

SENATE BILL No. 776

September 22, 2005, Introduced by Senators CHERRY, GOSCHKA and JACOBS and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 552, 761, 766, 961, and 961a (MCL 168.552, 168.761, 168.766, 168.961, and 168.961a), as amended by 2005 PA 71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 552. (1) The county or city clerk, after the last day
2 specified in this act for receiving and filing nominating
3 petitions, shall immediately certify to the proper board or
4 boards of election commissioners in the city, county, district,
5 or state the name and post office address of each party candidate
6 whose petitions meet the requirements of this act, together with
7 the name of the political party and the office for which he or
8 she is a candidate.

1 (2) If the county clerk receives a sworn complaint, in
2 writing, questioning the registration or genuineness of the
3 signature of the circulator or of a person signing a petition
4 filed with the county clerk for an office, the county clerk shall
5 commence an investigation. The county clerk shall cause the
6 petition that he or she considers necessary to be forwarded to
7 the proper city clerk or township clerk to compare the signatures
8 appearing on the petition with the signatures appearing on the
9 registration record as required by subsection (13). The county
10 clerk may conduct the signature comparisons as required by
11 subsection (13) using the digitized signatures in the qualified
12 voter file, in lieu of requesting the local clerk to conduct the
13 signature comparison. If the request has been made by the county
14 clerk, the city clerk or township clerk shall complete the
15 investigation and report his or her findings to the county clerk
16 within 7 days after the request. The investigation shall include
17 the validity of the signatures and the genuineness of a petition
18 as is specified in the sworn complaint and may include any other
19 doubtful signatures or petitions filed on behalf of the candidate
20 against whose petitions the sworn complaint is directed, as the
21 county clerk considers necessary. The county clerk is not
22 required to act on a complaint respecting the validity and
23 genuineness of signatures on a petition unless the complaint sets
24 forth the specific signatures claimed to be invalid and the
25 specific petition for which the complaint questions the validity
26 and genuineness of the signature or registration of the
27 circulator, and unless the complaint is received by the county

1 clerk within 7 days after the deadline for the filing of the
2 nominating petitions.

3 (3) In addition to the duty specified in subsection (2) for
4 the examination of petitions, the county clerk, on his or her own
5 initiative, on receipt of the nominating petitions, may examine
6 the petitions, and if after examination the county clerk is in
7 doubt as to the validity of the registration or genuineness of
8 the signature of the circulator or persons signing or purported
9 to have signed the petitions, the county clerk shall commence an
10 investigation. Subject to subsection (13), the county clerk shall
11 cause the petitions in question to be forwarded to the proper
12 city clerk or township clerk to compare the signatures appearing
13 on the petitions with the signatures appearing on the
14 registration records. The county clerk may conduct the signature
15 comparisons as required by subsection (13) using the digitized
16 signatures in the qualified voter file, in lieu of requesting the
17 local clerk to conduct the signature comparison.

18 (4) The clerk of a political subdivision shall cooperate
19 fully with the county clerk in a request made to the clerk by the
20 county clerk in determining the validity of doubtful signatures
21 by checking the signatures against registration records in an
22 expeditious and proper manner.

23 (5) At least 2 business days before the county clerk makes a
24 final determination on challenges to and sufficiency of a
25 petition, the county clerk shall make public its staff report
26 concerning disposition of challenges filed against the petition.
27 Beginning with the receipt of any document from local election

1 officials under subsection (2) or (3), the county clerk shall
2 make that document available to petitioners and challengers on a
3 daily basis.

4 (6) Upon the completion of the investigation or examination,
5 the county clerk shall immediately make an official declaration
6 of the sufficiency or insufficiency of nominating petitions for
7 which a sworn complaint has been received or of the sufficiency
8 or insufficiency of nominating petitions that the county clerk
9 has examined or investigated on his or her own initiative. A
10 person feeling aggrieved by a determination made by the county
11 clerk may have the determination reviewed by the secretary of
12 state by filing a written request with the secretary of state
13 within 3 days after the official declaration of the county clerk,
14 unless the third day falls on a Saturday, Sunday, or legal
15 holiday, in which case the request may be filed not later than 4
16 p.m. on the next day that is not a Saturday, Sunday, or legal
17 holiday. Alternatively, the aggrieved person may have the
18 determination of the county clerk reviewed by filing a mandamus,
19 certiorari, or other appropriate remedy in the circuit court. A
20 person who filed a nominating petition and feels aggrieved by the
21 determination of the secretary of state may then have that
22 determination reviewed by mandamus, certiorari, or other
23 appropriate remedy in the circuit court.

