

HOUSE BILL NO. 5449

February 04, 2020, Introduced by Reps. Hope, Love, Tyrone Carter, Brenda Carter, Guerra, Kennedy, Wittenberg, Manoogian, Hood, Sowerby, Sabo, Tate, Byrd, Cynthia Johnson, Garrett, Gay-Dagnogo and Yancey and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 765a (MCL 168.765a), as added by 2018 PA 123.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 765a. (1) If a city or township decides to use absent
2 voter counting boards, the board of election commissioners of that
3 city or township shall establish an absent voter counting board for
4 each election day precinct in that city or township. The ballot
5 form of an absent voter counting board must correspond to the



1 ballot form of the election day precinct for which it is
2 established. After the polls close on election day, the county,
3 city, or township clerk responsible for producing the accumulation
4 report of the election results submitted by the boards of precinct
5 election inspectors shall format the accumulation report to clearly
6 indicate all of the following:

7 (a) The election day precinct returns.

8 (b) The corresponding absent voter counting board returns.

9 (c) A total of each election day precinct return and each
10 corresponding absent voter counting board return.

11 (2) The board of election commissioners shall establish the
12 absent voter counting boards. The board of election commissioners
13 shall appoint the election inspectors to those absent voter
14 counting boards not less than 21 days or more than 40 days before
15 the election at which they are to be used. Sections 673a and 674
16 apply to the appointment of election inspectors to absent voter
17 counting boards under this section. The board of election
18 commissioners shall determine the number of ballots that may be
19 expeditiously counted by an absent voter counting board in a
20 reasonable period of time, taking into consideration the size and
21 complexity of the ballot to be counted pursuant to the guidelines
22 of the secretary of state. Combined ballots must be regarded as the
23 number of ballots as there are sections to the ballot.

24 (3) If more than 1 absent voter counting board is to be used,
25 the city or township clerk shall determine the number of electronic
26 voting systems or the number of ballot boxes and the number of
27 election inspectors to be used in each of the absent voter counting
28 boards and to which absent voter counting board the absent voter
29 ballots for each precinct are assigned for counting.



(4) In a city or township that uses absent voter counting boards under this section, absent voter ballots must be counted in the manner provided in this section and absent voter ballots must not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section, except the location may be in a different jurisdiction if the county provides a tabulator for use at a central absent voter counting board location in that county. The places must be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. The provisions of this section relating to placing of absent voter ballots on electronic voting systems apply. More than 1 absent voter counting board may be located in 1 building.

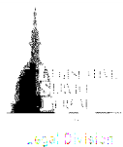
(5) The clerk of a city or township that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out its duties under this act. The supplies must be furnished to the city or township clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day must be delivered to the absent voter counting board by the clerk or the clerk's authorized assistant at the time the election inspectors of the absent voter counting boards report for duty, which time must be established by the board of election



1 commissioners. Absent voter ballots received by the clerk before
2 the time set for the closing of the polls on election day must be
3 delivered to the absent voter counting boards. Absent voter ballots
4 must be delivered to the absent voter counting boards in the sealed
5 absent voter ballot return envelopes in which they were returned to
6 the clerk. Written or stamped on each of the return envelopes must
7 be the time and the date that the envelope was received by the
8 clerk and a statement by the clerk that the signatures of the
9 absent voters on the envelopes have been checked and found to agree
10 with the signatures of the voters on the registration cards or the
11 digitized signatures of voters contained in the qualified voter
12 file as provided under section 766. If a signature on the
13 registration card or a digitized signature contained in the
14 qualified voter file and on the absent voter ballot return envelope
15 does not agree as provided under section 766, if the absent voter
16 failed to sign the envelope, or if the statement of the absent
17 voter is not properly executed, the clerk shall mark the envelope
18 "rejected" and the reason for the rejection and shall place his or
19 her name under the notation. An envelope marked "rejected" must not
20 be delivered to the absent voter counting board but must be
21 preserved by the clerk until other ballots are destroyed in the
22 manner provided in this act. The clerk shall also comply with
23 section 765(5).

