

HOUSE BILL No. 4056

January 27, 2005, Introduced by Rep. Mayes and referred to the Committee on House Oversight, Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 726 (MCL 168.726) and by adding sections 38, 726a, and 726b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 38. (1) AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
2 THAT ADDED THIS SECTION AND BEFORE JANUARY 1, 2010, IN PREPARATION
3 FOR THE AUTHORIZATION UNDER SECTION 726A TO CONDUCT ELECTIONS BY
4 MAIL, THE SECRETARY OF STATE SHALL CONDUCT AN ELECTION BY MAIL
5 PILOT PROJECT IN COMPLIANCE WITH THIS SECTION.

6 (2) IN COOPERATION WITH LOCAL GOVERNMENTAL UNITS AND IN
7 ACCORDANCE WITH ALL OF THE FOLLOWING CRITERIA, THE SECRETARY OF
8 STATE SHALL SELECT EITHER 6 OR 8 LOCAL GOVERNMENTAL UNITS IN WHICH

1 TO HOLD PILOT PROJECT ELECTIONS BY MAIL:

2 (A) THE JURISDICTIONS SHALL HAVE A SUBSTANTIAL VARIANCE IN THE
3 SIZES OF THEIR POPULATIONS.

4 (B) THE JURISDICTIONS SHALL BE EVENLY DIVIDED BETWEEN
5 JURISDICTIONS WHOSE ELECTORS AT THE 2004 PRESIDENTIAL ELECTION CAST
6 THE MAJORITY OF THEIR VOTES FOR THE CANDIDATE RECEIVING THE HIGHEST
7 NUMBER OF POPULAR VOTES AND THE CANDIDATE RECEIVING THE SECOND
8 HIGHEST NUMBER.

9 (C) EACH JURISDICTION SHALL BE ANTICIPATING AN ELECTION AT
10 WHICH AN ELECTOR'S ONLY CHOICE ON THE BALLOT IS A SINGLE, CONTESTED
11 OFFICE OR A SINGLE BALLOT QUESTION.

12 (3) WITH THE ASSISTANCE OF THE ELECTION OFFICIALS FOR EACH
13 LOCAL GOVERNMENTAL UNIT SELECTED UNDER SUBSECTION (2), THE
14 SECRETARY OF STATE SHALL CONDUCT AN ELECTION BY MAIL IN EACH OF
15 THOSE JURISDICTIONS. A LOCAL ELECTION OFFICIAL SHALL COOPERATE WITH
16 THE SECRETARY OF STATE IN THE CONDUCT OF A PILOT PROJECT ELECTION
17 BY MAIL.

18 (4) A PILOT PROJECT ELECTION BY MAIL SHALL BE CONDUCTED IN
19 COMPLIANCE WITH SECTION 726B. DURING THE PILOT PROJECT, AN ELECTION
20 SHALL BE HELD AS AN ELECTION BY MAIL ONLY FOR AN ELECTION AT WHICH
21 AN ELECTOR'S ONLY CHOICE ON THE BALLOT IS A SINGLE, CONTESTED
22 OFFICE OR A SINGLE BALLOT QUESTION. IF, AFTER A LOCAL GOVERNMENTAL
23 UNIT IS SELECTED UNDER SUBSECTION (2), THE SECRETARY OF STATE
24 DETERMINES THAT THE ELECTION DESCRIBED IN SUBSECTION (2)(C) IS
25 UNLIKELY TO OCCUR, THE SECRETARY OF STATE SHALL SELECT A
26 REPLACEMENT LOCAL GOVERNMENTAL UNIT IN ACCORDANCE WITH THE CRITERIA
27 IN SUBSECTION (2).

1 (5) BEFORE JANUARY 15, 2010, THE SECRETARY OF STATE SHALL
2 SUBMIT A REPORT ON THE ELECTION BY MAIL PILOT PROJECT TO THE
3 STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
4 WITH PRIMARY RESPONSIBILITY FOR ELECTION ISSUES. THE SECRETARY OF
5 STATE SHALL INCLUDE ALL OF THE FOLLOWING IN THE REPORT:

6 (A) THE COST OF EACH ELECTION BY MAIL WITH A COMPARISON TO THE
7 COST OF A SUBSTANTIALLY SIMILAR ELECTION HELD IN THE SAME LOCAL
8 GOVERNMENTAL UNIT.

9 (B) THE LEVEL OF VOTER PARTICIPATION IN EACH ELECTION BY MAIL
10 WITH A COMPARISON TO THE LEVEL OF VOTER PARTICIPATION IN A
11 SUBSTANTIALLY SIMILAR ELECTION HELD IN THE SAME LOCAL GOVERNMENTAL
12 UNIT.

13 (C) OTHER INFORMATION THE SECRETARY OF STATE CONSIDERS
14 RELEVANT.

