

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

State

2. Bureau:

Elections & Campaign Finance

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Electronic Return of Absent Voter Ballots by Eligible Voters

5. Rule numbers or rule set range of numbers:

R 168.101 - R 168.159

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

To establish rules for the electronic return of voted ballots by eligible voters as specified in MCL 168.759a(17) and authorize an electronic portal to facilitate their return.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

“The secretary of state shall promulgate rules that establish policies and procedures for the electronic return of voted ballots by eligible members. The secretary of state may develop and maintain a secure web portal on the secretary of state's website to facilitate the electronic return of voted ballots by eligible members.” MCL 168.759a(17).

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 168.31(1)(a), MCL 168.32(1), MCL 168.37, MCL 168.759a(12), MCL 168.759a(13), MCL 168.759a(17).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Yes. 2022 PA 197 requires the Secretary of State (SOS) to promulgate rules that establish policies and procedures for the electronic return of voted ballots by eligible voters. Under PA 197, the rules must be promulgated no later than January 1, 2024 and must allow for the electronic return of voted ballots by eligible voters, as specified in MCL 168.759a(17), no later than the 2024 statewide presidential primary election.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level. The proposed rules reflect and implement certain aspects of 2022 PA 197.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

No

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules would not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. According to the National Conference of State Legislatures, at least seven states allow Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters to return a voted absentee/mail ballot through an online portal. Many states also allow return by fax or email.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

This proposed rule has not been submitted to the public for comment.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

This proposed rule does not amend a current rule.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

This proposed rule does not amend a current rule.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No