SENATE BILL NO. 283

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending sections 24k and 765 (MCL 168.24k and 168.765), section

24k as added and section 765 as amended by 2020 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 24k. (1) An absent voter ballot secrecy envelope

2 container includes a ballot bag, box, transfer case, or other

3 container used to store and secure absent voter ballot secrecy

4 envelopes.

5   (2) A manufacturer or distributor of an absent voter ballot

1 secrecy envelope container shall submit an absent voter ballot

2 secrecy envelope container to the secretary of state for approval

3 under the requirements of subsection (3) before the container is

4 sold to a city or township for use at an election.

5   (3) The secretary of state shall not approve an absent voter

6 ballot secrecy envelope container unless the container meets both

7 of the following requirements:

8   (a) The container is made of metal, plastic, fiberglass, or

9 other material, that provides resistance to tampering.

10   (b) The container is capable of being sealed.

11   (4) ~~Before October 15, 2020,~~ **Not later than 15 days before**

12 **each August primary election held in an even numbered year**, each

13 board of county canvassers shall examine the absent voter ballot

14 secrecy envelope containers to be used at ~~the November 3, 2020~~ **that**

15 **August primary election or at the** general **November** election **that**

16 **follows that August primary election** conducted under this act. The

17 board of county canvassers shall designate on the absent voter

18 ballot secrecy envelope container that the absent voter ballot

19 secrecy envelope container does or does not meet the requirements

20 under subsection (3). An absent voter ballot secrecy envelope

21 container that is not approved by a board of county canvassers must

22 not be used to store and secure any absent voter ballot secrecy

23 envelopes.

24   (5) A city or township clerk may procure, at the expense of

25 the respective city or township, absent voter ballot secrecy

26 envelope containers that are approved under this section, or may

27 use a ballot container approved under section 24j, to store and

28 secure any absent voter ballot secrecy envelopes.

29   (6) A city or township clerk who does not use 1 of the

1 following, or permits the use of a container other than 1 of the

2 following, to store and secure any absent voter ballot secrecy

3 envelopes is guilty of a misdemeanor:

4   (a) An absent voter ballot secrecy envelope container approved

5 under this section.

6   (b) A ballot container approved under section 24j.

7   ~~(7) This section does not apply after December 31, 2020.~~

8   Sec. 765. (1) Except as otherwise provided in subsection (6),

9 a clerk who receives an absent voter ballot return envelope

10 containing the marked ballots of an absent voter shall not open

11 that envelope before delivering the envelope to the board of

12 election inspectors as provided in this section. Except as

13 otherwise provided in subsection (6), the city or township clerk

14 shall safely keep in his or her office until election day any

15 absent voter ballot return envelopes received by the clerk before

16 election day containing the marked ballots of an absent voter.

17   (2) Before the opening of the polls on election day or as soon

18 after the opening of the polls as possible, the clerk shall deliver

19 the absent voter ballot return envelopes to the chairperson or

20 other member of the board of election inspectors in the absent

21 voter's precinct, together with the signed absent voter ballot

22 applications received by the clerk from any voters of that precinct

23 and the clerk's list or record kept relative to those absent

24 voters. However, if higher numbered ballots are used under section

25 717, the clerk shall retain the applications and lists in his or

26 her office and shall keep the applications and lists open to public

27 inspection at all reasonable hours. Absent voter ballots must not

28 be tabulated before the opening of the polls on election day.

29   (3) The city or township clerk, or authorized designee of the

1 clerk, shall call for and receive absent voter ballots from the
2 post office at which the city or township clerk regularly receives
3 mail addressed to the city or township clerk on election day. Any
4 envelopes containing absent voter ballots that are received from
5 the post office or from voters who voted by absentee ballot in
6 person in the clerk's office on election day must be delivered to
7 the board of election inspectors or, except as otherwise provided
8 in section 764d, the absent voter counting boards to be tabulated.

9 (4) If a marked absent voter ballot is received by the clerk
10 after the close of the polls, the clerk shall plainly mark the
11 envelope with the time and date of receipt and shall file the
12 envelope in his or her office.

