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Senate Bill 386 (as reported without amendment)
Senate Bill 387 (Substitute S-1 as reported)
Sponsor: Senator Jeremy Moss
Committee: Elections and Ethics

CONTENT

Senate Bill 387 (S-1) would amend the Michigan Election Law to do the following:

- Allow a city or township to establish election day vote centers to tabulate ballots cast by electors who registered to vote or updated their voter registration on election day.
- Prescribe requirements for election day vote centers.
- Modify requirements for processing and tabulating absent voter ballots.
- Allow an elector to tabulate the elector's absent voter ballot in person at the elector's polling place or an appropriate early voting site.
- Modify requirements for absent voter counting boards.
- Modify the instructions required to be mailed with absent voter ballots to include instructions on how an elector could cast an absent voter ballot in person.
- Allow a city or township to authorize an absent voter counting board that could only process and tabulate absent voter ballots approved for tabulation and received after 4 PM on the day before an election and before 8 PM on election day.
- Prohibit an individual from taking photographs or audio or video recordings within an absent voter counting place, except in specified circumstances, and prescribe a misdemeanor for a violation.
- Allow a city or township with a population of at least 5,000 to establish an absent voter counting board to process and tabulate absent voter ballots during specific hours on the eight days before election day.
- Prescribe requirements for the processing and tabulation of absent voter ballots during the early voting period.
- Extend, from the Friday immediately before an election to the second Friday before an election, the deadline before which an elector could submit a request that the clerk spoil the elector's absent voter ballot.
- Repeal Sections 14b, 24k, and 767 of the Michigan Election Law, which govern the use of absent voter ballot secrecy envelope containers.

Senate Bill 386 would amend the Code of Criminal Procedure to do the following:

- Remove a provision specifying that disclosing election results or how a ballot was voted is a felony.
- Update the MCL reference for the felony of disclosing how a ballot was voted or disclosing election results early before polls are closed.

MCL 168.764a et al. (S.B. 387)
777.11d (S.B. 386)

BRIEF RATIONALE

Voting absentee has become popular in recent years. Clerks saw a 73% increase in the number of absentee ballots requested from the 2018 Midterm Election to the 2022 General

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Bill Analysis @ www.senate.michigan.gov/sfa

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.

Election.¹ Some believe that this rise in absentee voting has made ballot counting more difficult and time-consuming for clerks, who may not begin counting until election day. Accordingly, it has been suggested that clerks be allowed to begin processing absent voter ballots before election day.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

Senate Bill 387 (S-1) could have indeterminate cost implications for local units of government related to building rentals, purchase of additional tabulators and poll books, and related IT costs. Based on Department of State estimates, the cost for a tabulator is \$5,600 while the cost of an electronic poll book is \$1,500. Information technology programming costs for tabulators and poll books is an estimated \$250,000 per programmer hired. Building rental costs would vary by municipal jurisdictions and depend on the number and size of buildings needed to comply with the bill and the number of jurisdictions that would combine to comply with the bill. Additionally, the bill would allow certain jurisdictions to combine to establish election day vote centers to tabulate ballots. Jurisdictions also could combine precincts to establish absent voter counting boards. The combining of jurisdictions and precincts could result in lower costs as the costs could be shared. Thus, the costs for locals could vary widely and depend on the specific needs for equipment and personnel to meet the bill's requirements.

The bill could have an indeterminate negative fiscal impact on the State and local governments. It is silent on the penalties for violating the prohibition against photographing or audio or video recording within an absent voter counting place. Generally, new misdemeanor arrests and convictions increase resource demands on law enforcement, court systems, community supervision, and jails; however, it is unknown how many people would be prosecuted under the bill. Local jail costs vary by jurisdiction and thus costs for local governments would vary. Any additional revenue from imposed fines would go to local libraries.

Senate Bill 386 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the bill's addition to the guidelines would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 6-22-23

Fiscal Analyst: Joe Carrasco, Jr.
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¹ Benander, Angela, "One week before Election Day, nearly 2 million Michiganders have requested absentee ballots", *Michigan Department of State*, Nov. 2022.