provided by the SOS.
- Until 4 PM on the day before election day, in person to the clerk of the city or township in which the elector resides.
- On election day, in person until 8 PM, to the clerk of the city or township in which the elector resides, but only if the elector also is registering to vote or updating the elector's voter registration address.

An elector who submits an absent voter ballot on election day will have to complete the elector's absent voter ballot in the city or township clerk's office.

An absent voter ballot application submitted before a primary election may be for either that primary election only or for that primary election and for each following election that year. An absent voter ballot application submitted prior to a presidential primary election may be for that presidential primary election only or for that presidential primary election and each following election that year. A registered elector will have the right to have an absent voter ballot sent to that elector before each election by submitting a single, signed voter ballot application that covers all future elections.

Under the bill, an individual may submit a voter registration application and an absent voter ballot application at the same time. Immediately after the voter registration for that individual is approved, the clerk will have to verify the absent voter ballot application and issue the absent voter ballot to that individual. An individual who submits a voter application and voter *ballot* application at the same time and in person the day of the election will have to vote the absent voter ballot at the city or township clerk's office.

The Law specifies that the clerk of a city or township must have absent voter ballot applications forms available at all times and must furnish an absent voter ballot application to anyone upon verbal or written request. The bill modifies this language to specify that if an individual requests an application, the clerk of a city or township will have to provide the application to the individual in person, electronically, or by United States mail, with prepaid return postage, as requested by the individual. Additionally, the SOS or any county, city, or township clerk may provide an absent voter ballot application to a registered elector in the manner described above without a request from that registered elector.

Voter Ballot Application in Person

Under the bill, if an elector applies for an absent voter ballot in person at the clerk's office before 4 PM on the day before an election, the city or township clerk may not issue an absent voter ballot to that elector until the elector presents identification for election purposes. If an elector does not have identification for election purposes, the clerk will have to inform the elector that the elector will have to sign an affidavit to that effect in front of the clerk before an absent voter ballot may be issued in person to that elector. If an elector signs the affidavit, the clerk will have to issue an absent voter ballot to that elector.

Unless otherwise specified, a clerk may not issue an absent voter ballot in person to any elector after 4 PM on the day before election day. An elector who is in line at 4 PM on the day before election day will have to be issued an absent voter ballot. This also applies to an individual who submits an absent voter *application* by means other than in person at the clerk's office, but who receives that individual's absent voter ballot in the clerk's office.

An individual who registers to vote or who updates the individual's voter registration on election day in accordance with the Law may apply for and complete an absent voter ballot in person at the clerk's office on election day. The individual may receive the absent voter ballot, mark the absent voter ballot in the clerk's office, and return the absent voter ballot to the clerk in the absent voter ballot return envelope. An individual who is in line to register to vote or to update the individual's voter registration at 8 PM on election day will have to be permitted to register to vote or update the individual's voter registration, apply for an absent voter ballot, and vote the absent voter ballot after 8 PM, including after 11:59 PM on election day if necessary. An individual who registers to vote on election day and who is in line to apply for an absent voter ballot at 8 PM on election day will have to be permitted to apply for an absent voter ballot and vote the absent voter ballot after 8 PM, including after 11:59 PM if necessary.

Absent Voter Application Form

The Law prescribes the form of the absent voter application. Currently an applicant can select between a primary or special election on a certain date or an election on a certain date. The bill adds an option for an applicant to select all future elections and request an absent voter ballot for each election. Additionally, the bill specifies that the form will have to include space for the applicant to add a telephone number and email address.

The absent voter application form includes instruction for absent voter ballots. Among other steps the form prescribes how an applicant should deliver the application. The bill requires the return envelope to be the postage prepaid envelope provided by the appropriate clerk.

Under the bill, for a presidential primary election, the SOS must revise the absent voter ballot application form described above to require that a presidential primary elector indicate a political party ballot selection when requesting an absent voter ballot and provide a separate form for a presidential primary elector who has previously applied for an absent voter ballot to indicate or change a political party ballot selection.

Other than the applicant, only the following individuals may be in possession of a signed absent voter ballot application:

- A member of the applicant's immediate family.
- A person residing in the applicant's household.
- A person whose job normally includes the handling of mail, but only during his or her employment.
- A registered elector, requested by the applicant to return the application who signs the certificate on the absent voter ballot application.
- A clerk, assistant of the clerk, or other authorized election official.

Absent Voter Ballot Application Signature and Verification.

The Law requires signatures on absent voter ballot applications. Under the bill, the digital image of an elector's signature from a Michigan driver's license or official Michigan personal identification card record, or an electronic image of the elector's physical signature, must be an acceptable signature for the absent voter ballot application. An absent voter application that is missing a signature must be rejected by the clerk and the clerk must provide notice and opportunity to cure the deficiency in a manner described under Absent Voter Ballot Application Processing.

