

SPOILING AN ABSENT VOTER BALLOT AND USE OF PAPER BALLOTS FOR TABULATION

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House Bill 5644 (H-1) as reported from committee
Sponsor: Rep. Tom Barrett
Committee: Elections and Ethics
Complete to 3-12-18

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bill 5644 would amend the Michigan Election Law to provide procedures for spoiling an absent voter ballot that has already been voted or that was lost or never received. The bill would also require electronic voting systems used in this state to utilize a paper ballot for tabulation purposes.

FISCAL IMPACT:

The bill would have no fiscal impact on state or local governments.

DETAILED SUMMARY:

Sections 794 to 799a of the Michigan Election Law prescribe requirements and procedures for electronic voting systems to be used in elections in this state. House Bill 4644 would amend Section 795 to require that such a system must utilize a paper ballot for tabulating purposes.

House Bill 5644 would also allow an elector who has voted an absent voter ballot, or whose absent voter ballot is lost or not yet received, to request that his or her city or township clerk spoil that original ballot and provide the elector with a new absent voter ballot. The request would be made by submitting a signed, written statement to the clerk requesting that the ballot be spoiled and a new ballot provided. The statement could be submitted by mail or in person. The mail deadline would be 2 p.m. on the Saturday before an election, and the in-person deadline would be 4 p.m. on the day before an election, as long as that day is not a Sunday or legal holiday.

Upon receiving such a signed, written statement from an elector who has voted an absent voter ballot, the clerk would mark the absent voter return envelope of that elector as “spoiled” and retain the envelope. Upon receiving such a signed, written statement from an elector who has lost or not yet received an absent voter ballot, the clerk would indicate in the qualified voter file that the original ballot is spoiled. The clerk would then provide or mail a new absent voter ballot to the elector or, if the elector has appeared in person at the clerk’s office to request the spoilage, issue to the elector a new ballot that must be voted in the office.

The bill would further stipulate that absent voter ballots cannot be counted until the polls open on election day.

The bill would take effect 90 days after it is enacted.

MCL 168.765 and 168.795 and proposed MCL 168.765a

BACKGROUND INFORMATION:

Under Michigan law, a registered voter is eligible for an absent voter ballot if he or she is any of the following:

- 60 years old or older.
- Unable to vote without assistance at the polls.
- Expecting to be out of town on election day.
- In jail awaiting arraignment or trial.
- Unable to attend the polls due to religious reasons.
- Appointed to work as an election inspector in a precinct outside his or her precinct of residence.

As was widely reported around the 2016 election, Michigan is currently among the few states that allow absent voters to spoil their ballots and vote a new one (even if they are simply changing their mind) before election day.¹ The deadlines for doing so are the same as those for requesting an original absent voter ballot: 2 p.m. the Saturday before the election if by mail, 4 p.m. the day before if in person. House Bill 5644 proposes to codify these current practices and procedures in statute.

A voter at the polls who makes a mistake while voting (e.g., an incorrect marking) can spoil his or her ballot and request a new one. A significant number of absent voter ballots are voided by clerks every election because voters have made similar mistakes. Putting into law the ability of absent voters to spoil a ballot and receive a new one might help to inform voters of procedures they can follow to ensure that their vote is counted.

[Note: An absent voter who has lost, destroyed, or never received his or her ballot can also vote at the polls in person on election day under Section 769 of the Election Law; he or she must execute an affidavit as to the loss or absence of the original ballot.]

POSITIONS:

A representative of the Michigan Department of State testified in support of the bill.
(3-1-18)

The following organizations indicated support for the bill:

- American Civil Liberties Union (3-1-18)
- Michigan Association of Municipal Clerks (3-8-18)
- Michigan Election Reform Alliance (3-8-18)

Legislative Analyst: Rick Yuille
Fiscal Analyst: Michael Clossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ See, e.g., http://www.mlive.com/news/grand-rapids/index.ssf/2016/03/absentee_voters_may_spoil_and.html