24 (7) A city clerk with whom nominating petitions are filed
25 may examine the petitions and investigate the validity and
26 genuineness of signatures appearing on the petitions. Subject to
27 subsection (13), the city clerk may check the signatures against

1 registration records. The city clerk shall make a determination
2 as to the sufficiency or insufficiency of the petitions upon the
3 completion of the examination or investigation, and shall make an
4 official declaration of the findings. A person feeling aggrieved
5 by the determination has the same rights of review as in case of
6 a determination by the county clerk.

7 (8) Upon the filing of nominating petitions with the
8 secretary of state, the secretary of state shall notify the board
9 of state canvassers within 5 days after the last day for filing
10 the petitions. The notification shall be by first-class mail.
11 Upon the receipt of the nominating petitions, the board of state
12 canvassers shall canvass the petitions to ascertain if the
13 petitions have been signed by the requisite number of qualified
14 and registered electors. Subject to subsection (13), for the
15 purpose of determining the validity of the signatures, the board
16 of state canvassers may cause a doubtful signature to be checked
17 against the qualified voter file or the registration records by
18 the clerk of a political subdivision in which the petitions were
19 circulated. If the board of state canvassers receives a sworn
20 complaint, in writing, questioning the registration of or the
21 genuineness of the signature of the circulator or of a person
22 signing a nominating petition filed with the secretary of state,
23 the board of state canvassers shall commence an investigation.
24 Subject to subsection (13), the board of state canvassers shall
25 verify the registration or the genuineness of a signature as
26 required by subsection (13). If the board is unable to verify the
27 genuineness of a signature on a petition, the board shall cause

1 the petition to be forwarded to the proper city clerk or township
2 clerk to compare the signatures on the petition with the
3 signatures on the registration record, or in some other manner
4 determine whether the signatures on the petition are valid and
5 genuine. The board of state canvassers is not required to act on
6 a complaint respecting the validity and genuineness of signatures
7 on a petition unless the complaint sets forth the specific
8 signatures claimed to be invalid and the specific petition for
9 which the complaint questions the validity and genuineness of the
10 signature or the registration of the circulator, and unless the
11 complaint is received by the board of state canvassers within 7
12 days after the deadline for filing the nominating petitions.
13 After receiving a request from the board of state canvassers
14 under this subsection, the clerk of a political subdivision shall
15 cooperate fully in determining the validity of doubtful
16 signatures by rechecking the signatures against registration
17 records in an expeditious and proper manner. The board of state
18 canvassers may extend the 7-day challenge period if it finds that
19 the challenger did not receive a copy of each petition sheet that
20 the challenger requested from the secretary of state. The
21 extension of the challenge deadline under this subsection does
22 not extend another deadline under this section.

23 (9) The board of state canvassers may hold a hearing upon a
24 complaint filed or for a purpose considered necessary by the
25 board of state canvassers to conduct an investigation of the
26 petitions. In conducting a hearing, the board of state canvassers
27 may issue subpoenas and administer oaths. The board of state

1 canvassers may also adjourn periodically awaiting receipt of
2 returns from investigations that are being made or for other
3 necessary purposes, but shall complete the canvass not less than
4 9 weeks before the primary election at which candidates are to be
5 nominated. Before making a final determination, the board of
6 state canvassers may consider any deficiency found on the face of
7 the petition that does not require verification against data
8 maintained in the qualified voter file or in the voter
9 registration files maintained by a city or township clerk.

10 (10) At least 2 business days before the board of state
11 canvassers meets to make a final determination on challenges to
12 and sufficiency of a petition, the board shall make public its
13 staff report concerning disposition of challenges filed against
14 the petition. Beginning with the receipt of any document from
15 local election officials under subsection (8), the board of state
16 canvassers shall make that document available to candidates and
17 challengers on a daily basis.

18 (11) An official declaration of the sufficiency or
19 insufficiency of a nominating petition shall be made by the board
20 of state canvassers not less than 60 days before the primary
21 election at which candidates are to be nominated. At the time of
22 filing a nominating petition with the secretary of state, the
23 person filing the petition may request a notice of the approval
24 or rejection of the petition. If a request is made at the time of
25 filing the petition, the secretary of state, immediately upon the
26 determination of approval or rejection, shall transmit by
27 registered mail to the person making the request an official

1 notice of the sufficiency or insufficiency of the petitions.