Under the Law, the QVF must be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons must be made with a digitized signature in the QVF. If the QVF does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk must compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card. If before 8 PM on the day before election day the clerk of a city or township rejects an absent voter ballot application because the signature on the absent voter application does not agree sufficiently with the signature on the master card or digitized signature contained in the QVF so as to identify the elector or because the elector failed to sign the absent voter ballot application, the city or township clerk must, as soon as practicable, but in no event later than 48 hours after determining the signatures do not agree sufficiently or that the signature is missing, or by 8 PM on the day before election day, whichever occurs first, notify the elector of the rejection by mail, telephone, or by electronic mail. The bill deletes this provision.

Instead, the bill specifies that the *signature on file* must be used to determine the genuineness of a signature on an absent voter ballot. Signature comparisons must be made by reviewing the signature. An elector's signature must be invalid only if it differs in significant and obvious respects from the elector's signature on file. Slight dissimilarities must be resolved in favor of the elector. Exact signature matches will not be required to determine that a signature agreed sufficiently with the signature on file.

Under the bill, "signature on file" means any of the following:

- Any signature of an elector contained in the QVF.
- If the QVF does not contain a copy of an elector's digitized signature, or is not accessible, the signature of the elector contained on the master card.
- Only for purposes of the signature comparison, for an elector's absent voter ballot envelope, the signature on the elector's absent voter ballot application.

If the clerk of a city or township rejects an absent voter ballot application because the signature on the absent voter ballot application does not agree sufficiently with the signature on file or because the elector has failed to sign the absent voter ballot application, the applicant will have to be provided notice and opportunity to cure the deficiency in the method described below. The notice will have to inform the applicant that the applicant will have to cure the deficiency by 4 PM on the fourth day before the election to receive an absent voter ballot by first class mail. If the applicant cures the deficiency by 4 PM on the fourth day before the election, the clerk will have to immediately send an absent voter ballot and a postage prepaid absent voter ballot return envelope to the applicant.

Absent Voter Ballot Deficiency, Curing, and Notification Process

Under the Law, if a clerk of a city or township receives an application for an absent voter ballot, the clerk must determine if the signature on the application agrees with the signature for the person contained in a qualified registration card. Upon receiving the application and after the printing of absent voter ballots, the clerk must immediately forward or deliver one of the ballots or set of ballots if there is more than one kind of ballot to be voted, to the applicant. The bill modifies this provision and instead, if the clerk or city of a township receives an application for an absent voter ballot, the clerk will have to immediately determine if the applicant is registered to vote in that city or township and if the signature on the application agrees sufficiently with the signature on file. Once the clerk verifies the application and after the printing of absent voter ballots the clerk must deliver the ballot to the applicant. Additionally, the clerk must include with the absent voter ballot a postage prepaid absent voter ballot that an applicant by first-class mail after 5 PM on the fourth day before an election.

If a clerk determines that the elector's signature on the absent voter ballot application or absent voter return envelope is missing or does not agree sufficiently with the signature on file, the clerk will have to reject the absent voter ballot application or absent voter ballot return envelope and provide the elector with notice and the opportunity to cure the deficiency.

The clerk must notify the elector of the following:

- The nature of the deficiency and that the deficiency has resulted in the rejection of the elector's absent voter ballot application or return envelope.
- The need to cure the deficiency for the absent voter ballot application or ballot to be tabulated.
- How to cure the deficiency.
- The deadline for curing the deficiency.

-- The alternative methods of voting if the deficiency is not cured.

The bill requires the clerk to notify the elector of the deficiency by the end of the next business day following the receipt of the absent voter ballot application or absent voter ballot return envelope. The clerk must notify the elector by telephone, email, or text message if available. In the absence of the elector's telephone number or email address, the clerk must notify the elector by United States mail. The clerk also may provide notice to the elector by any other available method of contact. Electronic notification of the rejection of the absent voter ballot application or return envelope that provides the information required under Section 764c, which allows for a ballot tracker program provided by the State, that also provides the required information will constitute sufficient notification to the applicant.

An elector may cure a deficiency by completing and submitting a cure form. The bill requires the SOS to prescribe the content and requirements of the cure form. An elector must be permitted to receive and return a cure form electronically, in person, or by mail with postage prepaid as a supplement to the prepaid postage for the absent voter ballot application or absent voter ballot return envelope. The city or township clerk in which the elector is registered may physically collect a cure form from the elector. A cure form must provide the elector the option to cure a deficiency in the elector's absent voter ballot application or absent voter ballot return envelope by signing the statement required for the absent voter ballot application or absent voter ballot return envelope. The SOS must modify the statements to reflect that the elector is signing a cure form for the absent voter ballot application or absent voter ballot return envelope rather than the original absent voter ballot application or absent voter ballot return envelope. An elector must be permitted to submit an electronic image of the elector's physical signature in lieu of a physical signature for a cure form returned electronically. A clerk will have to accept a cure form if the signature on the cure form agrees sufficiently with the signature on file. If the clerk determines that the signature on the cure form does not agree sufficiently with the signature on file, the clerk will reject the cure form and contact the elector to provide information on other options to cure the deficiency and to provide the alternative methods of voting available for that election.