13 (5) On or before 8 a.m. on election day, the clerk shall post
14 in the clerk's office or otherwise make public the number of absent
15 voter ballots the clerk distributed to absent voters and the number
16 of absent voter ballot return envelopes containing the marked
17 ballots of absent voters received by the clerk before election day
18 and to be delivered to the board of election inspectors or the
19 absent voter counting boards under this act. On or before 9 p.m. on
20 election day, the clerk shall post in the clerk's office or
21 otherwise make public the number of absent voter ballot return
22 envelopes containing the marked ballots of absent voters received
23 by the clerk on election day and delivered to the board of election
24 inspectors, under subsection (3), along with the total number of
25 absent voter ballot return envelopes containing the marked ballots
26 of absent voters received by the clerk both before and on election
27 day and delivered to the board of election inspectors or the absent
28 voter counting boards under this act. As soon as possible after all
29 precincts in the city or township are processed, the clerk shall

1 post in the clerk's office or otherwise make public the number of
2 absent voter ballot return envelopes containing the marked ballots
3 of absent voters received by the election inspectors at the
4 precincts on election day, along with the total number of absent
5 voter ballot return envelopes containing the marked ballots of
6 absent voters received in the city or township for that election.
7 This subsection applies only to elections in which a federal or
8 state office appears on the ballot.
9   (6) ~~For the November 3, 2020 general election only, if~~ **If** the
10 clerk of a city or township with a population of at least 25,000
11 provides written notice in compliance with this subsection to the
12 secretary of state 20 days or more before election day, that city
13 or township clerk, or his or her authorized designee, may between
14 the hours of 10 a.m. and 8 p.m. on the day before election day
15 perform certain absent voter ballot pre-processing activities as
16 described in this subsection. The written notice provided to the
17 secretary of state must include the location and hours that the
18 absent voter ballot return envelopes will be opened in that city or
19 township. The secretary of state shall post any written notice
20 received from the clerk of a city or township under this subsection
21 on the department of state website. In addition, the clerk of the
22 city or township shall post the written notice provided to the
23 secretary of state on the city or township website. The board of
24 election commissioners shall appoint election inspectors to the
25 location where absent voter ballot return envelopes will be opened
26 in that city or township not less than 21 days or more than 40 days
27 before the day at which they are to be used. Election inspectors
28 may be appointed by the board of election commissioners under this
29 subsection before written notice is provided to the secretary of