2 (12) A person who filed a nominating petition with the
3 secretary of state and who feels aggrieved by a determination
4 made by the board of state canvassers may have the determination
5 reviewed by mandamus, certiorari, or other appropriate process in
6 the supreme court.

7 (13) The qualified voter file may be used to determine the
8 validity of petition signatures by verifying the registration of
9 signers. If the qualified voter file indicates that, on the date
10 the elector signed the petition, the elector was not registered
11 to vote, there is a rebuttable presumption that the signature is
12 invalid. If the qualified voter file indicates that, on the date
13 the elector signed the petition, the elector was not registered
14 to vote in the city or township designated on the petition, there
15 is a rebuttable presumption that the signature is invalid. The
16 qualified voter file shall be used to determine the genuineness
17 of a signature on a petition. Signature comparisons shall be made
18 with the digitized signatures in the qualified voter file. The
19 county clerk or the board of state canvassers shall conduct the
20 signature comparison using digitized signatures contained in the
21 qualified voter file for their respective investigations. If the
22 qualified voter file does not contain a digitized signature of an
23 elector, the city or the township clerk shall compare the
24 petition signature to the signature contained ~~on~~ **IN** the master
25 ~~card~~ **FILE**.

26 (14) Not less than 60 days before the primary election at
27 which candidates are to be nominated, the secretary of state

1 shall certify to the proper boards of election commissioners in
2 the various counties in the state, the name and post office
3 address of each partisan or nonpartisan candidate whose petitions
4 have been filed with the secretary of state and meet the
5 requirements of this act, together with the name of the political
6 party, if any, and the office for which he or she is a candidate.

7 Sec. 761. (1) If the clerk of a city, township, or village
8 receives an application for an absent voter ballot from a person
9 registered to vote in that city, township, or village and if the
10 signature on the application agrees with the signature for the
11 person contained in the qualified voter file or on the
12 registration card as required in subsection (2), the clerk
13 immediately upon receipt of the application or, if the
14 application is received before the printing of the absent voter
15 ballots, as soon as the ballots are received by the clerk, shall
16 forward by mail, postage prepaid, or shall deliver personally 1
17 of the ballots or set of ballots if there is more than 1 kind of
18 ballot to be voted to the applicant. Absent voter ballots may be
19 delivered to an applicant in person at the **CLERK'S** office. ~~of~~
20 ~~the clerk.~~

21 (2) The qualified voter file shall be used to determine the
22 genuineness of a signature on an application for an absent voter
23 ballot. Signature comparisons shall be made with the digitized
24 signature in the qualified voter file. If the qualified voter
25 file does not contain a digitized signature of an elector, or is
26 not accessible to the clerk, the city or township clerk shall
27 compare the signature appearing on the application for an absent

1 voter ballot to the signature contained ~~on~~ **IN** the master ~~card~~
2 **FILE**.

3 (3) Notwithstanding section 759, providing that no absent
4 voter applications shall be received by the clerk after 2 p.m. on
5 the Saturday before the election, a person qualified to vote as
6 an absent voter may apply in person at the clerk's office before
7 4 p.m. on a day preceding the election except Sunday or a legal
8 holiday to vote as an absent voter. The applicant shall receive
9 his or her absent voter ballot and vote the ballot in the clerk's
10 office. All other absent voter ballots, except ballots delivered
11 pursuant to an emergency absent voter ballot application under
12 section 759b, shall be mailed or delivered to the registration
13 address of the applicant unless the application requests delivery
14 to an address outside the city, village, or township or to a
15 hospital or similar institution, in which case the absent voter
16 ballots shall be mailed or delivered to the address given in the
17 application. However, a clerk may mail or deliver an absent voter
18 ballot, upon request of the absent voter, to a post office box if
19 the post office box is where the absent voter normally receives
20 personal mail and the absent voter does not receive mail at his
21 or her registration address.