The SOS may issue instruction to clerks to provide electors with other options, other than by providing a signature, to cure the deficiency in the elector's absent voter ballot application or absent voter ballot return envelope.

Beginning 45 days before an election, if an absent voter ballot application or absent voter ballot return envelope is received six or more calendar days before an election, the clerk will have to make a reasonable effort to verify or reject the absent voter ballot or return envelope by the end of the next business day following the receipt of that application or return envelope. If an absent voter ballot application or return envelope is received five or fewer days before an election or on election day, the clerk will have to verify or reject the absent voter ballot application or return envelope by the end of the calendar day of receiving that application or return envelope was received.

If an absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office before or during the clerk's scheduled business hours on a day, that absent voter ballot application or absent voter ballot return envelope will be considered received by the clerk on that day. If an absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office after the end of the clerk's scheduled business hours on a day, or if the absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office on a day on which the clerk does not have scheduled business hours, that absent voter ballot

application or absent voter ballot return envelope will be considered received by the clerk on the first subsequent day on which the clerk has scheduled business hours.

Each absent voter ballot application or absent voter ballot return envelope retrieved from an absent voter ballot drop box before or during the clerk's scheduled business hours must be considered received by the clerk on the day the application or return envelope is retrieved. An absent voter ballot application or absent voter ballot return envelope retrieved from an absent voter ballot drop box after the end of the clerk's scheduled business hours on a day or deposited in an absent voter ballot drop box on a day on which the clerk does not have scheduled business hours must not be considered received by the clerk until the first subsequent day on which the clerk has scheduled business hours.

An absent voter ballot return envelope collected by an election official through the procedure provided under Section 764b(4) or (5) must be considered received when the election official comes into physical possession of the absent voter ballot return envelope. The bill specifies that it does not prevent a clerk from providing a notification to an elector in a timelier manner than required. (Section 764b (4) or (5) allows a clerk to assist an absent voter in returning a absent voter ballot upon request.)

Additionally, if the clerk of a city or township receives an absent voter ballot application after the deadline for a clerk to mail an absent voter ballot by first class mail to the applicant and the clerk does not otherwise promptly provide the applicant with an absent voter ballot, the clerk will have to immediately notify the applicant that the applicant's absent voter application was rejected as not timely received and notify the applicant of the alternative methods of voting available for the election. If an absent voter ballot application is rejected due to missing the application deadline, the application will still have to be processed for any future election indicated on that application.

The clerk must notify the applicant by telephone, email, or text message if available. In the absence of the applicant's telephone number or email address, the clerk will have to notify the applicant by United States mail. The clerk may also provide notice to the applicant by any other methods of contact.

If a *county* clerk receives an application for an absent voter ballot from an individual, the county clerk will have to immediately forward that absent voter ballot application to the appropriate city or township clerk where that individual resides. If the city or township clerk receives an application for an absent voter ballot from an individual who is registered to vote in a different city or township, that clerk will have to immediately contact the individual to determine where the individual resides and where that individual is registered to vote. If that city or township clerk determines that the individual is registered to vote in a different city or township, the clerk will have to electronically forward the application to the clerk of the city or township where the individual is registered.

Unless otherwise specified, and except for ballots delivered pursuant to an emergency absent voter ballot application, absent voter ballots must be mailed or delivered to the applicant at the applicant's registration address unless the applicant requests that the absent voter ballot be sent to a different address as provided in the applicant's absent voter ballot application. In addition, a clerk may mail or deliver an absent voter ballot, on request of the applicant, to a post office if the post office box is where the applicant normally receives mail and the applicant does not receive mail at the applicant's registration address. An absent voter ballot may be delivered to an applicant in person at the clerk's office if certain conditions are met.

The Law specifies that absent voter ballots must be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued must bear the lowest number of each kind available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk's office for absent voter ballots. The bill deletes this provision.

Additionally, the Law prescribes the specifications for the form of the enclosed ballot in a return envelope. Generally, the form allows an applicant to select that they are a qualified and registered voter. The bill modifies this language and deletes qualified voter.

Absent Voter Ballot Processing

Under the Law, on receipt from the city or township clerk of an envelope containing the marked ballot or ballots of an absent voter, the board of inspectors of election must verify the legality of the vote by doing the following:

- Examining the digitized signature for the absent voter included in the QVF under Section 509q or the registration record to see that the person has not voted in person, that he or she is a registered voter, and that the signature on the statement agrees with the signature on the registration record.
- Examining the statement of the voter to see if it is properly executed.

(Generally, Section 509q prescribes the information required in the QVF.)

The QVF must be used to determine the genuineness of a signature on an envelope containing an absent voter ballot. Signature comparisons must be made with the digitized signature in the QVF. If the QVF does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk must compare the signature appearing on an envelope containing an absent voter ballot to the signature contained on the master card. The bill deletes these provisions.

Instead, under the bill, on receipt of an envelope that contains the marked ballot of an absent voter, the city or township clerk must determine whether the ballot is approved for tabulation by verifying the following:

- The elector is a registered elector and has not voted in person in that election.
- The signature on the absent voter ballot return envelope agrees sufficiently with the elector's signature on file.

