MINUTES OF THE COMMITTEE ON REDISTRICTING AND ELECTIONS

March 13, 2012   9:30 a.m.   Room 521 House Office Building

Chair Lund called the meeting to order.

Present were: Reps. Lund, McBroom, Knollenberg, Tyler, Outman, Pscholka, Byrum, Nathan, Stanley,

Chair Lund laid HB 5061 and HB 5062 before the Committee:

HB 5061   Jacobsen   Elections; absent voters; photograph identification; require when obtaining an absentee ballot, require ballot tracker program to be used by local governments, and require secretary of state to develop information displays indicating that ballot coaching in residential care facilities is prohibited.

HB 5062   Forlini   Elections; other; postelection audits and continuing election education programs; add to the Michigan election law and make other miscellaneous changes to the Michigan election law.

Rep. McBroom moved to adopt the substitute (H-2) to HB 5061. The motion prevailed, the vote being 5-0-3.

FAVORABLE ROLL CALL:

Yeas: Reps. Lund, McBroom, Knollenberg, Tyler, Outman,

Nays: Rep. None,

Pass: Reps. Byrum, Nathan, Stanley.

Susan Smith, representing the League of Women Voters of Michigan, testified in opposition to HB 5061.

Jan BenDor and Philip T. Shepard, representing the Michigan Election Reform Alliance, testified in opposition to HB 5061 and HB 5062.

Mary Hollinrake, Kent County Clerk, representing the Michigan Association of County Clerks, testified with concerns regarding HB 5061 and in support of HB 5062.

Chris Swope, Lansing City Clerk, representing the Michigan Association of Municipal Clerks, testified in opposition to HB 5061 and in support of HB 5062.

The committee went at ease at the call of the Chair, the time being 10:55 a.m.

The Chair called the committee back to order, the time being 11:15 a.m.

Anita R. Dawson, representing the A. Philip Randolph Institute, testified in opposition to HB 5061 and HB 5062.

Mike Batterbee and Chris Hackbarth, representing the Michigan Secretary of State, testified in support of HB 5061 and HB 5062.

The following submitted cards on HB 5061 and did not wish to speak:

Bob Stein, representing the Michigan Assisted Living Association, neutral on the bill.
Melanie McElroy and Pat Shelby, representing Common Cause, in opposition to the bill.
Rich Robinson, representing the Michigan Campaign Finance Network, in opposition to the bill.

Rep. Stanley moved to amend HB 5061 (H-2) as follows:

     1.   Amend page 2, following line 13, by inserting:
"Sec. 758. ~~(1) For the purposes of~~ **AS USED IN** this act, "absent voter" means a qualified and registered elector who ~~meets 1 or more of the following requirements:~~
    ~~(a) On account of physical disability, cannot without another's assistance attend~~ **VOTES WITHOUT ATTENDING** the polls on the day of an election.
    ~~(b) On account of the tenets of his or her religion, cannot attend the polls on the day of election.~~
    ~~(c) Cannot attend the polls on the day of an election in the precinct in which he or she resides because of being an election precinct inspector in another precinct.~~
    ~~(d) Is 60 years of age or older.~~
    ~~(e) Is absent or expects to be absent from the township or city in which he or she resides during the entire period the polls are open for voting on the day of an election.~~
    ~~(f) Cannot attend the polls on election day because of being confined in jail awaiting arraignment or trial.~~
    ~~(2) Subsection (1) does not apply to~~ **ABSENT VOTER DOES NOT INCLUDE** a person who has moved outside of this state, regardless of length of his or her residence outside of this state, and who no longer maintains an actual residence in this state. The storage of personal effects or household goods, the ownership of property that is rented or leased to others, or occasional brief visits to a former domicile in this state while residing outside of this state for most of the year ~~does~~ **DO** not constitute a residence for voting purposes in this state, except for each of the following:
    (a) A person described in section 1 of article II of the state constitution of 1963 and statutes enacted under that section.
    (b) A person described in section 759a.
    Sec. 759. (1) At any time during the 75 days before a primary **ELECTION** or special primary **ELECTION**, an elector who ~~qualifies~~ **WANTS** to vote as an absent voter ~~, as defined in section 758,~~ may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the elector is registered. An application received before a primary **ELECTION** or special primary **ELECTION** may be for either that primary **ELECTION** only, or for that primary **ELECTION** and the election that follows.

