

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

***** 168.764d.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2023 REGULAR SESSION SINE DIE *****

168.764d.amended Combined absent voter counting board; establishment and agreement; requirements; duties of the bureau of elections.

Sec. 764d. (1) Notwithstanding any provision of law to the contrary and subject to subsections (2) and (12), not less than 75 days before the day of an election, the clerk of a city or township may do any of the following:

(a) Enter into an agreement with the clerk of another city or township, or with the clerks of more than 1 city or township, located in the same county as that city or township to establish a combined absent voter counting board to count the absent voter ballots for each participating city or township.

(b) Enter into an agreement with the clerk of another city or township located in the same county that authorizes the clerk of 1 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.

(c) Enter into 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 1 county, the clerk of the city or township shall only enter into an agreement under this subdivision with the county clerk of the county in which the majority of the electors of the city or township reside.

(2) Except as otherwise provided in this subsection, an absent voter counting board established under subsection (1) must not be used for the first time at a general November election. For the November 3, 2020 general November election, an absent voter counting board may be established under subsection (1) and used for the first time if either of the following occurs:

(a) An agreement is entered into under subsection (1)(a) or (b) and at least 1 of the clerks participating in the agreement has previously operated an absent voter counting board.

(b) An agreement is entered into under subsection (1)(c).

(3) An agreement entered into under subsection (1)(b) or (c) must comply with the established approval procedures of the governing body of each county, city, or township involved, or if established approval procedures do not exist, the agreement must be approved by resolution of the governing body of that county, city, or township.

(4) The bureau of elections shall do both of the following:

(a) Develop model language to be used by county, city, and township clerks for agreements entered into under subsection (1).

(b) Develop procedures to implement this section.

(5) Except as otherwise provided in this subsection, if the clerk of a city or township enters into an agreement under subsection (1), the clerk of that city or township shall file the agreement with the county clerk of the county in which that city or township is located no later than 74 days before the election at which the agreement applies. For an election occurring before January 1, 2021, the clerk of a city or township who enters into an agreement under subsection (1) is not required to file the agreement with the county clerk if all of the following apply:

(a) The electronic voting system used by the county can be programmed to accommodate an absent voter counting board formed under subsection (1).

(b) The county clerk agrees that the electronic voting system used by the county can be altered after completion of the ballot programming.

(c) The appropriate board of election commissioners publicly tests the electronic tabulating equipment as required under section 798.

(6) If the clerk of a city or township enters into an agreement under subsection (1) and that agreement covers more than 1 election, the agreement must allow any participating clerk to terminate the agreement by giving 84 days' written notice to each of the other participating clerks. If the clerk terminating the agreement is a city or township clerk, the clerk must also file the notice of termination with the county clerk of the county in which that city or township is located no later than 2 business days after the date of termination. If the clerk terminating the agreement is a county clerk, the clerk must also file the notice of termination with the bureau of elections no later than 2 business days after the date of termination.

(7) For a combined absent voter counting board established under subsection (1)(a), all of the following apply:

(a) The board of election commissioners of each participating city or township must appoint at least 1 election inspector to that combined absent voter counting board not less than 21 days before the election at which those election inspectors are to be used. Sections 673a and 674 apply to the appointment of election inspectors to a combined absent voter counting board.

(b) The agreement entered into under subsection (1)(a) must designate the place for the combined absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the combined absent voter ballot counting place in which the combined absent voter counting board performs its duties.

(c) The agreement entered into under subsection (1)(a) must establish the time at which the election inspectors of the combined absent voter counting board report for duty.

(8) For an absent voter counting board established under subsection (1)(c), all of the following apply:

(a) The board of election commissioners of the city or township entering into an agreement under subsection (1)(c) shall appoint at least 1 election inspector to the absent voter counting board and the county board of election commissioners of that county shall appoint at least 1 election inspector to the absent voter counting board not less than 21 days before the election at which those election inspectors are to be used. Sections 673a and 674 apply to the appointment of election inspectors to the absent voter counting board.

(b) In consultation with the parties to an agreement under subsection (1)(c), the county board of election commissioners shall designate the place for the absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter ballot counting place in which the absent voter counting board performs its duties.

(c) In consultation with the parties to an agreement under subsection (1)(c), the county board of election commissioners shall establish the time at which the election inspectors of the absent voter counting board report for duty.

(9) The election inspectors appointed to an absent voter counting board established under subsection (1) shall comply with section 733(2) regarding election challengers.

(10) Subject to this subsection, if the clerk of a city or township enters into an agreement under subsection (1), any absent voter ballot received by that city or township clerk after 4 p.m. on the day before an election and approved for tabulation as provided under section 766 must be delivered to the voting precinct of the elector on election day to be processed and counted. As an alternative, if the clerk of a city or township enters into an agreement under subsection (1), that city or township may authorize an absent voter counting board under section 765a(1) that is limited to only processing and tabulating absent voter ballots approved for tabulation and received after 4 p.m. on the day before an election and before 8 p.m. on election day. No later than 60 days before an election, the clerk of that city or township shall inform the county clerk of the county in which that city or township is located that the absent voter counting board has been authorized by the board of election commissioners of that city or township.

(11) The provisions of section 765a(6) to (10) and (17) apply to an absent voter counting board established under subsection (1).

(12) For an election occurring before January 1, 2021, the clerk of a city or township may enter into an agreement under subsection (1) not less than 23 days before the day of the election if all of the following apply:

(a) The electronic voting system used by the county can be programmed to accommodate an absent voter counting board formed under subsection (1).

(b) The county clerk agrees that the electronic voting system used by the county can be altered after completion of the ballot programming.

(c) The appropriate board of election commissioners publicly tests the electronic tabulating equipment as required under section 798.

(13) This section does not abrogate the duties or responsibilities of a city or township clerk for conducting elections under this act. In addition, this section does not provide any additional duties or responsibilities for the secretary of state for conducting elections under this act.

History: Add. 2020, Act 95, Imd. Eff. June 23, 2020;—Am. 2023, Act 81, Eff. (sine die).

Popular name: Election Code