Subject to Section 510(8), if the city or township clerk verifies the information above, the clerk will have to approve the absent voter ballot for tabulation and record in the QVF that the absent voter ballot has been approved for tabulation. If the city or township clerk is not able to verify the above information, the clerk will have to reject the absent voter ballot return envelope.

(Section 510(8) specifies that if an elector has died but was issued an absent voter ballot the clerk of that city or township must make every effort to remove that absent voter ballot return envelope.)

If a city or township clerk rejects an absent voter ballot return envelope because the signature on the absent voter ballot return envelope is missing or does not agree sufficiently with the

elector's signature on file, the elector will have to be granted the opportunity to cure the deficiency until 5 PM on the third day following the election in order for the absent voter ballot, if otherwise valid, to be accepted for tabulation.

If an absent voter ballot return envelope that is eligible to be cured is not cured by the close of polls on election day, that absent voter ballot return envelope will have to be retained at the clerk's office and may not be turned over to the board of election inspectors or to an absent voter counting board. An absent voter ballot return envelope that is cured after the close of the polls on election day, but before 5 PM on the third day following the election, must be accepted and the ballot tabulated if the elector has not voted in person in that election. An absent voter ballot return envelope that is not cured by 5 PM on the third day following the election must remain rejected.

On receipt of a cure form that resolved the signature deficiency on an elector's absent voter ballot return envelope, the clerk must approve the ballot for tabulation. No later than the sixth day after election day, each city or township clerk must deliver the absent voter ballot return envelopes that have been cured to the county clerk in a ballot container. The absent voter ballots in the cured absent voter ballot return envelopes must be tabulated in a meeting of the board of canvassers.

If an absent voter ballot return envelope that is eligible to be cured is not cured by the close of polls on election day, that absent voter ballot return envelope will have to be retained at the clerk's office and may not be turned over to the board of election inspectors or to an absent voter counting board. An absent voter ballot return envelope that is cured after the close of the polls on election day, but before 5 PM on the third day following the election, must be accepted and the ballot tabulated if the elector has not voted in person in that election. An absent voter ballot return envelope that is not cured by 5 PM on the third day following the election must remain rejected. On receipt of a cure form that resolves the signature deficiency on an elector's absent voter ballot return envelope, the clerk must approve the ballot for tabulation.

Senate Bill 373

Under the Law, "identification for election purposes" means, if issued to an individual presenting the card or document and if presented for voting purposes, the name on the card or document sufficiently matches the individual's name in the individual's voter registration record so as to accurately identify the individual as the registered elector, or, if issued to the individual presenting the card or document and if presented for voter registration purposes, any of the following:

- An operator's or chauffeur's license issued or an enhanced driver license.
- An official State personal identification card or an enhanced official State personal identification card.
- A current operator's or chauffeur's license issued by another state.
- A current state personal identification card issued by another state.
- A current state government issued photo identification card.
- A current United States passport or Federal government issued photo identification card.
- A current military photo identification card.
- A current tribal photo identification card.
- A current student photo identification card issued by a high school in the State, an institution of higher education in the State, a junior college or community college, or another accredited degree or certificate granting college or university, junior college, or community college located in the State.

Under the bill, the term also includes a current photo identification card issued by a local government.

The bill replaces the list of accepted issuers of a current student photo identification card with an educational institution. It defines "educational institution" as a public or private institution, or a separate school or department of a public or private institution, that is authorized by law or an accrediting body to grant or issue a diploma, degree, certificate, or license, or to grant approval to practice a profession or engage in an enterprise, and includes, but is not limited to, an academy, high school, college, university, community college, junior college, secondary school, extension course, or a business, nursing, professional, secretarial, technical, or vocational school.

House Bill 4696

The bill amends the Code of Criminal Procedure to make disclosing an election result from an early voting site before election day a Class E felony against Public Trust with a statutory maximum of five years' imprisonment. Additionally, the bill updates the MCL reference that specifies that a Forged Signature on an absentee ballot is a Class E felony against Public Trust with a maximum sentence of five years' imprisonment.

A local election official, an official's employee, an employee of the State Bureau of Elections, a county clerk, a clerk's employee, or a representative of a voting equipment company who discloses election results or how a ballot was voted is guilty of a class E felony against Public Trust with a statutory maximum of five years' imprisonment under the Code. The bill deletes this provision in accordance with the changes proposed by Senate Bill 367; however, it retains the following felony.

Under the Code of Criminal Procedure, a person who discloses how a ballot was voted or discloses election results before the polls are closed is guilty of a class E felony against Public Trust with a statutory maximum of five years' imprisonment. The bill updates the MCL reference for this felony in accordance with the changes proposed by Senate Bill 367.

House Bill 4697

Absent Voter Ballot Applications

Under the Michigan Election Law, a city or township may install absent voter ballot drop boxes if they meet certain requirements; however, this is not required. The bill requires each city or township to have at least one absent voter ballot drop box that registered electors in that city or township may use to return voted absent voter ballots *and* completed absent voter ballot applications. Unless otherwise specified, the requirements for absent voter ballots placed in a drop box apply to completed absent voter ballot applications placed in a drop box. This includes the following requirements.

When a city or township clerk, the clerk's deputy clerk, or a sworn member of the clerk's staff collects absent voter ballot return envelopes from an absent voter ballot drop box, the individual must, unless travelling to another voter ballot drop box, immediately return those collected absent voter ballot return envelopes to the city or township clerk's office. Each time an authorized individual collects absent voter ballot return envelopes, the individual must document the collection. The documentation required must be preserved and maintained by the city or township clerk for at least 22 months following the election for which the absent voter ballot return envelopes are collected. Additionally, it must include the date the absent voter ballot return envelopes are collected from the drop box and the name of the individual who collects the absent voter ballot return envelopes. The bill deletes a requirement that the

documentation include the total number of absent voter ballot return envelopes collected from the drop box.

Absent Voter Drop Boxes

If a city or township has more than 15,000 registered electors, the bill requires that city or township to have at least one absent voter ballot drop box for every 15,000 registered electors. In determining the number of registered voters in a city or township, the city or township will have to use the number of its registered electors calculated 150 days before the date of the election at which the drop boxes are to be used.

The SOS must facilitate the procurement and distribution of absent voter ballot drop boxes. It also must issue instructions regarding the application process for city or township clerks to apply for drop boxes and for the payment or reimbursement of the associated costs. If the clerk of a city or township applies to the SOS for one or more absent voter ballot drop boxes, the SOS will have to facilitate the procurement and distribution of the absent voter ballot drop boxes at no cost to the clerk of that city or township. The SOS must bear the cost of delivery, installation, repair, and video monitoring (not including video data storage) for each drop box to ensure that each drop box meets the requirements prescribed by the Law and the bill.

For an absent voter ballot drop box that is not ordered or installed in a city or township before October 1, 2020, the city or township clerk will have to use video monitoring of that absent voter drop box during the 75 days before each election and on election day to ensure effective monitoring of that absent voter ballot drop box. Beginning January 1, 2026, regardless of when an absent voter ballot drop box is ordered or installed, the city or township clerk must use video monitoring of each absent voter ballot drop box during the 75 days before each election and on election day to ensure effective monitoring of each absent voter ballot drop box in the city or township.

A city or township may have more than the minimum number of absent voter ballot drop boxes. Any additional drop boxes used by a city or township must conform to the requirements below.

Location requirements

The bill requires the clerk of each city or township to ensure that absent voter ballot drop boxes are distributed equitably throughout the city or township. In determining the location for a drop box, the clerk of the city or township must consider, at a minimum, all the following:

- Population density and distribution.
- Proximity to public transportation and parking.
- Accessibility, including for electors with disabilities.
- Any other factors the clerk considers relevant.

Each city or township clerk must ensure that the SOS has the information necessary to include on the Department of State's website the location of each absent voter ballot drop box in that city or township to enable an elector to determine the location of each drop box.

Drop Box Requirements

The bill modifies current drop box requirements. Firstly, it specifies that a drop box must be labeled as an absent voter ballot drop box that may be used to return completed absent voter ballot applications and voted absent voter ballots. Secondly, it must be securely locked,

affixed to the ground or to another stationary object, and designed to prevent the removal of ballot applications and ballots when locked. The bill removes a requirement that a drop box be secured to prevent its removal from its location if it is in an area that is not continuously staffed.

The bill extends current requirements for an absent voter ballot drop box located outdoors to all drop boxes. The drop box must be equipped with a slot or mailbox-style level to allow absent voter applications and ballot return envelopes to be placed in the drop box. All other openings on the drop box must be securely locked. The bill adds a requirement that a drop box be accessible 24 hours each day during the 40 days before election day and be accessible until 8 PM on election day. The bill allows a city or township clerk to use video monitoring on any drop box.

Under current Law, a city or township clerk, the clerk's deputy clerk, or a sworn member of the clerk's staff is required to collect, on any day in which the city or township clerk's office is open for business, the election materials deposited in an absent voter ballot drop box beginning 15 days before each election. The bill requires an authorized individual to collect election material from a drop box beginning 35 days before an election.

MCL 168.570 et al. (S.B. 367)
168.759 (S.B. 370)
168.2 (S.B. 373)
777.11d (H.B. 4696)
168.761d (H.B. 4697)

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bill 367 was amended to incorporate the provisions of Senate Bill 387 from the 2023-2024 Legislative Session, which described early ballot processing. House Bill 4697 is a companion bill to Senate Bill 372. House Bill 4696 is a companion bill to Senate Bill 368 and was amended to incorporate provisions of Senate Bills 371 and 386.

