

SENATE BILL NO. 884

February 17, 2022, Introduced by Senators JOHNSON, BARRETT, LASATA, BUMSTEAD, BIZON, THEIS, MACDONALD, WOZNIAK, VICTORY, RUNESTAD and VANDERWALL and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 795 and 795a (MCL 168.795 and 168.795a), section 795 as amended by 2018 PA 127 and section 795a as amended by 1998 PA 215.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 795. (1) ~~An~~ **Subject to subsection (2), an** electronic
2 voting system acquired or used under sections 794 to 799a must meet
3 all of the following requirements:
4 (a) Provide for voting in secrecy, except in the case of

1 voters who receive assistance as provided by this act.

2 (b) Utilize a paper ballot for tabulating purposes.

3 (c) Permit each elector to vote at an election for all ~~persons~~
4 **individuals** and offices for whom and for which the elector is
5 lawfully entitled to vote; to vote for as many ~~persons~~**individuals**
6 for an office as the elector is entitled to vote for; and to vote
7 for or against any question upon which the elector is entitled to
8 vote. Except as otherwise provided in this subdivision, the
9 electronic tabulating equipment must reject all choices recorded on
10 the elector's ballot for an office or a question if the number of
11 choices exceeds the number that the elector is entitled to vote for
12 on that office or question. Electronic tabulating equipment that
13 can detect that the choices recorded on an elector's ballot for an
14 office or a question exceeds the number that the elector is
15 entitled to vote for on that office or question must be located at
16 each polling place and programmed to reject a ballot containing
17 that type of an error. If a choice on a ballot is rejected as
18 provided in this subdivision, an elector must be given the
19 opportunity to have that ballot considered a spoiled ballot and to
20 vote another ballot.

21 (d) Permit an elector, at a presidential election, by a single
22 selection to vote for the candidates of a party for ~~president,~~
23 ~~vice-president,~~**President, Vice President,** and presidential
24 electors.

25 (e) Permit an elector in a primary election to vote for the
26 candidates in the party primary of the elector's choice. Except as
27 otherwise provided in this subdivision, the electronic tabulating
28 equipment must reject each ballot on which votes are cast for
29 candidates of more than 1 political party. Electronic tabulating

1 equipment that can detect that the elector has voted for candidates
2 of more than 1 political party must be located at each polling
3 place and programmed to reject a ballot containing that type of an
4 error. If a choice on a ballot is rejected as provided in this
5 subdivision, an elector must be given the opportunity to have that
6 ballot considered a spoiled ballot and to vote another ballot.

7 (f) Prevent an elector from voting for the same ~~person~~
8 **individual** more than once for the same office.

9 (g) Reject a ballot on which no valid vote is cast. Electronic
10 tabulating equipment must be programmed to reject a ballot on which
11 no valid vote is cast.

12 (h) Be suitably designed for the purpose used; be durably
13 constructed; and be designed to provide for safety, accuracy, and
14 efficiency.

15 (i) Be designed to accommodate the needs of an elderly voter
16 or a ~~person~~**an individual** with 1 or more disabilities.

17 (j) Record correctly and count accurately each vote properly
18 cast.

19 (k) Provide an audit trail.

20 (l) Provide an acceptable method for an elector to vote for a
21 ~~person~~**an individual** whose name does not appear on the ballot.

22 (m) Allow for accumulation of vote totals from the precincts
23 in the jurisdiction. The accumulation software must meet
24 specifications prescribed by the secretary of state and must be
25 certified by the secretary of state as meeting these
26 specifications.

27 (n) Be compatible with or include at least 1 voting device
28 that is accessible for an individual with disabilities to vote in a
29 manner that provides the same opportunity for access and

1 participation, including secrecy and independence, as provided for
 2 other voters. The voting device must include nonvisual
 3 accessibility for the blind and visually impaired.

4 **(2) An electronic voting system acquired on or after March 1,**
 5 **2022 must be manufactured in the United States.**

6 **(3)** ~~(2)~~—Electronic tabulating equipment that counts votes at
 7 the precinct before the close of the polls must provide a method
 8 for rendering the equipment inoperable if vote totals are revealed
 9 before the close of the polls. Electronic tabulating equipment that
 10 tabulates ballots, including absentee ballots, at a central
 11 location must be programmed to reject a ballot if the choices
 12 recorded on an elector's ballot for an office or a question exceed
 13 the number that the elector is entitled to vote for on that office
 14 or question, if no valid choices are recorded on an elector's
 15 ballot, or if, in a primary election, votes are recorded for
 16 candidates of more than 1 political party.

17 **(4)** ~~(3)~~—Each jurisdiction in this state conducting an election
 18 shall equip each polling place with at least 1 accessible voting
 19 device as required under subsection (1)(n).

