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Senate Bill 259 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Paul Wojno

Committee: Elections and Ethics

Date Completed: 4-20-23

CONTENT

The bill would amend Chapter 28 (Holding of Elections) of the Michigan Election Law to do all the following:

- **Modify the timeline for the return of absent uniformed services voter and overseas voter ballots postmarked on or before election day to agree with changes made to the timeline by Proposal 22-2 (see BACKGROUND).**
- **Require each city or township clerk to submit the results of absentee overseas voter ballots tabulated after the election to the board of county canvassers of the county in which that city or township was located within seven day after an election.**
- **Modify the instructions included on an absentee ballot to reflect the changes proposed by the bill.**

Definitions

An "overseas voter" means any of the following:

- An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of an election.
- An individual who resides outside of the United States and is qualified to vote in the last place in which the individual resided before leaving the United States.
- An individual who resides outside of the United States and who, but for such residence outside of the United States, would be qualified to vote in the last place in which the individual was domiciled before leaving the United States.

An "absent uniformed services voter" means a member of a uniformed service on active duty, a member of the merchant marine, or a spouse or dependent of a member of the uniformed service or merchant marine, who, by reason of the active duty or service of the member, is absent from the place of residence where he or she is otherwise qualified to vote.

The "uniformed services" means the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, the Commissioned Corps of the Public Health Service, the Commissioned Corps of the National Oceanic and Atmospheric Administration, a reserve component of a uniformed service, or the Michigan Army National Guard or Air National Guard.

A "member of the merchant marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways, who is either of the following:

- Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

- Enrolled with the United States for employment or training for employment or maintained by the United States for emergency relief service as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

Under the bill, a "postmark" would mean any type of mark applied by the United States Postal Service or any delivery service to a ballot return envelope, including a bar code or any tracking marks, which indicates when a ballot was mailed.

Absentee Overseas Voter Ballots

Among other things, Chapter 28 of the Michigan Election Law prescribes the process for an overseas voter or absent uniformed services voter to request, fill out, and return an absentee overseas voter ballot. At least 45 days before an election, a county, city, or township clerk must electronically transmit or mail as appropriate an absentee overseas voter ballot to each absent uniformed services voter or overseas voter who applied for an absentee overseas voter ballot 45 days or more before an election. Proposal 22-2 (see **BACKGROUND**) amended the State Constitution to require an absentee overseas voter ballot to be tabulated if it was postmarked by election day and the appropriate election official received it within six days after the election.

The bill would add the following provision to the Law's current timeline to agree with Proposal 22-2's amendments. If a city or township clerk received an absentee overseas voter ballot within six days after the election, and the ballot return envelope for an absent uniformed services voter or overseas voter were postmarked on or before election day, the clerk would have to consider the ballot as timely received and count and tabulate the ballot. If an absentee overseas voter ballot return envelope was received by mail by the city or township clerk within six days after the election and the postmark on the envelope was missing or unclear, but the ballot return envelope or the voter certificate was dated on or before election day by an absent uniformed services voter or overseas voter, the city or township clerk would have to consider that absentee overseas voter ballot as timely received and count and tabulate it.

Within seven days after election day, each city or township clerk would have to transmit the results of the absentee overseas voter ballots tabulated after the election to the board of county canvassers of the county in which that city or township was located.

Absentee Ballot Instructions

The Law requires specified instructions to be included with each absentee ballot. Among other instructions, the law requires an absentee ballot to specify that "the ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day". The bill would add to this instruction the following: "For an absent uniformed services voter or overseas voter, the absent voter ballot return envelope containing a marked absent voter ballot must be postmarked on or before election day and must reach the clerk or an authorized assistant of the clerk within six days after the election. If the absent voter ballot return envelope containing an absent voter ballot for an absent uniformed services voter or overseas voter is received by mail by the clerk or authorized assistant of the clerk more than 6 days after the election or is postmarked after election day, the absent voter ballot will not be counted."

MCL 168.759a & 168.764a

BRIEF RATIONALE

Absent uniformed services voters and overseas voters may vote in local, State, and Federal elections through the absent ballot system; however, postal delays may prevent absent overseas voter ballots from reaching an election clerk by the counting deadline. In November 2022, Proposal 2 addressed this concern by amending the State Constitution to extend the ballot receipt deadline for absent uniformed services and overseas voter ballots. With several municipalities holding elections in May, August, and November, it has been suggested that the Law be amended to reflect the provisions of Proposal 2.

BACKGROUND

In July 2022, Promote the Vote, a coalition of Michigan organizations active in elections, circulated a petition proposing several constitutional amendments concerning voting rights. Among other amendments, the Proposal included a requirement that military and overseas ballots be counted if the clerk received the ballots within six days after the election, and they were postmarked on or before election day. Promote the Vote submitted the petition to the Michigan Bureau of Elections after gathering enough signatures for the ballot initiative that became Proposal 22-2. Proposal 22-2 passed with 59.99% of the vote during the 2022 November general election.¹

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco, Jr.

¹ "2022 Michigan Election results," Elections, Michigan Department of State. Retrieved on 4-11-23.

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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.