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 Proposal enshrined in the Constitution the right for a registered voter to vote in statewide and Federal elections in-person at an early voting site. It required an early voting site to be open for at least nine consecutive days and for at least eight hours a day, beginning on the second Saturday and ending on the Sunday before the election. The proposal specifies that early voting sites would be governed in the same manner as election-day polling places, except that an early voting site may serve voters from more than six precincts and from more than one municipality within a county. The Proposal prohibits early voting results from being generated or reported until after 8 PM on election day.⁵ The Proposal also established a voter's right to State-funded postage for absentee applications and ballots and the right of a registered voter to prove his or her identity when voting or applying for an absentee ballot in person by presenting his or her photo identification issued by a Federal, State, local, or tribal government or an educational institution (or, if the individual did not have a photo identification, the right to execute an affidavit verifying identity). Additionally, the Proposal included a requirement that the State fund and provide at least one drop box per 15,000 registered voters in every municipality, that those drop

⁵ "November 2022 Ballot Proposal 22-2", Senate Fiscal Agency.

boxes be distributed equitably, and that they be available 24 hours a day during the 40 days before any election. 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.⁶

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Due to Proposal 22-2, the State Constitution guarantees voters nine days of early in-person voting, prepaid postage for absent voter applications and ballots, the ability to use certain forms of photo identification, and State-funded absent ballot drop boxes. The bills enact these Constitutional requirements and update the Law to align with the will of the voters.

Response: The bills extend far beyond the provisions enacted by Proposal 22-2. For example, Senate Bill 367 will allow for on-demand ballot printing, for electors to tabulate their absent voter ballots in person at their polling places or at appropriate early voting sites, and for the preprocessing of ballots before election day. Voters did not approve these provisions as part of Proposal 22-2.

Supporting Argument

The bills will give clerks, pollworkers, and voters greater flexibility. According to testimony before the Senate Committee on Elections and Ethics, Michigan's voting districts are too varied for a one-size-fits-all option. Senate Bill 367 allows communities to tailor their election processes through the early voting plan. Municipalities may form partnerships to combine resources and hold additional days and times beyond the nine days of required early voting to further streamline the election process. House Bill 4697 requires a city or township to have one drop box per 15,000 registered electors but does not prohibit a city or township from having more. Overall, the bills will allow communities to design the election process to suit their needs.

Supporting Argument

The bills contribute to a more efficient election process. Voters will have a variety of ways to cast their ballots, from voting in-person at an early voting center to dropping off an absent voter ballot at a clerk's satellite office, a secure dropbox, or by tabulating it at the voter's polling place. Distributing ballots across these options will prevent congestion in voting, tabulating, and counting ballots. Additionally, the bills make changes to preexisting processes to increase the timeliness of elections, such as by allowing clerks to begin tabulation of absent voter ballots before election day. According to testimony before the Senate Committee on Elections and Ethics, reducing the time crunch associated with counting ballots also will lead to more accurate results, as clerks and poll workers are no longer required to count under such high stress. Overall, the bills will adjust Michigan's election process to be timelier and more precise.

Supporting Argument

The bills will increase voting accessibility and democratic engagement. The current requirement that voters pay for postage on absentee ballots may dissuade people from voting absentee, especially voters who may be unable to afford the financial burden of stamps. Citizens, regardless of their socio-economic status, should be able to vote. Senate Bill 370 removes this financial barrier by requiring the State to provide prepaid postage for absent voter applications and ballots. Senate Bill 373 expands accessibility in identification requirements. The bill clarifies the language for educational institutions, allowing students

⁶ "2022 Michigan Election results," Elections, Michigan Department of State. Retrieved on 4-11-23.

enrolled in a technical or vocational school to use their student identification for voting. It also allows identification issued by local governments, such as counties and cities, to be used, including a Concealed Pistol License (CPL) and a municipal ID, such as those issued by Kalamazoo and Washtenaw Counties, as well as the City of Detroit. These forms of identification are more affordable and convenient for residents, especially those who do not drive. Overall, the bills will allow voters to vote in the way that best suits them, removing potential barriers and increasing democratic engagement.

Supporting Argument

Senate Bill 370 will amend the signature curing process to benefit voters. Michigan Election Law requires voters to sign their absentee ballot envelopes; however, their signatures may appear different to those on public record due to a variety of reasons. For example, a voter might sign the envelope in a rush. In such cases, the voter's ballot should not be thrown out. Additionally, voters may forget to sign their ballot envelopes entirely. During the 2020 August primary, 1,500 ballots were rejected because voters forgot to sign the ballot envelopes.⁷ Voters should not be disenfranchised for a slightly different signature or for forgetting to sign their ballot envelope. Thus, the signature curing process should be signed into law.

Supporting Argument

House Bill 4697 requires a municipality to install at least one dropbox for every 15,000 voters. Some voters may feel more secure dropping off an absent voter ballot in a drop box or at a clerk's office rather than risk postal delays. As such, the bill will provide citizens greater flexibility and access to voting.

