

HOUSE BILL No. 5644

February 27, 2018, Introduced by Reps. Barrett and Miller and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 765 and 795 (MCL 168.765 and 168.795), section 765 as amended by 1996 PA 207 and section 795 as amended by 2004 PA 92, and by adding section 765a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 765. (1) A clerk who receives an absent voter ballot
 2 return envelope containing the marked ballots of an absent voter
 3 shall not open that envelope before delivering the envelope to the
 4 board of election inspectors as provided in this section. The city
 5 ~~, village,~~ or township clerk shall safely keep in his or her office
 6 until election day any absent voter ballot return envelopes

1 received by the clerk before election day containing the marked
2 ballots of an absent voter.

3 (2) Before the opening of the polls on election day or as soon
4 after the opening of the polls as possible, the clerk shall deliver
5 the absent voter ballot return envelopes to the chairperson or
6 other member of the board of election inspectors in the absent
7 voter's precinct, together with the signed absent voter ballot
8 applications received by the clerk from any voters of that precinct
9 and the clerk's list or record kept relative to those absent
10 voters. However, if higher numbered ballots are used ~~pursuant to~~
11 **UNDER** section 717, the clerk shall retain the applications and
12 lists in his or her office and shall keep the applications and
13 lists open to public inspection at all reasonable hours. **ABSENT**
14 **VOTER BALLOTS MUST NOT BE TABULATED BEFORE THE OPENING OF THE POLLS**
15 **ON ELECTION DAY.**

16 (3) The city ~~, village,~~ or township clerk, or authorized
17 designee of the clerk, shall call for and receive absent voter
18 ballots from the post office at which the city ~~, village,~~ or
19 township clerk regularly receives mail addressed to the city ~~,~~
20 ~~village,~~ or township clerk on election day in sufficient time to
21 deliver any envelopes containing absent voter ballots to the board
22 of election inspectors before the close of the polls.

23 (4) If a marked absent voter ballot is received by the clerk
24 after the close of the polls, the clerk shall plainly mark the
25 envelope with the time and date of receipt and shall file the
26 envelope in his or her office. Except as otherwise provided in
27 section 759b, the clerk shall not deliver an absent voter ballot to

1 a voter after the opening of the polls on election day.

2 (5) On or before 8 a.m. on election day, the clerk shall post
3 in the clerk's office or otherwise make public the number of absent
4 voter ballots the clerk distributed to absent voters and the number
5 of absent voter ballot return envelopes containing the marked
6 ballots of absent voters received by the clerk before election day
7 and delivered to the board of election inspectors or the absent
8 voter counting boards ~~pursuant to~~ **UNDER** this act. On or before 9
9 p.m. on election day, the clerk shall post in the clerk's office or
10 otherwise make public the number of absent voter ballot return
11 envelopes containing the marked ballots of absent voters received
12 by the clerk on election day and delivered to the board of election
13 inspectors ~~pursuant to~~ **UNDER** subsection (3), along with the total
14 number of absent voter ballot return envelopes containing the
15 marked ballots of absent voters received by the clerk both before
16 and on election day and delivered to the board of election
17 inspectors or the absent voter counting boards ~~pursuant to~~ **UNDER**
18 this act. As soon as possible after all precincts in the city ~~or~~
19 township ~~or village~~ are processed, the clerk shall post in the
20 clerk's office or otherwise make public the number of absent voter
21 ballot return envelopes containing the marked ballots of absent
22 voters received by the election inspectors at the precincts on
23 election day, along with the total number of absent voter ballot
24 return envelopes containing the marked ballots of absent voters
25 received in the city ~~or~~ township ~~or village~~ for that election.
26 This subsection applies only to elections in which a federal or
27 state office appears on the ballot.

1 SEC. 765A. (1) NOT LATER THAN 2 P.M. ON THE SATURDAY
2 IMMEDIATELY BEFORE AN ELECTION, AN ELECTOR MAY RETURN AN ABSENT
3 VOTER BALLOT BY SUBMITTING A SIGNED, WRITTEN STATEMENT TO HIS OR
4 HER CITY OR TOWNSHIP CLERK REQUESTING THAT THE CLERK DO BOTH OF THE
5 FOLLOWING:

6 (A) SPOIL THE ELECTOR'S ABSENT VOTER BALLOT.

7 (B) PROVIDE OR MAIL A NEW ABSENT VOTER BALLOT TO THE ELECTOR.

8 (2) UPON RECEIPT OF A SIGNED, WRITTEN STATEMENT FROM AN
9 ELECTOR AS DESCRIBED IN SUBSECTION (1), THE CITY OR TOWNSHIP CLERK
10 SHALL MARK THE ABSENT VOTER BALLOT RETURN ENVELOPE OF THAT ELECTOR
11 AS "SPOILED" AND RETAIN THE ENVELOPE. IN ADDITION, THE CITY OR
12 TOWNSHIP CLERK SHALL PROVIDE OR MAIL A NEW ABSENT VOTER BALLOT TO
13 THAT ELECTOR.

14 (3) AN ELECTOR WHO HAS RETURNED AN ABSENT VOTER BALLOT MAY,
15 BEFORE 4 P.M. ON THE DAY BEFORE AN ELECTION EXCEPT SUNDAY OR A
16 LEGAL HOLIDAY, APPEAR IN PERSON AT HIS OR HER CITY OR TOWNSHIP
17 CLERK'S OFFICE TO DO BOTH OF THE FOLLOWING:

18 (A) SPOIL HIS OR HER ABSENT VOTER BALLOT BY SUBMITTING A
19 SIGNED, WRITTEN STATEMENT TO THE CITY OR TOWNSHIP CLERK INDICATING
20 THAT THE ELECTOR WISHES TO HAVE HIS OR HER ABSENT VOTER BALLOT
21 SPOILED.

