

PERMANENT MAIL BALLOT VOTERS

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House Bill 4699 (H-2) as passed by the House
Sponsor: Rep. Erin Byrnes
Committee: Elections
Complete to 6-14-23

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

(Enacted as Public Act 86 of 2023)

SUMMARY:

House Bill 4699 would amend the Michigan Election Law to add provisions related to permanent mail ballot voters. The bill would appear to implement provisions of section 4 of Article II of the state constitution, which was approved by voters as Ballot Proposal 22-2. That section provides the following:

- Registered voters have the right to have an absent voter ballot sent to them before each election by submitting a single signed absent voter ballot application covering all future elections.
- This right can be rescinded only if the voter submits a signed request to do so, the voter is no longer qualified to vote, the secretary of state or the applicable election official receives reliable information that the voter has moved to another state or has moved within Michigan without updating their voter registration address, or the voter does not vote for six consecutive years.
- If the voter moves within Michigan and updates their voter registration address, the exercise of the above right must remain in effect without the need for a new absent voter ballot application.

Permanent mail ballot voters

The bill would require each city and township clerk to determine who their *permanent mail ballot voters* are and to maintain and track those permanent mail ballot voters through the qualified voter file.

Permanent mail ballot voter would mean a registered elector who submits a signed absent voter ballot application to receive an absent voter ballot by mail for all future elections and whose application has been verified.

Any registered elector could become a permanent mail ballot voter. A permanent mail ballot voter would have to be issued an absent voter ballot for every election. Each city and township clerk also would have to issue an absent voter ballot application to any elector who requests one.

Once an elector's absent voter ballot application for all future elections was verified, the elector would become a permanent mail ballot voter and would have to be sent an absent voter ballot before each election unless the application were rescinded.

An absent voter ballot application for all future elections could be rescinded for any of the following reasons:

- The permanent mail ballot voter submits a signed request to rescind their application to receive an absent voter ballot by mail for all future elections.

- The permanent mail ballot voter is no longer qualified to vote in Michigan.
- The secretary of state or appropriate city or township clerk receives reliable information that the permanent mail ballot voter has moved their residence to another state or has moved their residence in Michigan without updating their registration address.
- The permanent mail ballot voter does not vote for six consecutive years.

The secretary of state or the appropriate city or township clerk would have to rescind an absent voter ballot application for all future elections upon receiving reliable information of any of the above events.

If an absent voter ballot application for all future elections is rescinded because of not voting for six years, the city or township clerk would have to send the elector a notice informing them that their application has been rescinded for that reason.

If an absent voter ballot application is rescinded because the elector has moved, the city or township clerk would have to include in a notice regarding the move that the application has been rescinded and that the voter will not receive absent voter ballots for future elections unless they submit a new absent voter ballot application.

A permanent mail ballot voter who changes their residence in Michigan and updates their registration address, or who has their registration address updated, would continue to be a permanent mail ballot voter. Their absent voter ballot would have to be sent to their current registration address until another address is designated by them.

The secretary of state would have to provide instructions to county, city, and township clerks regarding the discontinuation of any permanent absent voter ballot application list maintained by the clerk for electors who automatically receive an absent voter ballot application before each election.

Presidential primary ballot selection form

The bill also would require the secretary of state to prescribe the *presidential primary ballot selection form*. The form would have to be available in person, by mail, and online and be able to be submitted to the relevant city or township clerk in person, by mail, or online.

Presidential primary ballot selection form would mean a form, as prescribed by the secretary of state, that a permanent mail ballot voter can use to select, or change a prior selection of, the political party ballot that the permanent mail ballot voter wishes to receive for a presidential primary election.

At least 60 days before a presidential primary election, each city or township clerk would have to send a presidential primary ballot selection form, with prepaid return postage, to all permanent mail ballot voters in the city or township who have not made a presidential primary ballot selection for the presidential primary election. If a permanent mail ballot voter does not return a presidential primary ballot selection form by the fortieth day before the presidential primary election, their city or township clerk would have to notify the voter by telephone, email, and text message, if available, of the requirement to make a political party ballot selection in order to receive a presidential primary election ballot. If the clerk does not have a

telephone number or email address for that voter, then they would have to notify the voter by mail.¹

If an elector becomes a permanent mail ballot voter in a city or township after the ballot selection forms are sent as required above, and the elector has not made a ballot selection for the presidential primary election, the clerk would have to immediately send the voter a presidential primary ballot selection form, with prepaid return postage.

If the presidential primary election ballot contains any office or proposal other than for the office of President of the United States, a ballot with those other offices or proposals that does not include the office of President of the United States would have to be sent to those permanent mail ballot voters who have not made a presidential primary ballot selection for the presidential primary election. These ballots would have to include a notice on a form prescribed by the secretary of state that indicates that the voter did not receive a presidential primary election ballot because they did not make a presidential primary ballot selection and that includes the process by which the voter can participate in the presidential primary.

A presidential primary ballot selection form sent as described above would have to be sent to the address designated by the permanent mail ballot voter to which the voter's absent voter ballot is sent.

Finally, the bill would require all ballots containing a federal office, and all presidential primary ballot selection forms, to be preserved and maintained for 22 months after the primary or election at which the ballots were cast or forms were used.

MCL 168.509aa et seq. and proposed MCL 168.6 et seq.

FISCAL IMPACT:

The bill would result in undetermined ongoing postage costs to city and township clerk's offices for costs of mailing warning notices and primary election forms and ballots. The bill would have no fiscal impact on the state unless the state chooses to support the costs out of concern for upholding the state's Headlee amendment, which requires that the state maintain its proportion of spending for costs of state-mandated programs and requirements.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-8-23):

- Michigan Association of Municipal Clerks
- Promote the Vote

The following entities indicated support for the bill:

- American Association of University Women of Michigan (6-8-23)
- American Civil Liberties Union of Michigan (6-8-23)
- Campaign Legal Center (6-8-23)
- Common Cause Michigan (6-8-23)

¹ Additional notice could be provided by any other method of contact.

- Detroit Disability Power (6-13-23)
- Detroit Regional Chamber (6-8-23)
- Healthy Democracy Healthy People Michigan (6-8-23)
- League of Women Voters of Michigan (6-13-23)
- Michigan Democratic Party (6-8-23)
- Michigan League of Conservation Voters (6-13-23)
- Michigan League for Public Policy (6-8-23)
- Michigan Nonprofit Association (6-8-23)
- Michigan State Employee Retirees Association (6-8-23)
- Michigan Townships Association (6-8-23)
- National Vote at Home Initiative (6-8-23)
- NextGen America (6-8-23)
- Protect Democracy (6-8-23)
- Voters Not Politicians (6-13-23)

A representative of Pure Integrity for Michigan Elections testified with concerns about the bill. (6-8-23)

Heritage Action for America indicated opposition to the bill. (6-8-23)

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■ 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.