Opposing Argument

The bills grant the SOS too much power over the election process. Among other things, the SOS will have to supervise the implementation and conduct of early voting; issue instructions regarding challenge ballots and ballots printed on demand; facilitate and bear the cost of the procurement, distribution, repair, and video monitoring of absent voter ballot drop boxes; and prescribe the provisions for municipal and county agreements. Additionally, the SOS may approve an alternative configuration of tabulators and early voting poll books other than those provided in statute and by the bills. The State Constitution grants the power to regulate the time, place, and manner of all elections to the Legislature, not the SOS. The SOS is also a partisan office, which may compromise confidence in the State's election process. The bills should have gone through the Legislature's Joint Committee on Administrative Rules (JCAR) where they could be further considered by the Legislature and the public.

Response: The JCAR process is too lengthy and time-consuming. With the impending February 2024 primary, clerks need guidance on how to implement these significant elections changes now. Allowing the SOS to provide instruction to clerks is efficient and practical.

Opposing Argument

These bills do not prioritize election security. For example, Senate Bill 367 allows on-demand ballot printing, which caused issues in Maricopa County, Arizona, during the 2020 General Election when tabulators rejected on-demand ballots printed with light ink.⁸ Additionally, the bill allows a voter to take the voter's marked absent voter ballot to an election day polling place and tabulate it. The poll book must then be updated daily. Allowing different types of ballots to be placed in the tabulator and requiring constant pollbook updates could lead to confusion, making it easier for bad actors to take advantage of the system and making recounts more difficult.

⁷ Campbell, Bob, "Signature errors ruin thousands of Michigan ballots. Don't be that voter", *Bridge Michigan*, Oct. 2020.

⁸ Kochi, Sudiksha, et al., "Fact check: Printing glitches caused temporary vote-counting halt in Arizona", *USA Today*, Nov. 2022.

Senate Bill 373 allows municipal identification cards to be used for photo identification purposes when voting. All residents of a municipality, whether that be Washtenaw County or the City of Detroit, are eligible for a municipal ID, regardless of citizenship or immigration status. A non-citizen may accidentally or on purpose attempt to vote using a municipal ID, which will be hard to catch with same-day voter registration. The bills may leave Michigan elections open to fraud.

Response: Receiving a municipal ID does not automatically register an individual as a voter. An individual still needs to fill out a voter registration application, swearing that the individual is a United States citizen. A non-registered individual attempting to use a municipal ID as a form of identification will be turned away. The photo identification requirement merely ensures that a voter's face and name match. The layers of protection against fraud will remain in place.

Opposing Argument

The consolidation of polling places and early voting centers may negatively affect voters. Counties and municipalities may enter into county or municipal agreements under Senate Bill 367, pooling polling places. This may disadvantage some voters, especially those who must drive a long distance to a polling site or have unreliable transportation. For example, in 2005 Texas created the Countywide Polling Place Program, which allows residents of participating counties to vote in any polling place across the county. For an election held in the first year in which a county participates in the program, the total number of polling places must be at least 65% of the number of precinct polling places that would otherwise be located in the county and, in subsequent years, 50%.⁹ Data from the 2010 Texas midterm election and the 2014 Texas midterm election suggests that the greater distance created by countywide vote centers decreased the probability of voting for rural and Hispanic voters.¹⁰ Michigan should avoid practices that have disparate effects on voters and make sure the location of municipal and county polling places considers factors such as driving distance.

Opposing Argument

By offering districts flexibility, Senate Bill 367 may make districts unequal. Some districts may have enough resources to provide more than the required number of days and hours of early voting; however, some districts may only be able to provide the minimum. Thus, voters in various districts may experience unequal access to voting.

Response: Senate Bill 367 is equitable and constitutional. The Constitution provides for *at least* nine consecutive days of early voting. Additionally, the Constitution allows for "additional days and hours beyond what is required herein at the discretion of the election official authorized to issue ballots in the jurisdiction conducting the election".¹¹ The Legislature cannot cap the period of early voting. It is up to various municipalities to set their own timeline, depending on their resources and anticipated demand. Larger, well-resourced communities are likely to have higher demand. As such, Senate Bill 367 provides voters equitable access to voting, in alignment with the Constitution.

Opposing Argument

Senate Bill 367 makes the counting and tabulation of ballots less secure. For example, it allows only one challenger for every six or eight election inspectors. Additionally, it removes the requirement that election officials and poll workers be sequestered while counting ballots. Current security requirements should be bolstered, not removed.

Response: Sequestering election officials is an antiquated practice. According to testimony before the Senate Committee on Elections and Ethics, the practice was necessary

⁹ Ingram, Keith, "Countywide Polling Place Program FAQs", Texas Secretary of State, Jan. 2016.

¹⁰ Cortina, Jeronimo, and Brandon Rottinghaus, "'The Quiet Revolution': Convenience Voting, Vote Centers, and Turnout in Texas Elections", *Politics, Groups, and Identities*, Vol. 11, Issue 2, 2023.

¹¹ MI Const. art II, § 4.

when ballots were physically counted and tallied. Now, due to the usage of tabulators, few can see the results of an ongoing election and disclose sensitive information. Additionally, sequestering officials would not be possible for at least nine days of early voting.