1 state under this subsection. Sections 673a and 674 apply to the

2 appointment of election inspectors under this subsection. All

3 requirements for election inspectors appointed to an absent voter

4 counting board under section 765a apply to election inspectors

5 appointed under this subsection. At all times, at least 1 election

6 inspector from each major political party must be present at the

7 location and the policies and procedures adopted by the secretary

8 of state regarding the handling of absent voter ballot return

9 envelopes and absent voter ballot secrecy envelopes must be

10 followed. After providing written notice to the secretary of state

11 in compliance with this subsection, a city or township clerk, or

12 his or her authorized designee, on the day before election day is

13 only authorized to perform standard processing activities up to and

14 including the opening of absent voter ballot return envelopes and

15 the removal of absent voter ballot secrecy envelopes containing

16 absent voter ballots and to verify that the ballot number on the

17 ballot stub agrees with the ballot number on the absent voter

18 ballot return envelope label. The city or township clerk, or his or

19 her authorized designee, is not authorized to remove absent voter

20 ballots from the absent voter ballot secrecy envelopes. If an

21 opened absent voter ballot return envelope contains an absent voter

22 ballot that is not contained in an absent voter ballot secrecy

23 envelope, the city or township clerk, or his or her designee, shall

24 immediately insert that absent voter ballot into an absent voter

25 ballot secrecy envelope. The opening of absent voter ballot return

26 envelopes must be done at a location designated by the city or

27 township clerk, and the location and opening of absent voter ballot

28 return envelopes must be accessible to challengers as described in

29 section 730. The election inspectors appointed to the location

1 where absent voter ballot return envelopes will be opened in that

2 city or township must never leave the absent voter ballot secrecy

3 envelopes unattended. Once the absent voter ballot return envelopes

4 have been opened as provided in this subsection, the absent voter

5 ballot secrecy envelopes containing the absent voter ballots to be

6 counted must be stored, secured, and sealed in an absent voter

7 ballot secrecy envelope container, as described in section 24k, or

8 stored, secured, and sealed in a ballot container approved under

9 section 24j. The city or township clerk shall record the seal

10 number in the poll book, or an addendum to the poll book, and

11 follow all other policies and procedures adopted by the secretary

12 of state regarding absent voter ballots. The poll book, or an

13 addendum to the poll book, must be signed and dated by 1 election

14 inspector from each major political party who is present at the

15 location on the day before election day. The city or township clerk

16 shall store the absent voter ballot secrecy envelope container

17 containing the absent voter ballot secrecy envelopes in a secure

18 location until election day.

19   (7) The election inspectors who are appointed under subsection

20 (6) shall record in the poll book, or an addendum to the poll book,

21 all of the following:

22   (a) The number of absent voter ballot return envelopes that

23 were opened on the day before election day.

24   (b) The number of absent voter ballot return envelopes

25 delivered to the election inspectors that did not contain an

26 elector's signature and that were returned to the city or township

27 clerk.

28   (c) The number of absent voter ballot return envelopes that

29 were challenged, not opened by the election inspectors, and set

1 aside to be processed by the election inspectors on election day.

2 (8) The election inspectors who are appointed to an absent

3 voter counting board on election day as provided in section 765a

4 shall do all of the following:

5 (a) Verify the seal number recorded in the poll book, or an

6 addendum to the poll book, for any absent voter ballot secrecy

7 envelope container delivered to the absent voter counting board.

8 (b) Count and record in the poll book, or an addendum to the

9 poll book, both of the following:

10 (*i*) The number of absent voter ballot return envelopes opened

11 by the election inspectors on the day before election day as

12 provided under subsection (6) and the number of absent voter ballot

13 secrecy envelopes delivered to the absent voter counting board on

14 election day.

15 (*ii*) The number of absent voter ballot return envelopes that

16 were challenged, not opened by the election inspectors on the day

17 before election day, and set aside to be processed by the election

18 inspectors on election day.

19 (9) Not later than March 1, 2021, **and not later than March 1**

20 **of every 2 years thereafter**, the secretary of state shall provide a

21 written report to the house and senate committees dealing with

22 elections that contains all of the following information:

23 (a) The number of cities and townships that performed absent

24 voter ballot pre-processing activities as described in subsection

25 (6).

26 (b) The names of the cities and townships that performed

27 absent voter ballot pre-processing activities as described in

28 subsection (6), and all of the following information for each of

29 those cities and townships:

1   (*i*) The number of registered electors in each city or township.

2   (*ii*) The number of active registered electors in each city or

3   township.

4   (*iii*) The number of electors who voted by absent voter ballot in

5   each city or township.

6   (*iv*) The number of electors who voted in person on election day

7   in each city or township.

8   (*v*) The number of absent voter ballots that were not returned

9   in each city or township.

10   (*vi*) The number of electors on a permanent absent voter list in

11   each city or township, if applicable.

12   (*vii*) The number of ballots that had to be duplicated in each

13   city or township.

14   (c) The total number of absent voter ballot return envelopes

15   that were opened on the day before election day.

16   (d) The total number of absent voter ballot return envelopes

17   delivered to the election inspectors that did not contain an

18   elector's signature and that were returned to the city or township

19   clerk.

20   (e) The total number of absent voter ballot return envelopes

21   that were challenged, not opened by the election inspectors, and

22   set aside to be processed by the election inspectors on election

23   day.

24   (f) The total number of absent voter ballot secrecy envelopes

25   that were stored in an absent voter ballot secrecy envelope

26   container.

27   (g) For each city or township that performed absent voter

28   ballot pre-processing activities as described in subsection (6),

29   whether the number of absent voter ballot return envelopes opened

1 on the day before election day matched the number of absent voter

2 ballot secrecy envelopes delivered to the absent voter counting

3 board on election day.