24 (7) This chapter does not prohibit an absent voter from voting
25 in person within the voter's precinct at an election,
26 notwithstanding that the voter may have applied for an absent voter
27 ballot and the ballot may have been mailed or otherwise delivered
28 to the voter. The voter, the election inspectors, and other
29 election officials shall proceed in the manner prescribed in



1 section 769. The clerk shall preserve the canceled ballots for 2
2 years.

3 (8) The absent voter counting boards shall process the ballots
4 and returns in as nearly as possible the same manner as ballots are
5 processed in paper ballot precincts. The poll book may be combined
6 with the absent voter list or record required by section 760, and
7 the applications for absent voter ballots may be used as the poll
8 list. The processing and tallying of absent voter ballots may
9 commence at 7 a.m. on the day of the election.

10 (9) An election inspector, challenger, or any other person in
11 attendance at an absent voter counting place at any time after the
12 processing of ballots has begun shall take and sign the following
13 oath that may be administered by the chairperson or a member of the
14 absent voter counting board:

15 "I (name of person taking oath) do solemnly swear (or affirm)
16 that I shall not communicate in any way any information relative to
17 the processing or tallying of votes that may come to me while in
18 this counting place until after the polls are closed.".

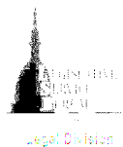
19 (10) The oaths administered under subsection (9) must be
20 placed in an envelope provided for the purpose and sealed with the
21 red state seal. Following the election, the oaths must be delivered
22 to the city or township clerk. Except as otherwise provided in **this**
23 **subsection and** subsection (12), a person in attendance at the
24 absent voter counting place shall not leave the counting place
25 after the tallying has begun until the polls close. **A city or**
26 **township may adopt a resolution 40 days or more before election day**
27 **to allow the election inspectors appointed to an absent voter**
28 **counting board in that city or township to work in shifts as**
29 **determined by the city or township clerk. If a city or township**



1 **adopts a resolution under this subsection, the election inspectors**
2 **who are working in shifts may leave the counting place after the**
3 **tallying has begun and before the polls close.** A person who causes
4 the polls to be closed or who discloses an election result or in
5 any manner characterizes how any ballot being counted has been
6 voted in a voting precinct before the time the polls can be legally
7 closed on election day is guilty of a felony.

8 (11) Voted absent voter ballots must be placed in an approved
9 ballot container, and the ballot container must be sealed in the
10 manner provided by this act for paper ballot precincts. The seal
11 numbers must be recorded on the statement sheet and in the poll
12 book.

13 (12) Subject to this subsection, a local election official who
14 has established an absent voter counting board, the deputy or
15 employee of that local election official, an employee of the state
16 bureau of elections, a county clerk, an employee of a county clerk,
17 or a representative of a voting equipment company may enter and
18 leave an absent voter counting board after the tally has begun but
19 before the polls close. A person described in this subsection may
20 enter an absent voter counting board only for the purpose of
21 responding to an inquiry from an election inspector or a challenger
22 or providing instructions on the operation of the counting board.
23 Before entering an absent voter counting board, a person described
24 in this subsection must take and sign the oath prescribed in
25 subsection (9). The chairperson of the absent voter counting board
26 shall record in the poll book the name of a person described in
27 this subsection who enters the absent voter counting board. A
28 person described in this subsection who enters an absent voter
29 counting board and who discloses an election result or in any



1 manner characterizes how any ballot being counted has been voted in
2 a precinct before the time the polls can be legally closed on
3 election day is guilty of a felony. As used in this subsection,
4 "local election official" means a county, city, or township clerk.

5 (13) The secretary of state shall develop instructions
6 consistent with this act for the conduct of absent voter counting
7 boards. The secretary of state shall distribute the instructions
8 developed under this subsection to city and township clerks 40 days
9 or more before a general election in which absent voter counting
10 boards will be used. A city or township clerk shall make the
11 instructions developed under this subsection available to the
12 public and shall distribute the instructions to each challenger in
13 attendance at an absent voter counting board. The instructions
14 developed under this subsection are binding upon the operation of
15 an absent voter counting board used in an election conducted by a
16 county, city, or township.