Opposing Argument

Senate Bill 367 requires clerks to send separate notice requirements, such as for the approval or changing of polling places, whether permanent or temporary. Clerks will most likely provide notice by mail, which may prove expensive and inconvenient. For example, it would cost the clerk of Wayne County approximately \$936,000 to send the county's 1.4 million voters a single notification. The bill's intensive notification requirements may prove burdensome for clerks and voters.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

Senate Bill 367

The Department of State estimates the total implementation costs for early voting for Fiscal Years (FYs) 2022-23 and 2023-24 at \$45.4 million. Of that, \$9.5 million will be expended by the State and \$36.0 million will be expended by local units of government. These figures include the cost to locals of 5,000 tabulators and over 1,700 voter assistance terminals. Costs to the State include expenditures for four IT programmers, 5,000 electronic poll books, and QVF network and performance upgrades.

The Department estimates annual ongoing costs to local units of government for FY 2024-25 at \$10.0 million. These costs may increase in subsequent years due to a provision in the bill stating that early voting may be expanded to the Monday prior to an election beginning January 1, 2026, or if a significant number of jurisdictions otherwise expand early voting beyond the nine days required under the bill. In addition, locals may incur unknown costs if it was necessary to print or obtain new ballot sleeves to meet the revised secrecy sleeve requirements.

The bill requires the appropriate clerk of a municipality or county to provide notification to all electors registered to vote in their jurisdiction upon approval of an early voting site. Although clerks will not be required to provide notice by mail, it is likely that this will be the most common method of communication. The average mailing cost for the Department of Technology, Management, and Budget for a 1 oz to 3.5 oz parcel is \$0.66. If a single notification was sent to all 8.2 million electors in the State, postage costs would total approximately \$5.4 million. However, actual costs may be higher if multiple mailings were required. These costs will occur each election.

The bill may have further indeterminate cost implications for local units of government related to building rentals, purchase of additional tabulators and poll books, and related IT costs. Based on Department of State estimates, the cost for a tabulator is \$5,600 while the cost of an electronic poll book is \$1,500. Information technology programming costs for tabulators and poll books is an estimated \$250,000 per programmer hired. Building rental costs will vary by municipal jurisdictions and depend on the number and size of buildings needed to comply with the bill and the number of jurisdictions that may combine to comply with the bill. Additionally, the bill allows certain jurisdictions to combine to establish election day vote centers to tabulate ballots. Jurisdictions also could combine precincts to establish absent voter counting boards. The combining of jurisdictions and precincts could result in lower costs as

the costs may be shared. Thus, the costs for locals may vary widely and depend on the specific needs for equipment and personnel to meet the bill's requirements.

The bill may have an indeterminate negative fiscal impact on the State and local governments. It is silent on the penalties for violating the prohibition against photographing or audio or video recording within an absent voter counting place. It is also silent on the penalty of a felony for disclosing early voting results before 8 PM on election day. More misdemeanor and felony arrests and convictions may increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions may increase county jail and local probation supervision costs, which vary by jurisdiction and thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates for housing a prisoner in a State correctional facility range from a low of \$98 to a high of \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue will increase funding to public libraries.

Senate Bill 370

The bill will have costs for the Department of State and local units of government related to the mailing of absentee voter (AV) applications, ballots, and pre-paid return postage costs. Proposal 22-2 requires the State to pay for the costs of pre-paid return postage for AV applications and AV ballots. Based on the elections in 2022, the costs to the State for pre-paid return postage for AV applications and AV ballots for those elections totaled an estimated \$1.4 million (averaging \$0.64 per parcel) while the average cost to locals for mailing applications and ballots for the November 2022 election totaled \$1.75 million (averaging \$0.80 per parcel). The costs for the State and local units of government are indeterminate and will depend on the number of AV applications and ballots that are mailed under the bill's provisions. Each application and ballot that will have to be mailed and returned under the bill will cost the State, on average, \$0.64 per parcel while locals will pay an average of \$0.80 per parcel mailed.

Senate Bill 373

The bill will have no fiscal impact on State or local government.

House Bill 4696

The bill will have no fiscal impact on local government and an indeterminate fiscal impact on the State, considering the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill will not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

House Bill 4697

The bill will have significant costs for the State to provide absent voter drop boxes for each municipal jurisdiction. Proposal 22-2 requires there to be one drop box per municipal jurisdiction and at least one additional drop box for every additional 15,000 registered voters in the jurisdiction. The State has determined the average cost of installation, video monitoring, additional staffing costs, and development of training materials and clerk assistance to be \$8,100 per drop box. The State anticipates the purchase and installation of an initial 1,800 drop boxes across the State to meet the minimal requirement, totaling an estimated cost of \$14.3 million, excluding staffing costs. The estimated ongoing costs beginning in FY 2023-24 would total \$2.0 million annually and consist of costs for video monitoring and maintenance for 1,800 drop boxes. Additionally, there may be costs for the Department of State to create, maintain, and make available a map designating the location of each drop box in the State. The costs should be minimal and absorbable within annual appropriations.

Fiscal Analyst: Joe Carrasco, Jr.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.