20 Sec. 795a. (1) ~~An~~ **Subject to subsection (10), an** electronic
 21 voting system shall not be used in an election unless it is
 22 approved by the board of state canvassers as meeting the
 23 requirements of sections 794 and 795 and instructions regarding
 24 recounts of ballots cast on that electronic voting system that have
 25 been issued by the secretary of state, unless section 797c has been
 26 complied with, and unless it meets 1 of the following conditions:

27 (a) Is certified by an independent testing authority
 28 accredited by the ~~national association~~ **National Association** of
 29 ~~state election directors~~ **State Election Directors** and by the board

1 of state canvassers.

2 (b) In the absence of an accredited independent testing
3 authority, is certified by the manufacturer of the voting system as
4 meeting or exceeding the performance and test standards referenced
5 in subdivision (a) in a manner prescribed by the board of state
6 canvassers.

7 (2) The vendor or representative seeking approval of an
8 electronic voting system ~~shall~~**must** do all of the following:

9 (a) Deposit with the secretary of state a nonrefundable
10 application fee of \$1,500.00 for a new **electronic** voting system and
11 a fee of \$500.00 for an upgrade to any existing **electronic voting**
12 system.

13 (b) File with the secretary of state a list of all states in
14 which the **electronic** voting system has been approved for use. This
15 list ~~shall~~**must** state how long the **electronic voting** system has
16 been used in the state and ~~shall~~**must** disclose any reports compiled
17 by any state or local government concerning the performance of the
18 **electronic voting** system. The vendor ~~shall remain~~**remains**
19 responsible for filing this information on an ongoing basis.

20 (c) File with the secretary of state copies of all standard
21 contracts and maintenance agreements used in connection with the
22 sale of the **electronic** voting system. All changes to standard
23 contracts and maintenance agreements ~~shall~~**must** be filed with the
24 secretary of state.

25 (d) Pay the cost for any field test required by the board of
26 state canvassers.

27 (e) State the number of voters each component of the
28 **electronic** voting system can process per hour under each of the
29 following circumstances:

1 (i) An election in which there are 10 or fewer items to be
2 voted on the ballot by each voter.

3 (ii) An election in which the ballot consists of the number of
4 items typically voted on at a presidential general election in this
5 state.

6 (3) The board of state canvassers shall conduct a field test
7 of all new **electronic** voting systems as part of the certification
8 process. The field test ~~shall~~**must** involve ~~Michigan~~ electors of
9 **this state** and election officials in simulated election day
10 conditions. The test ~~shall~~**must** be designed to gauge voter reaction
11 to the **electronic voting** system, problems that voters have with the
12 **electronic voting** system, and the number of voting stations
13 required for the efficient operation of an election based upon the
14 vendor's statement provided under subsection (2) (e).

15 (4) ~~The~~**Subject to subsection (10), the** board of state
16 canvassers shall approve an electronic voting system for use in
17 this state only if it meets the conditions of subsection (1) except
18 that in an emergency situation that threatens the ability of a
19 county, city, or township to conduct a scheduled election, the
20 board of state canvassers may approve a correction of software or
21 firmware after testing the software or firmware performance.

22 (5) If an electronic voting system is approved for use before
23 January 1, 1997 by the board of state canvassers, it may be used in
24 an election. However, if the electronic voting system has its
25 software or firmware improved or changed, the **electronic voting**
26 system ~~shall~~**must** comply with the requirements of subsection (1).

27 (6) After an electronic voting system is approved, an
28 improvement or change in the electronic voting system ~~shall~~**must** be
29 submitted to the board of state canvassers for approval ~~pursuant to~~

1 **under** this section. This subsection does not apply to the technical
2 capability of a general purpose computer, reader, or printer to
3 electronically record and count votes.

4 (7) A county, city, township, village, or school district
5 shall file ~~"an-an~~ "intent to purchase statement" with the secretary
6 of state 30 days before any purchase agreement is made to purchase
7 a new **electronic** voting system. The secretary of state shall
8 provide all information concerning the operation of the **electronic**
9 voting system in ~~Michigan~~ **this state** or any other state to the
10 local unit of government within 25 days after receiving the "intent
11 to purchase statement".

12 (8) The secretary of state shall instruct local election
13 officials regarding the operation and use of an approved electronic
14 voting system in order to carry out the purposes of sections 794 to
15 799a and the rules promulgated ~~pursuant to~~ **under** sections 794 to
16 799a.

17 (9) If the board of state canvassers determines that an
18 electronic voting system that was approved under subsection (1) no
19 longer meets the requirements described in that subsection, the
20 board of state canvassers may disapprove that **electronic** voting
21 system. ~~An~~ **Subject to subsection (10), an** electronic voting system
22 that has been disapproved by the board of state canvassers under
23 this subsection ~~shall~~ **must** not be used in an election, unless it is
24 reapproved by the board of state canvassers under subsection (1).

25 (10) **For an electronic voting system acquired on or after**
26 **March 1, 2022, the board of state canvassers shall not approve that**
27 **electronic voting system if it was manufactured outside of the**
28 **United States. This subsection does not prohibit the repair,**
29 **maintenance, or acquisition of components necessary for the proper**

1 operation of an electronic voting system that was acquired and
2 approved before March 1, 2022.