

Legislative Analysis



AGREEMENTS WITH OTHER LOCAL UNITS FOR ADMINISTERING ELECTION PROCESSES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5141 (H-2) as reported from committee
Sponsor: Rep. Julie Calley
1st Committee: Elections and Ethics
2nd Committee: Ways and Means
Revised 2-8-21

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

BRIEF SUMMARY: House Bill 5141 would amend the Michigan Election Law to allow a city or township clerk to enter into a written agreement regarding the creation of an absent voting board with the clerks of other cities or townships in the county, or with the applicable county clerk, at least 75 days before the election.

FISCAL IMPACT: House Bill 5141 would have no direct fiscal impact on the Department of State and an indeterminate but potentially substantial fiscal impact on local units of government. See **Fiscal Information**, below, for a detailed analysis.

THE APPARENT PROBLEM:

Now and under the bill, boards of election commissioners must provide each absent voter counting board with a location for counting that is not a polling place, and more than one board may be located in a single location. All laws relating to paper ballot precincts, including laws regarding election inspectors, apply. The absent voter counting boards must process ballots and returns in as nearly as possible the same manner as ballots in paper ballot precincts, with processing and tallying beginning at 7 a.m. on Election Day.

Proposal 3 of 2018, approved by the voters with 67% of the vote, added eight voter rights to the Michigan Constitution, including “no-reason absentee voting.”¹ Previously, a voter had to meet one of six criteria in order to qualify for an absentee ballot. Now, Michigan voters can obtain an absentee ballot, without giving a reason, during the 40 days before an election. It is expected that Proposal 3 will lead to an increase in voting participation and a dramatic increase in absentee voters. HB 5141 would provide adjustments for that expected increase in absentee voters in upcoming elections.

THE CONTENT OF THE BILL:

House Bill 5141 would amend the Michigan Election Law to allow a city or township clerk to enter into a written agreement regarding the creation of an absent voting board with the clerks of other cities or townships in the county, or with the applicable county clerk, at least 75 days before the election.

¹ House Fiscal Agency analysis of Proposal 3: Promote the Vote petition:
https://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2018-3_Promote_The_Vote.pdf

Specifically, a city or township clerk could enter into an agreement to do any of the following:

- Establish a combined absent voting board to count the absent voter (AV) ballots for participating cities or townships with the clerk of another city or township or with the clerks of more than one city or township.
- Allow the clerk of another city or township located in the same county to count AV ballots for both entities using the applicable AV counting board.
- Allow the county's AV counting board to count AV ballots for the city or township. (If the city or township were located in more than one county, the agreement would be with the county in which the majority of its electors reside.)

However, an AV counting board established in any of these ways could not be used for the first time at a general November election.

If the city or township were handing over administration of AV counting—as in, using the second or third option above—it would have to use the established approval procedures of each participating county, city, or township or, if procedures did not exist, the agreement would have to be approved by the applicable governing bodies.

The Michigan Bureau of Elections (BOE) would have to develop model language that could be used for the written agreements, as well as procedures to implement the options.

The clerk of a city or township who entered into such an agreement would have to file the agreement with the applicable county clerk at least 74 days before the election to which the agreement applied. If the agreement covered more than one election, it would have to allow any participating clerk to terminate the agreement with 84 days' written notice. If the terminating clerk were a city or township clerk, notice would have to be filed with the county clerk within two business days and, if a county clerk, notice would have to be filed with the BOE within two business days.

For a combined AV counting board (composed of at least two cities or townships), each city's or township's board of election commissioners would have to appoint the election inspectors to the combined absent voter counting board between 21 and 40 days before the applicable election. Additionally, the agreement would have to stipulate a place for the AV counting board to count the ballots and a time for them to report for duty. The same requirements for appointment and designation of a time and place would apply for a county AV counting board, with the onus on the county board of election commissioners.

Election inspectors appointed to an AV board under these provisions would have to comply with statutory requirements regarding election challenges.

If a city or township clerk who had entered into an agreement described above received an AV ballot after 4 p.m. on the day before the election, the ballot would have to be delivered to the elector's voting precinct to be processed and counted, and not to the applicable AV counting board.

MCL 168.765a; proposed MCL 168.764d and 168.764e

FISCAL INFORMATION:

House Bill 5141 would have no direct fiscal impact on the Department of State and an indeterminate but potentially substantial fiscal impact on local units of government.

The fiscal impact on counties, cities, and townships would depend on the extent to which these units enter into written agreements, the scope of the duties transferred through the agreements, and any agreed-upon payment arrangements. If written agreements are largely used to permit temporary gaps in administrative staffing to be filled, the bill would likely have only a limited fiscal impact on the units of government that enter into the agreements. The cost to a local unit of government for an election day worker can range between \$200 and \$300 a day.

Agreements among local units and counties could also provide cost savings through the transferring and reallocation of election equipment such as ballot tabulators, poll booths, and other equipment if those efficiencies are achieved. This may allow local units not to be required to purchase as many tabulators to accommodate anticipated increases in absent voter ballots and to replace tabulators in the future. Each tabulator costs approximately \$5,000, not including programming and maintenance costs. Programming and maintenance can cost an additional \$2,000 to \$3,000 over the course of five years.

ARGUMENTS:

For:

Proponents advanced the bill as a needed change to account for the increased voter participation expected following the passage of Proposal 3 of 2018 (described in **The Apparent Problem**, above). The bill would not require clerks to make changes to existing practice, but would give them the flexibility to determine what would work best for their community. According to committee testimony, small communities could see substantial cost savings if they were able to band together to buy tabulators in bulk.

Against:

No one testified or voted against the bill in committee.

POSITIONS:

A representative of the Michigan Townships Association testified in support of the bill.
(1-22-20)

The following organizations indicated support for the bill:

- Secretary of State (1-22-20)
- Ottawa County Clerk (10-30-19)
- Michigan Association of County Clerks (10-30-19)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Michael Cnossen

■ 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.