22 (4) Absent voter ballots shall be issued in the same order
23 in which applications are received by the clerk of a city,
24 township, or village, as nearly as may be, and each ballot issued
25 shall bear the lowest number of each kind available for this
26 purpose. However, this provision does not prohibit a clerk from
27 immediately issuing an absent voter ballot to an absent voter who

1 applies in person in the clerk's office for absent voter ballots.
2 The clerk shall enclose with the ballot or ballots a return
3 envelope properly addressed to the clerk and bearing upon the
4 back of the envelope a printed statement in substantially the
5 following form:

6 TO BE COMPLETED
7 BY THE CLERK

8 _____

9 Name of Voter Street Address or R.R.

10 _____

11 City, Township or Village County

12 Ward _____ Precinct _____ Date of Election _____

13 =====

14 TO BE COMPLETED BY THE ABSENT VOTER

15 I assert that I am a qualified and registered elector of the
16 city, township, or village named above. I am voting as an absent
17 voter in conformity with state election law. Unless otherwise
18 indicated below, I personally marked the ballot enclosed in this
19 envelope without exhibiting it to any other person.

20 I further assert that this absent voter ballot is being
21 returned to the clerk or an assistant of the clerk by me
22 personally; by public postal service, express mail service,
23 parcel post service, or other common carrier; by a member of my
24 immediate family; or by a person residing in my household.

25 DATE: _____ SIGN HERE: X _____

1 Signature of Absent Voter

2 The above form must be signed or your vote will not be
3 counted. AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT
4 IS GUILTY OF A MISDEMEANOR.

5 =====
6 TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
7 BY ANOTHER PERSON

8 I assisted the above named absent voter who is disabled or
9 otherwise unable to mark the ballot in marking his or her absent
10 voter ballot pursuant to his or her directions. The absent voter
11 ballot was inserted in the return envelope without being
12 exhibited to any other person.

13 _____
14 Signature of Person Street Address or City, Twp., or
Assisting Voter R.R. Village

15 _____
16 Printed Name of Person Assisting Voter

17 A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A
18 FALSE STATEMENT IS GUILTY OF A FELONY.

19 =====

20 WARNING

21 PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER

1 BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER;
2 A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY
3 OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED
4 BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT
5 IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A
6 PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE,
7 OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR
8 HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER
9 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR
10 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT
11 VOTER BALLOT IS GUILTY OF A FELONY.

12 (5) An absent voter who knowingly makes a false statement on
13 the absent voter ballot return envelope is guilty of a
14 misdemeanor. A person who assists an absent voter and who
15 knowingly makes a false statement on the absent voter ballot
16 return envelope is guilty of a felony.

17 Sec. 766. (1) Upon receipt from the city, township, or
18 village clerk of any envelope containing the marked ballot or
19 ballots of an absent voter, the board of **ELECTION** inspectors ~~of~~
20 ~~election~~ shall verify the legality of such vote by an
21 examination of a digitized signature for the absent voter
22 included in the qualified voter file under section 509q or the
23 registration record as provided in subsection (2) to see that the
24 person has not voted in person, that he **OR SHE** is a registered
25 voter, and that the signature on the statement agrees with the
26 signature on the registration record; and by an examination of
27 the statement of such voter to see that it is properly executed.

1 (2) The qualified voter file shall be used to determine the
2 genuineness of a signature on an envelope containing an absent
3 voter ballot. Signature comparisons shall be made with the
4 digitized signature in the qualified voter file. If the qualified
5 voter file does not contain a digitized signature of an elector,
6 or is not accessible to the clerk, the city or township clerk
7 shall compare the signature appearing on an envelope containing
8 an absent voter ballot to the signature contained ~~on~~ **IN** the
9 master ~~card~~ **FILE**.

10 Sec. 961. (1) A recall petition shall be filed with the
11 filing officer provided in section 959 or 960. The filing
12 official shall give a receipt showing the date of filing, the
13 number of petition sheets filed, and the number of signatures
14 claimed by the filer. This shall constitute the total filing, and
15 additional petition sheets for this filing shall not be accepted
16 by the filing official.

17 (2) Within 7 days after a recall petition is filed, the
18 filing official with whom the petition was filed shall examine
19 the recall petition. The filing official shall determine if the
20 recall petition is in proper form and shall determine the number
21 of signatures of the petition. In determining the number of
22 signatures, the filing official shall not count signatures on a
23 petition sheet if 1 or more of the following apply:

24 (a) The execution of the certificate of circulator is not in
25 compliance with this act.

26 (b) The heading of the petition sheet is improperly
27 completed.

1 (c) The reasons for recall are different than those
2 determined by the board of county election commissioners to be of
3 sufficient clarity to enable the officer whose recall is sought
4 and the electors to identify the course of conduct ~~which~~ **THAT**
5 is the basis for this recall.

