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House Bill 5141 (Substitute H-2 as passed by the House)  
Sponsor: Representative Julie Calley  
House Committee: Elections and Ethics  
Ways and Means  
Senate Committee: Elections and Government Reform

Date Completed: 3-11-20

### **CONTENT**

**The bill would amend the Michigan Election Law to do the following:**

- **Allow the clerk of a city or township, at least 75 days before an election, to enter into an agreement with another clerk of a city or township, multiple clerks, or applicable county clerk, to establish an absent voter (AV) counting board.**
- **Prohibit an AV counting board established under the bill from being used for the first time during a general November election.**
- **Require the Michigan Bureau of Election to develop model language for AV counting board agreements and procedures for implementing the bill.**
- **Require the clerk of a city or township to file any agreement with the county clerk no later than 74 days before an election.**
- **Prescribe procedures for terminating an agreement.**
- **Require an absentee ballot received after 4 PM on the day before an election to be delivered to the elector's voting precinct on election day.**

#### Agreements for AV Counting Boards

The bill would allow the clerk of a city or township, notwithstanding any provision of law to the contrary, to do any of the following at least 75 days before an election:

- Enter into an agreement with the clerk of another city or township, or with the clerks of more than one city or township, located in the same county as that city or township to establish a *combined* AV counting board to count the absentee ballots for each participating city or township.
- Enter into an agreement with the clerk of another city or township located in the same county that authorized the clerk of one participating city or township to process and count absent voter ballots for both participating entities by using the AV counting board of that city or township.
- Enter into an agreement with the clerk of the county in which the city or township was located to have the clerk establish an AV counting board to count ballots for that city or township; if a city or township had boundaries located in more than one county, the city or township clerk could enter into an agreement only with the clerk of the county in which the majority of the electors of the city or township resided.

An AV counting board established under an agreement described above could not be used for the first time at a general November election.

If the clerk of a city or township entered into an agreement allowing either the clerk of another city or township or a county clerk to count and process absentee ballots from that city or township, the agreement would have to comply with the established approval procedures of each county, city, or township involved. If established approval procedures did not exist, the agreement would have to be approved by resolution of the governing body of that entity.

The Michigan Bureau of Elections would have to develop model language to be used by county, city, and township clerks for AV counting board agreements, and to develop procedures for the bill's implementation.

If the clerk of a city or township entered into an agreement, he or she would have to file the agreement with the county clerk of the county in which that city or township was located at least 74 days before the election at which the agreement would apply.

If the clerk of a city or township entered into an agreement and the agreement covered more than one election, the agreement would have to allow any participating clerk to terminate the agreement by giving 84 days' written notice to each of the other participating clerks. If the clerk terminating the agreement were a city or township clerk, he or she also would have to notify the county clerk of the county in which that city or township was located no later than two business day after the date of termination. If the clerk terminating the agreement were a county clerk, the clerk also would have to file the termination notice with the Bureau of Elections no later than two business days after the date of termination.

#### Elections Inspectors & Counting Ballots

Combined AV Counting Board. For a combined AV counting board, the following would apply. The board of election commissioners of each participating city or Township would have to appoint at least one election inspector to the combined AV counting board not less than 21 days or more than 40 days before the election at which those inspectors were to be used. Sections 673a and 674 would apply to these appointments. (Under Section 673a, no later than May 15 of each year, the county chair of a major political party may submit to the city or township clerks in that county a list of individuals who are interested in serving as an election inspector in that county. The county chair may designate in the list the city or township in which each individual on the list wishes to serve. Section 674 generally pertains to appointing and challenging the appointment of election inspectors.)

The agreement would have to designate a place for the counting board to count the ballots. Section 662 would apply to the designation and prescribing of the place where the combined AV counting board would perform its duties. The agreement also would have to establish the time at which the election inspectors of the combined AV counting board would have to report for duty.

County AV Counting Board. A county AV counting board would have to meet generally the same requirements as those described above for combining AV counting boards, except the county board of election commissioners would have to appoint election inspectors.

Election inspectors appointed to any AV counting board established under the bill would have to comply with Section 733, which requires a board of election inspectors to provide space for challengers, if any, at each counting board that allows the challengers to observe the counting of ballots.

If the clerk of a city or township entered into an AV counting board agreement, any absentee ballot received by that clerk after 4 PM on the day before an election could not be delivered

to the AV counting board. Instead, the ballot would have to be delivered to the voting precinct of the elector on election day to be processed and counted.

The bill specifies that existing statute regarding AV counting boards would apply to the AV counting boards described under the bill.

MCL 168.765 et al.

Legislative Analyst: Dana Adams

### **FISCAL IMPACT**

The bill would not have a significant fiscal impact on State government. It would add county and combined absent voter counting boards to the list of boards for which the Secretary of State would have to develop and distribute appropriate instructions. However, these activities likely would be funded by existing appropriations.

The bill would have an indeterminate fiscal impact on local units of government. Some local units could experience cost savings by using equipment or staff paid for by other clerks or clerk's offices. Units that received payment in exchange for performing certain duties on behalf of other units could experience an increase in revenue. However, this revenue could be offset by the increased workload and required investment in staff or resources. The magnitude of the impact would depend on the number of agreements made and their specific content.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.