15 (6) AS USED IN THIS SECTION, "LOCAL GOVERNMENTAL UNIT" MEANS A
16 CITY, VILLAGE, OR TOWNSHIP FOR WHICH AN ACCURATE COUNT OF THE VOTES
17 CAST IN THE 2004 PRESIDENTIAL ELECTION EXISTS IN LOCAL OR STATE
18 RECORDS.

19 Sec. 726. ~~No ballots~~ A BALLOT shall NOT be delivered to an
20 elector by ~~any~~ A person other than ~~1 of the inspectors of~~ AN
21 election INSPECTOR and only within the polling place, except as
22 provided in this act for AN absent ~~voters' ballots~~ VOTER OR AN
23 ELECTION BY MAIL BALLOT.

24 SEC. 726A. (1) AFTER DECEMBER 31, 2009, A LOCAL GOVERNMENTAL
25 UNIT'S OR SCHOOL DISTRICT'S GOVERNING BODY MAY DECIDE THAT AN
26 ELECTION TO BE HELD IN THAT LOCAL GOVERNMENTAL UNIT OR SCHOOL
27 DISTRICT BE HELD AS AN ELECTION BY MAIL. IF AN ELECTION IS HELD IN

1 ONLY 1 LOCAL GOVERNMENTAL UNIT OR SCHOOL DISTRICT AND, AT LEAST 63
2 DAYS BEFORE THE DATE OF THE ELECTION, THE LOCAL GOVERNMENTAL UNIT'S
3 CLERK OR SCHOOL DISTRICT'S SECRETARY OF THE SCHOOL BOARD RECEIVES
4 NOTICE OF THE GOVERNING BODY'S DECISION THAT AN ELECTION BE HELD AS
5 AN ELECTION BY MAIL, THE CLERK OR SECRETARY SHALL CONDUCT THAT
6 ELECTION AS AN ELECTION BY MAIL IN COMPLIANCE WITH SECTION 726B. IF
7 AN ELECTION IS HELD IN MORE THAN 1 LOCAL GOVERNMENTAL UNIT OR
8 SCHOOL DISTRICT AND, AT LEAST 63 DAYS BEFORE THE DATE OF AN
9 ELECTION, THE GOVERNING BODY OF EVERY LOCAL GOVERNMENTAL UNIT OR
10 SCHOOL DISTRICT IN WHICH THE ELECTION IS TO BE HELD NOTIFIES ITS
11 CLERK OR SECRETARY OF THE SCHOOL BOARD OF THE GOVERNING BODY'S
12 DECISION THAT THE ELECTION BE HELD AS AN ELECTION BY MAIL, THE
13 ELECTION SHALL BE CONDUCTED AS AN ELECTION BY MAIL IN COMPLIANCE
14 WITH SECTION 726B.

15 (2) THE SECRETARY OF STATE SHALL COOPERATE WITH EACH LOCAL
16 GOVERNMENTAL UNIT OR SCHOOL DISTRICT THAT CONDUCTS AN ELECTION BY
17 MAIL AS AUTHORIZED UNDER SUBSECTION (1). TO THE EXTENT POSSIBLE,
18 THE SECRETARY OF STATE SHALL ADVISE AND ASSIST A LOCAL GOVERNMENTAL
19 UNIT OR SCHOOL DISTRICT IN CONDUCTING AN ELECTION BY MAIL.

20 (3) AFTER DECEMBER 31, 2009, AT HIS OR HER DISCRETION, THE
21 SECRETARY OF STATE MAY CONDUCT 1 OR MORE OF THE FOLLOWING ELECTIONS
22 AS AN ELECTION BY MAIL IN COMPLIANCE WITH SECTION 726B:

23 (A) AN AUGUST PRIMARY HELD UNDER SECTION 534.

24 (B) A GENERAL NOVEMBER ELECTION.

25 (C) AN ELECTION IN WHICH A CANDIDATE FOR STATE OR FEDERAL
26 OFFICE OR FOR THE OFFICE OF SUPREME COURT JUSTICE OR JUDGE OF THE
27 COURT OF APPEALS IS NOMINATED OR ELECTED.

1 (D) A STATEWIDE SPECIAL ELECTION.

2 (4) AN ELECTOR MAY OBTAIN A REPLACEMENT BALLOT FOR AN ELECTION
3 BY MAIL BALLOT THAT IS NOT RECEIVED OR IS LOST, DESTROYED, OR
4 SPOILED. THE ELECTOR SHALL SUBMIT TO THE ELECTION OFFICIAL
5 RESPONSIBLE FOR ISSUING THE ELECTION BY MAIL BALLOT A STATEMENT
6 WITH THE ELECTOR'S SIGNATURE CERTIFYING THAT THE BALLOT WAS NOT
7 RECEIVED OR WAS LOST, DESTROYED, OR SPOILED. AN ELECTION OFFICIAL
8 WHO RECEIVES THE CERTIFIED STATEMENT BEFORE 8 P.M. OF THE ELECTION
9 DATE SHALL ISSUE THE ELECTOR ANOTHER BALLOT AND MAKE AND MAINTAIN A
10 RECORD OF THAT ACT. IF A REPLACEMENT BALLOT IS ISSUED MORE THAN 4
11 DAYS BEFORE THE ELECTION DATE, AN ELECTION OFFICIAL MAY MAIL THE
12 REPLACEMENT BALLOT. IF AN ELECTOR RETURNS A SPOILED BALLOT, THE
13 ELECTION OFFICIAL SHALL WRITE THE WORD "SPOILED" ON THE FACE OF THE
14 BALLOT AND PROCEED AS PROVIDED IN THIS ACT FOR SPOILED BALLOTS.

