

Act No. 127
Public Acts of 2018
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Barrett and Miller

ENROLLED HOUSE BILL No. 5644

AN ACT to amend 1954 PA 116, entitled “An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act,” 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 765b.

The People of the State of Michigan enact:

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

(2) Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk shall deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter’s precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk’s list or record kept relative to those absent voters. However, if higher numbered ballots are used under section 717, the clerk shall retain the applications and lists in his or her office and shall keep the applications and lists open to public inspection at all reasonable hours. Absent voter ballots must not be tabulated before the opening of the polls on election day.

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

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

(5) On or before 8 a.m. on election day, the clerk shall post in the clerk’s office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk before election day and delivered to the board of election inspectors or the absent voter counting boards under this act. On or before 9 p.m. on election day, the clerk shall post in the clerk’s office or otherwise make public the number of absent voter ballot return envelopes containing

the marked ballots of absent voters received by the clerk on election day and delivered to the board of election inspectors under subsection (3), along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk both before and on election day and delivered to the board of election inspectors or the absent voter counting boards under this act. As soon as possible after all precincts in the city or township are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the election inspectors at the precincts on election day, along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received in the city or township for that election. This subsection applies only to elections in which a federal or state office appears on the ballot.

Sec. 765b. (1) Not later than 2 p.m. on the Saturday immediately before an election, an elector may submit a signed, written statement to his or her city or township clerk requesting that the clerk do both of the following:

- (a) Spoil the elector's absent voter ballot.
- (b) Provide or mail a new absent voter ballot to the elector.

(2) Upon receipt of a signed, written statement from an elector as described in subsection (1), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall provide or mail a new absent voter ballot to that elector.

(3) An elector who has returned an absent voter ballot may, before 4 p.m. on the day before an election except Sunday or a legal holiday, appear in person at his or her city or township clerk's office to do both of the following:

- (a) Spoil his or her absent voter ballot by submitting a signed, written statement to the city or township clerk indicating that the elector wishes to have his or her absent voter ballot spoiled.
- (b) Vote a new absent voter ballot in the clerk's office.

(4) Upon receipt of the signed, written statement from an elector as described in subsection (3)(a), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall issue the elector a new absent voter ballot that must be voted by the elector in the clerk's office.

(5) Not later than 2 p.m. on the Saturday immediately before an election, an elector who has lost his or her absent voter ballot or not yet received his or her absent voter ballot in the mail may submit a signed, written statement to his or her city or township clerk requesting that the clerk do both of the following:

- (a) Spoil the elector's absent voter ballot.
- (b) Provide or mail a new absent voter ballot to the elector.

(6) Upon receipt of a signed, written statement from an elector as described in subsection (5), the city or township clerk shall indicate in the qualified voter file that the original ballot is spoiled. In addition, the city or township clerk shall provide or mail a new absent voter ballot to that elector.

(7) An elector who has lost his or her absent voter ballot or not yet received his or her absent voter ballot in the mail may, before 4 p.m. on the day before an election except Sunday or a legal holiday, appear in person at his or her city or township clerk's office to do both of the following:

- (a) Spoil his or her absent voter ballot by submitting a signed, written statement to the city or township clerk indicating that the elector wishes to have his or her absent voter ballot spoiled.
- (b) Vote a new absent voter ballot in the clerk's office.

(8) Upon receipt of the signed, written statement from an elector described in subsection (7)(a), the city or township clerk shall indicate in the qualified voter file that the original ballot is spoiled. In addition, the city or township clerk shall issue the elector a new absent voter ballot that must be voted by the elector in the clerk's office.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a must meet all of the following requirements:

- (a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.
- (b) Utilize a paper ballot for tabulating purposes.

(c) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment must reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question must be located at each polling place and programmed

to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector must be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(d) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(e) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment must reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party must be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector must be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(f) Prevent an elector from voting for the same person more than once for the same office.

(g) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment must be programmed to reject a ballot on which no valid vote is cast.

(h) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(i) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(j) Record correctly and count accurately each vote properly cast.

(k) Provide an audit trail.

(l) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

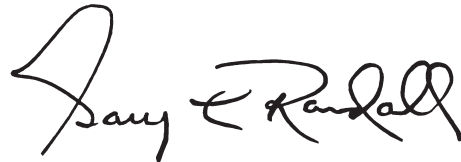
(m) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(n) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device must include nonvisual accessibility for the blind and visually impaired.

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

(3) Each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(n).

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor