

## PROVISIONAL BALLOTS

**House Bill 5074**

**Sponsor: Rep. Michael Bishop**

**Committee: Redistricting and Elections**

**Complete to 10-4-01**

### **A SUMMARY OF HOUSE BILL 5074 AS INTRODUCED 9-20-01**

The bill would amend the Michigan Election Law to allow a person to cast a provisional ballot at an election under certain circumstances. A "provisional ballot" would be defined as a ballot provided to an individual on election day because 1) the individual's name did not appear in the registration book or the individual was challenged as not being a qualified and registered voter and that fact could not be immediately verified; or 2) the individual had requested an absentee ballot and there was no verification that the individual had voted and returned that ballot.

A provisional ballot, once voted, would be placed in a provisional ballot envelope. After an election inspector had placed the ballot in the special envelope, he or she would plainly endorse on the envelope in pencil the number corresponding to the number placed after the voter's name on the poll lists without opening the ballot. An election inspector or other election official who removed the ballot from the envelope, attempted to identify the ballot of a voter, or who allowed another to remove the ballot or attempt to identify the ballot of a voter, would be guilty of a misdemeanor.

The provisional ballot would be processed in the same manner as an absentee ballot, meaning, generally speaking, that the board of election inspectors would have to verify the legality of the vote by examining registration records and either rejecting or accepting the ballot.

The bill would modify Section 729 of the election law, which currently addresses the procedure to be followed when a person attempting to vote is challenged as unqualified. Currently, the person challenged must answer questions under oath concerning his or her qualifications, and if the person's answers show the person to be a qualified elector in the precinct, he or she is entitled to a ballot, and if not, the person is not entitled to a ballot.

House Bill 5074 would amend Section 729 so that a person challenged as unqualified or unregistered or because his or her name did not appear in the registration book would be given a provisional ballot if his or her answers showed that he or she "may be" a qualified and registered elector. Further, the bill would specify that if a person was challenged as unqualified or unregistered after he or she had voted, he or she also could be sworn and questioned. If the answers showed the person may be a qualified and registered elector in the precinct, then the ballot would be placed in a provisional envelope and processed. If the answers showed that the person was not a qualified and registered elector, then the ballot would be placed in a provisional ballot envelope and marked as "rejected as illegal". The section currently says that if an answer is not true, the person being questioned would be guilty of perjury (upon conviction). The bill would amend that to add that if an answer was not true or could not be verified, the matter would

be referred to the attorney general. As now, upon conviction, the challenged elector would be guilty of perjury.

[Note: Section 509y of the election law also allows persons who are not listed in registration records or precinct voting lists to vote under certain circumstances. If a person who otherwise meets the qualifications to vote in the jurisdiction presents a receipt verifying the acceptance of a registration application and fills out a new application, he or she must be allowed to vote. The section also allows a person to vote if he or she cannot produce a receipt as long as the person is otherwise qualified to vote in the jurisdiction, signs an affidavit affirming he or she submitted a voter registration application on or before the close of registration, completes a new application, and provides proof of identification sufficient to satisfy the clerk as to the identity and residence of the voter.]

MCL 168.9a et al.

Analyst: C. Couch

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