15 SEC. 726B. (1) AN ELECTION OFFICIAL CONDUCTING AN ELECTION BY
16 MAIL SHALL CONDUCT THE ELECTION IN COMPLIANCE WITH THIS SECTION.
17 THE ELECTION OFFICIAL CONDUCTING AN ELECTION BY MAIL SHALL
18 DESIGNATE 1 OR MORE LOCATIONS TO WHICH AN ELECTOR MAY RETURN THE
19 ELECTOR'S ELECTION BY MAIL BALLOT ON THE ELECTION DATE. EACH
20 LOCATION DESIGNATED UNDER THIS SUBSECTION SHALL BE OPEN TO RECEIVE
21 BALLOTS FROM 7 A.M. TO 8 P.M. ON THE ELECTION DATE.

22 (2) AN ELECTOR WHO WANTS TO VOTE IN AN ELECTION BY MAIL SHALL
23 COMPLY WITH THE INSTRUCTIONS SUPPLIED WITH THE OFFICIAL BALLOT,
24 RETURNING THE ELECTION BY MAIL BALLOT THROUGH THE UNITED STATES
25 MAIL OR ANOTHER PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL
26 POST SERVICE, OR COMMON CARRIER OR, ON THE ELECTION DATE, TO A
27 LOCATION DESIGNATED UNDER SUBSECTION (1).

1 (3) A BALLOT ARRIVING AT THE ADDRESS ON THE BALLOT RETURN
2 ENVELOPE OR AT A LOCATION DESIGNATED UNDER SUBSECTION (1) AFTER 8
3 P.M. ON THE ELECTION DATE SHALL NOT BE COUNTED. IF, FOR AN ELECTION
4 BY MAIL, AN ELECTOR APPLIES FOR, RECEIVES, AND RETURNS AN ABSENT
5 VOTER BALLOT IN COMPLIANCE WITH THIS ACT, THE ELECTION OFFICIAL
6 CONDUCTING AN ELECTION BY MAIL SHALL CONSIDER THAT ABSENT VOTER
7 BALLOT TO BE VALID FOR THE ELECTION BY MAIL.

8 (4) NOT BEFORE 21 DAYS OR AFTER 14 DAYS BEFORE THE ELECTION,
9 AN ELECTION OFFICIAL CONDUCTING AN ELECTION BY MAIL SHALL SEND BY
10 NONFORWARDABLE MAIL TO EACH ELECTOR WHO, 30 OR MORE DAYS BEFORE THE
11 ELECTION, WAS REGISTERED TO VOTE IN THAT JURISDICTION ALL OF THE
12 FOLLOWING:

13 (A) AN OFFICIAL BALLOT.

14 (B) A PREAMDRESSED, RETURN ENVELOPE.

15 (C) A SECRECY ENVELOPE OR SLEEVE.

16 (D) INSTRUCTIONS FOR VOTING IN THE ELECTION BY MAIL. TO THE
17 EXTENT APPLICABLE, THE INSTRUCTIONS FOR AN ELECTION BY MAIL SHALL
18 CONFORM TO THE INSTRUCTIONS AND WARNINGS PRESCRIBED BY THIS ACT FOR
19 AN ABSENT VOTER BALLOT.

20 (5) IF THE SECRETARY OF STATE CONDUCTS AN ELECTION BY MAIL AS
21 AUTHORIZED IN SECTION 726A, THE SECRETARY OF STATE MAY DETERMINE
22 THAT IT IS PRUDENT TO BEGIN MAILING THE MATERIAL LISTED IN
23 SUBSECTION (4) ON A DATE BEFORE 21 DAYS BEFORE THE ELECTION.

24 (6) TO THE EXTENT NOT IN CONFLICT WITH THIS SECTION, AN
25 ELECTION BY MAIL SHALL BE CONDUCTED IN THE MANNER PROVIDED FOR
26 OTHER ELECTIONS UNDER THIS ACT. AN ELECTION OFFICIAL SHALL NOT
27 COUNT AN ELECTION BY MAIL BALLOT UNLESS THE BALLOT IS RETURNED IN

1 AN ELECTION BY MAIL RETURN ENVELOPE THAT IS SIGNED BY THE ELECTOR
2 WHOSE SIGNATURE IS VERIFIED AS A QUALIFIED AND REGISTERED VOTER AS
3 PROVIDED IN THIS ACT.