22 (B) VOTE A NEW ABSENT VOTER BALLOT IN THE CLERK'S OFFICE.

23 (4) UPON RECEIPT OF THE SIGNED, WRITTEN STATEMENT FROM AN
24 ELECTOR AS DESCRIBED IN SUBSECTION (3) (A), THE CITY OR TOWNSHIP
25 CLERK SHALL MARK THE ABSENT VOTER BALLOT RETURN ENVELOPE OF THAT
26 ELECTOR AS "SPOILED" AND RETAIN THE ENVELOPE. IN ADDITION, THE CITY
27 OR TOWNSHIP CLERK SHALL ISSUE THE ELECTOR A NEW ABSENT VOTER BALLOT

1 **THAT MUST BE VOTED BY THE ELECTOR IN THE CLERK'S OFFICE.**

2 Sec. 795. (1) An electronic voting system acquired or used
3 under sections 794 to 799a ~~shall~~**MUST** meet all of the following
4 requirements:

5 (a) Provide for voting in secrecy, except in the case of
6 voters who receive assistance as provided by this act.

7 **(B) UTILIZE A PAPER BALLOT FOR TABULATING PURPOSES.**

8 **(C)** ~~(b)~~ Permit each elector to vote at an election for all
9 persons and offices for whom and for which the elector is lawfully
10 entitled to vote; to vote for as many persons for an office as the
11 elector is entitled to vote for; and to vote for or against any
12 question upon which the elector is entitled to vote. Except as
13 otherwise provided in this subdivision, the electronic tabulating
14 equipment ~~shall~~**MUST** reject all choices recorded on the elector's
15 ballot for an office or a question if the number of choices exceeds
16 the number that the elector is entitled to vote for on that office
17 or question. Electronic tabulating equipment that can detect that
18 the choices recorded on an elector's ballot for an office or a
19 question exceeds the number that the elector is entitled to vote
20 for on that office or question ~~shall~~**MUST** be located at each
21 polling place and programmed to reject a ballot containing that
22 type of an error. If a choice on a ballot is rejected as provided
23 in this subdivision, an elector ~~shall~~**MUST** be given the opportunity
24 to have that ballot considered a spoiled ballot and to vote another
25 ballot.

26 **(D)** ~~(e)~~ Permit an elector, at a presidential election, by a
27 single selection to vote for the candidates of a party for

1 president, vice-president, and presidential electors.

2 **(E)** ~~(d)~~—Permit an elector in a primary election to vote for
3 the candidates in the party primary of the elector's choice. Except
4 as otherwise provided in this subdivision, the electronic
5 tabulating equipment ~~shall~~**MUST** reject each ballot on which votes
6 are cast for candidates of more than 1 political party. Electronic
7 tabulating equipment that can detect that the elector has voted for
8 candidates of more than 1 political party ~~shall~~**MUST** be located at
9 each polling place and programmed to reject a ballot containing
10 that type of an error. If a choice on a ballot is rejected as
11 provided in this subdivision, an elector ~~shall~~**MUST** be given the
12 opportunity to have that ballot considered a spoiled ballot and to
13 vote another ballot.

14 **(F)** ~~(e)~~—Prevent an elector from voting for the same person
15 more than once for the same office.

16 **(G)** ~~(f)~~—Reject a ballot on which no valid vote is cast.
17 Electronic tabulating equipment ~~shall~~**MUST** be programmed to reject
18 a ballot on which no valid vote is cast.

19 **(H)** ~~(g)~~—Be suitably designed for the purpose used; be durably
20 constructed; and be designed to provide for safety, accuracy, and
21 efficiency.

22 **(I)** ~~(h)~~—Be designed to accommodate the needs of an elderly
23 voter or a person with 1 or more disabilities.

24 **(J)** ~~(i)~~—Record correctly and count accurately each vote
25 properly cast.

26 **(K)** ~~(j)~~—Provide an audit trail.

27 **(L)** ~~(k)~~—Provide an acceptable method for an elector to vote

1 for a person whose name does not appear on the ballot.

2 **(M)** ~~(l)~~ Allow for accumulation of vote totals from the
3 precincts in the jurisdiction. The accumulation software must meet
4 specifications prescribed by the secretary of state and must be
5 certified by the secretary of state as meeting these
6 specifications.

7 **(N)** ~~(m)~~ Be compatible with or include at least 1 voting device
8 that is accessible for an individual with disabilities to vote in a
9 manner that provides the same opportunity for access and
10 participation, including secrecy and independence, as provided for
11 other voters. The voting device ~~shall~~ **MUST** include nonvisual
12 accessibility for the blind and visually impaired.

13 (2) Electronic tabulating equipment that counts votes at the
14 precinct before the close of the polls ~~shall~~ **MUST** provide a method
15 for rendering the equipment inoperable if vote totals are revealed
16 before the close of the polls. Electronic tabulating equipment that
17 tabulates ballots, including absentee ballots, at a central
18 location ~~shall~~ **MUST** be programmed to reject a ballot if the choices
19 recorded on an elector's ballot for an office or a question exceed
20 the number that the elector is entitled to vote for on that office
21 or question, if no valid choices are recorded on an elector's
22 ballot, or if, in a primary election, votes are recorded for
23 candidates of more than 1 political party.

24 (3) ~~Beginning January 1, 2006, each~~ **EACH** jurisdiction in this
25 state conducting an election shall equip each polling place with at
26 least 1 accessible voting device as required under subsection
27 ~~(1) (m)~~. **(1) (N)**.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.