6 (d) The signature was obtained before the date of
7 determination by the board of county election commissioners or
8 more than 90 days before the filing of the petition.

9 (3) If the filing official determines that the form of the
10 petition is improper or that the number of signatures is less
11 than the minimum number required in section 955, the filing
12 official shall proceed as provided in section 963(1).

13 (4) If the filing official determines that the number of
14 signatures is in excess of the minimum number required in section
15 955, the filing official shall determine the validity of the
16 signatures by verifying the registration of signers pursuant to
17 subsection (6) and may determine the genuineness of signatures
18 pursuant to subsection (7) or shall forward each petition sheet
19 to the clerk of the city or township appearing on the head of the
20 petition sheet. However, the petition shall not be forwarded to
21 the secretary of a school district.

22 (5) The city or township clerk shall determine the validity
23 of the signatures by verifying the registration of signers
24 pursuant to subsection (6) and may determine the genuineness of
25 signatures pursuant to subsection (7). Within 15 days after
26 receipt of the petition, the city or township clerk shall attach
27 to the petition a certificate indicating the number of signers on

1 each petition sheet that are registered electors in the city or
2 township and in the governmental unit for which the recall is
3 sought. The certificate shall be on a form approved by the
4 secretary of state and may be a part of the petition sheet. If
5 the recall petition is for the recall of a village official, the
6 county clerk shall forward the petition to the **VILLAGE** clerk, ~~of~~
7 ~~the village,~~ and the duties and responsibilities of the city or
8 township clerk as set forth in this section shall be performed by
9 the village clerk.

10 (6) The qualified voter file shall be used to determine the
11 validity of petition signatures by verifying the registration of
12 signers. If the qualified voter file indicates that, on the date
13 the elector signed the petition, the elector was not registered
14 to vote, there is a rebuttable presumption that the signature is
15 invalid. If the qualified voter file indicates that, on the date
16 the elector signed the petition, the elector was not registered
17 to vote in the city or township designated on the petition, there
18 is a rebuttable presumption that the signature is invalid.

19 (7) The qualified voter file shall be used to determine the
20 genuineness of a challenged petition signature appearing on a
21 recall petition. Signature comparisons shall be made with the
22 digitized signature in the qualified voter file. If the qualified
23 voter file does not contain a digitized signature of an elector,
24 the official with whom the recall petition was filed shall
25 compare the challenged signature to the signature ~~on~~ **IN** the
26 master ~~card~~ **FILE**.

27 Sec. 961a. (1) Not later than the business day following the

1 filing of a recall petition, the official with whom the recall
2 was filed shall notify in writing the officer whose recall is
3 sought that the recall petition has been filed.

4 (2) An officer whose recall is sought may challenge the
5 validity of the registration or the validity and genuineness of
6 the signature of a circulator or person signing the recall
7 petition. A challenge shall be in writing, specifying the
8 challenged signature, and shall be delivered to the filing
9 official within 30 days after the filing of the petitions. The
10 officer whose recall is sought shall have not less than 8 days
11 after the clerk has examined the signatures to check signatures
12 on the original registration records.

13 (3) Subject to subsections (4) and (5), a challenged
14 signature shall be verified by the official with whom the recall
15 was filed.

16 (4) The qualified voter file may be used to determine the
17 validity of a challenged petition signature appearing on a recall
18 petition by verifying the registration of the signer. If the
19 qualified voter file indicates that, on the date the elector
20 signed the petition, the elector was not registered to vote,
21 there is a rebuttable presumption that the signature is invalid.
22 If the qualified voter file indicates that, on the date the
23 elector signed the petition, the elector was not registered to
24 vote in the city or township designated on the petition, there is
25 a rebuttable presumption that the signature is invalid.

26 (5) The qualified voter file shall be used to determine the
27 genuineness of a challenged petition signature appearing on a

1 recall petition. Signature comparisons shall be made with the
2 digitized signature in the qualified voter file. If the qualified
3 voter file does not contain a digitized signature of an elector,
4 the official with whom the recall petition was filed shall
5 compare the challenged signature to the signature ~~on~~ **IN** the
6 master ~~card~~ **FILE**.

7 Enacting section 1. Sections 552, 961, and 961a of the
8 Michigan election law, 1954 PA 116, MCL 168.552, 168.961, and
9 168.961a, as amended by this amendatory act, take effect January
10 1, 2007.