

HOUSE BILL No. 4221

February 4, 1997, Introduced by Reps. Brackenridge, Gernaat, Gilmer, Hammerstrom, McBryde and Jelinek and referred to the Committee on Local Government.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 799a and 803 (MCL 168.799a and 168.803),
section 799a as amended by 1992 PA 8 and section 803 as amended
by 1985 PA 160.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 799a. (1) This section governs the recounting of a
2 ballot on which a voter has made a selection by means of a punch,
3 mark, or stamp.

4 (2) If the electronic voting system requires that the elec-
5 tor cast a vote by punching out a hole in a ballot, the vote
6 shall not be considered valid unless the portion of the ballot
7 designated as a voting position is completely removed or is
8 hanging by 1 or 2 corners or the equivalent.

1 (3) If the electronic voting system requires that the
2 elector cast a vote by marking or stamping a predefined area on
3 the ballot, the vote shall not be considered valid unless THERE
4 IS A MARK OR STAMP WITHIN THE PREDEFINED AREA AND it is clearly
5 evident that the intent of the voter was to cast a vote. In
6 determining intent of the voter, the board of canvassers shall
7 compare the mark or stamp subject to recount with other marks or
8 stamps appearing on the ballot.

9 (4) Unless a petition for recount has been filed and the
10 recount has not been completed, ballots, ballot labels, programs,
11 test results, and other sealed materials may be released from
12 their original seal after 7 days following the final determina-
13 tion of the board of canvassers with respect to the election at
14 which the ballots were voted. However, the released materials
15 shall be secured and preserved for the time period required by
16 this act and the rules promulgated by the secretary of state.

17 Sec. 803. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
18 ACT, THE following rules shall govern the counting and recounting
19 of votes:

20 (a) If it is clearly evident from an examination of any
21 ballot that the ballot has been mutilated for the purpose of dis-
22 tinguishing it or that there has been placed on the ballot some
23 mark, printing, or writing for the purpose of distinguishing it,
24 then that ballot ~~shall be~~ IS void and shall not be counted.

25 (b) A cross, the intersection of which ~~shall be~~ IS within
26 or on the line of the proper circle or square, or a check mark,
27 the angle of which is within a circle or square, ~~shall be~~ IS

1 valid. Crosses or check marks otherwise located on the ballot
2 ~~shall be~~ ARE void.

3 (c) Marks other than crosses or check marks used to desig-
4 nate the intention of the voter shall not be counted.

5 (d) A cross ~~shall be~~ IS valid even though 1 or both lines
6 of the cross ~~shall be~~ ARE duplicated, ~~provided that~~ IF the
7 lines intersect within or on the line of the square or circle.

8 (e) Two lines meeting within or on the line of the square or
9 circle, although not crossing each other, ~~shall be considered to~~
10 ~~be a~~ ARE valid ~~cross where~~ IF it is apparent that the voter
11 intended to make a cross.

12 (f) A failure to properly mark a ballot as to 1 or more can-
13 didates ~~shall~~ DOES not ~~of itself~~ ALONE invalidate the entire
14 ballot if the ballot has been properly marked as to other candi-
15 dates, unless the improper marking ~~shall constitute~~ IS DETER-
16 MINED TO BE a distinguishing mark as ~~defined~~ DESCRIBED in this
17 ~~section~~ SUBSECTION.

18 (g) Erasures and corrections on a ballot made by the elector
19 in a manner frequently used for this purpose shall not be consid-
20 ered distinguishing marks or mutilations.

21 (h) Any ballot or part of a ballot from which it is impossi-
22 ble to determine the elector's choice of candidate ~~shall be~~ IS
23 void as to the candidate or candidates ~~thereby~~ affected BY THAT
24 DETERMINATION.

25 (i) Any votes cast for a deceased candidate ~~shall be~~ ARE
26 void and SHALL not BE counted, except that votes cast for a
27 candidate for governor who has died, and for whom a replacement

1 has not been made, shall be counted for the candidate for
2 lieutenant governor of that party.

3 (j) All ballots cast ~~which~~ THAT are not counted shall be
4 marked by the inspector "not counted", kept separate from the
5 others by being tied or held in 1 package, and placed in the
6 ballot box with the counted ballots.

7 (k) A vote shall not be counted for any candidate unless a
8 cross or a check mark has been placed by the voter in the circle
9 at the head of the party ticket, if any, on which the name of the
10 candidate has been printed, written, or placed or unless a cross
11 or a check mark has been placed by the voter in the square before
12 the space in which the name of the candidate has been printed,
13 written, or placed.

14 (2) IF AN ELECTOR IS REQUIRED TO PLACE A MARK IN A PREDE-
15 FINED AREA ON THE BALLOT IN ORDER TO CAST A VOTE, THE VOTE SHALL
16 NOT BE CONSIDERED VALID UNLESS THERE IS A MARK WITHIN THE PREDE-
17 FINED AREA AND IT IS CLEARLY EVIDENT THAT THE INTENT OF THE VOTER
18 WAS TO CAST A VOTE. IN DETERMINING INTENT OF THE VOTER, THE
19 BOARD OF CANVASSERS SHALL COMPARE THE MARK WITH OTHER MARKS
20 APPEARING ON THE BALLOT.