(2) Except as otherwise provided in subsection (1), at any time during the 75 days before an election, but not later than 2 p.m. of the Saturday before the election, an elector who ~~qualifies~~ **WANTS** to vote as an absent voter ~~, as defined in section 758,~~ may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the ~~voter stating the statutory grounds for making the application~~ **ELECTOR**.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city, township, or village.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person ~~other than~~**SHALL NOT BE IN POSSESSION OF A SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant **TO RETURN THE APPLICATION**; or a clerk, assistant of the clerk, or other authorized election official**.** ~~shall not be in possession of a signed absent voter ballot application.~~ A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of the city, township, or village shall have absent voter ballot application forms available in the **CLERK'S** office ~~of the clerk~~ at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application shall be in substantially the following form:

"Application for absent voter ballot for:

[ ] The primary **ELECTION** or special primary election to be held on ~~..... , 19...~~ _____ **[DATE]**.

[ ] The election to be held on ~~..... , 19...~~ _____ **[DATE]**.

(Check applicable election or elections)

I, ... , a qualified and registered elector of the .... precinct of the township of .... or village of .... or of the .... ward of the city of .... , in the county of .... and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

~~The statutory grounds on which I base my request are:~~

~~[ ] I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.~~

~~[ ] I am physically unable to attend the polls without the assistance of another.~~

~~[ ] I cannot attend the polls because of the tenets of my religion.~~

~~[ ] I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.~~

~~[ ] I am 60 years of age or older.~~

~~[ ] I cannot attend the polls because I am confined to jail awaiting arraignment or trial.~~

~~(Check applicable reason)~~

Send absent voter ballot to me at:

....
(Street No. or R.R.)

....**.................**
(Post Office)   (State)   **(ZIP CODE)**

My registered address ....
(Street No. or R.R.)

....
(Post Office)   (State) **(ZIP CODE)**

Date...

I ~~declare~~ **CERTIFY** that the statements in this absent voter ballot application are true.

....
(Signature)

<u>WARNING</u>

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the **CLERK'S** office ~~of the clerk~~ must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

Certificate of Authorized Registered
Elector Returning Absent Voter
Ballot Application

I certify that my name is .... , my address is .... , and my date of birth is .... ; that I am delivering the absent voter ballot application of .... at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

_____   _____
(Date)   (Signature)"

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

<u>INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS</u>

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.

(d) ~~In the event~~ **IF** an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

Sec. 759b. **(1)** ~~Any~~ **A** registered elector may apply for **AN** absent voter ~~ballots~~ **BALLOT** at any time ~~prior to~~ **BEFORE** 4 p.m. on election day if ~~he shall have become physically disabled or shall be absent from the city or township because of sickness or death in the family which~~ **AN EVENT** has occurred at a time ~~which has~~ **THAT** made it impossible to apply for **AN** absent voter ~~ballots~~ **BALLOT** by the statutory deadline. The application shall be called an emergency absent voter **BALLOT** application.

(2) Emergency absent voter **BALLOT** applications may be made by letter or on a form **PRESCRIBED BY THE SECRETARY OF STATE AND** provided by the clerk. The application shall set forth that the voter is qualified to vote in the election ~~, stating the statutory reason for applying for an emergency absent voter ballot~~ and that ~~the reason for applying after~~

the statutory deadline AN EVENT occurred at such a time to make it impossible to file an application for AN absent voter ballots BALLOT by the statutory deadline.

(3) Any A person intentionally making a false statement in such AN EMERGENCY ABSENT VOTER BALLOT application is guilty of a felony. Any A person aiding or abetting any ANOTHER person to make a false statement on such IN AN EMERGENCY ABSENT VOTER BALLOT application is guilty of a felony.

(4) Upon receipt by the clerk of a valid application for an emergency absent voter ballot, the clerk may deliver the ballots ABSENT VOTER BALLOT to the applicant in person, through a deputy or an election assistant, or he may deliver them at his OR HER office to a person named by the applicant in the EMERGENCY ABSENT VOTER BALLOT application. The ABSENT voter may return the ballots ABSENT VOTER BALLOT to the clerk in the sealed envelope provided therefor in any manner. he sees fit. To HOWEVER, TO be valid, ballots must be returned THE ABSENT VOTER SHALL RETURN THE ABSENT VOTER BALLOT to the clerk IN THE SEALED ENVELOPE PROVIDED FOR THAT REASON AND in time to be delivered to the polls prior to BEFORE 8 p.m. on election day.".

The motion did not prevail, the vote being 3-4-2.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, Knollenberg, Outman, Pscholka,

Pass: Reps. McBroom, Tyler.

Rep. Byrum moved to amend HB 5061 (H-2) as follows:

1.   Amend page 7, line 6, after "**CLERK.**" by inserting "**THE CLERK OF THE CITY, VILLAGE, OR TOWNSHIP SHALL INDICATE TO EACH ELECTOR WHO OBTAINS HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM THE CLERK THAT THE ELECTOR MAY SIGN AN AFFIDAVIT INDICATING THAT THE ELECTOR DOES NOT HAVE AN OFFICIAL STATE IDENTIFICATION CARD, OPERATOR'S OR CHAUFFEUR'S LICENSE, OR OTHER GENERALLY RECOGNIZED PICTURE IDENTIFICATION CARD IN ORDER TO OBTAIN HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM THE CLERK.**".

The motion did not prevail, the vote being 3-4-2.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, Knollenberg, Outman, Pscholka,

Pass: Reps. McBroom, Tyler.

Rep. Byrum moved to amend HB 5061 (H-2) as follows:

1.   Amend page 7, line 6, after "**Clerk.**" by striking out the balance of the subsection.

The motion did not prevail, the vote being 3-6-0.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, McBroom, Tyler, Knollenberg, Outman, Pscholka,

Pass: None.

Rep. Byrum moved to amend HB 5061 (H-2) as follows:

      1.   Amend page 7, line 6, after "**CLERK.**" by striking out the balance of the subsection and inserting "**AN ELECTOR WHO OBTAINS HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM THE CLERK AND WHO VOTES BY ABSENT VOTER BALLOT WITHOUT PROVIDING THE IDENTIFICATION REQUIRED UNDER THIS SUBSECTION IS SUBJECT TO CHALLENGE AS PROVIDED IN SECTION 727.**".

The motion did not prevail, the vote being 3-4-2.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, Knollenberg, Outman, Pscholka,

Pass: Reps. McBroom, Tyler.

Rep. Outman moved to report out HB 5061 as substitute H-2 with the recommendation that it pass.

The motion prevailed, the vote being 5-3-1.

FAVORABLE ROLL CALL:

Yeas: Reps. Lund, McBroom, Knollenberg, Outman, Pscholka,

Nays: Reps. Byrum, Nathan, Stanley,

Pass: Rep. Tyler.

Rep. McBroom moved to adopt the substitute (H-2) to HB 5062. The motion prevailed, the vote being 8-0-1.

FAVORABLE ROLL CALL:

Yeas: Reps. Lund, McBroom, Knollenberg, Tyler, Outman, Pscholka, Byrum, Nathan,

Nays: Rep. None,

Pass: Rep. Stanley.

Rep. Byrum moved to amend HB 5062 (H-2) as follows:

1.   Amend page 4, line 19, by striking out "**MAY**" and inserting "**SHALL**".
2.   Amend page 5, following line 3, by inserting:
"**(4) IF AN ELECTION AUDIT UNDER THIS SECTION INDICATES THAT A PRECINCT CANNOT BE RECOUNTED, THE CLERK OF THE CITY, TOWNSHIP, OR VILLAGE WHERE THAT PRECINCT IS LOCATED IS RESPONSIBLE FOR A CIVIL FINE OF $1,000.00 FOR EACH PRECINCT THAT CANNOT BE RECOUNTED.**".

The motion did not prevail, the vote being 3-6-0.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, McBroom, Knollenberg, Tyler, Outman, Pscholka,

Pass: None.

Rep. Nathan moved to amend HB 5062 (H-2) as follows:

1.   Amend page 13, line 27, after "**ELECTOR.**" by inserting "**AS USED IN THIS SUBDIVISION, "MISINFORMATION" INCLUDES, BUT IS NOT LIMITED TO, ANY OF THE FOLLOWING:**
(*i*) **THE WRONG TIME, DAY, OR DATE OF AN ELECTION.**
(*ii*) **INDICATING THAT IF AN ELECTOR IS NOT CURRENT IN PAYING HIS OR HER ALIMONY OR CHILD SUPPORT, HE OR SHE CANNOT VOTE.**
(*iii*) **INDICATING THAT IF AN ELECTOR IS A CONVICTED FELON, HE OR SHE CANNOT VOTE.**
(*iv*) **INDICATING THAT IF AN ELECTOR'S HOME IS IN FORECLOSURE, HE OR SHE CANNOT VOTE.**".

The motion did not prevail, the vote being 3-4-2.

UNFAVORABLE ROLL CALL:

Yeas: Reps. Byrum, Nathan, Stanley,

Nays: Reps. Lund, Knollenberg, Outman, Pscholka,

Pass: Reps. McBroom, Tyler.

Rep. Outman moved to report out HB 5062 as substitute H-2 with the recommendation that it pass.

The motion prevailed, the vote being 8-0-1.

FAVORABLE ROLL CALL:

Yeas: Reps. Lund, McBroom, Knollenberg, Tyler, Outman, Pscholka, Byrum, Nathan,

Nays: None,

Pass: Rep. Stanley.

With no further business to come before the Committee Chair Lund adjourned the meeting, the time being 11:55 a.m.

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Representative Pete Lund, Chair

Doug Simon, Clerk