

Legislative Analysis



PROCEDURES FOR ABSENT VOTING WITH FEDERAL POSTCARD APPLICATION

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House Bill 4481 (Substitute H-1)
Sponsor: Rep. Edward Gaffney, Jr.
Committee: House Oversight, Elections, and Ethics

First Analysis (4-18-05)

BRIEF SUMMARY: The bill would make absentee voting easier for those who are members or employees of the armed services and other citizens temporarily residing overseas and who apply to vote as absentee voters by federal postcard.

FISCAL IMPACT: The bill would have no fiscal impact on the state. Local units of government would experience an indeterminate increase in costs due to the requirement of forwarding absent voter ballots to absent voters who are eligible.

THE APPARENT PROBLEM:

The Help America Vote Act was signed into law by President Bush on October 29, 2002. It creates many mandates for state and local governments to improve their voting processes, in order to establish fairness and uniformity in voting practices followed by all qualified electors in the United States. Having adopted an improvement plan, Michigan is eligible to receive about \$100 million over two fiscal years and, according to the secretary of state, an estimated \$50 million in grant funds has already been expended. The federal funding will help election officials throughout the state replace outdated voting equipment. It also will help to improve access for voters with disabilities and those who are living outside the country, including military personnel stationed overseas.

Section 242 of the federal Help America Vote Act—sometimes called HAVA—requires that states facilitate voting by absent uniformed services voters. (See [Background Information](#).)

According to the Congressional Research Service Report for Congress entitled “The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues” (1-30-03), HAVA amended the Uniformed and Overseas Citizens Absentee Voting Act (P.L.99-410) which had been in effect since August 1986. The amendments extended the period covered by a single absentee ballot application; added a section that prohibits a state from refusing to accept a valid voter registration application on the grounds that it was submitted prior to the first date on which the state processed applications that year; and required a state to provide to a voter the reasons for rejecting a registration application or an absentee ballot request. In addition, HAVA recommends that states accept the federal write-in absentee ballot for general elections for federal office.

The law also stipulates that voting materials be carried “expeditiously and free of postage,” and it recommends that states accept the federal post card application from uniformed services voters, their spouses and dependents, as well as overseas voters, in order to allow for simultaneous absentee registration and requests for an absentee ballot. (See Background Information.)

In Michigan, the secretary of state appointed a HAVA advisory committee, and released Michigan’s Preliminary State Plan for public comment between June 17 and June 30, 2003. Following revisions, the plan was submitted to Washington, D.C. for publication in the Federal Register. (See Background Information.) Under the 48-page Michigan Plan, "performance goal five" is to increase voter accessibility, including improving the ease with which overseas electors can vote, in order to conform with the Uniformed and Overseas Citizens Absentee Voting Act.

Legislation to update the Michigan Election Law has been proposed, in order to comply with the federal voting laws.

THE CONTENT OF THE BILL:

House Bill 4481 would amend the Michigan Election Law to make absentee voting easier for those electors who are members or employees of the armed services and other citizens temporarily residing overseas and who apply to vote as absentee voters by federal postcard. Under the bill, the Bureau of Elections in the Department of State would be responsible for disseminating information on the procedures for registering and voting to absent armed services and overseas voters.

The bill specifies that an elector who applied to vote as an absentee voter by federal postcard application would be eligible to vote in any election that occurred within the calendar year in which the application had been received by the city, village, or township clerk. However, the elector could not vote in an election if the application had been received by the clerk after the 2 p.m. deadline on the Saturday before the election.

The bill also would require a city or township clerk who received a federal postcard application to transmit to a village clerk and school district election coordinator, where applicable, the necessary information to enable those election officials to forward an absent voter ballot for each applicable election in that calendar year. If the local elections officials rejected a registration or absent voter ballot application submitted on a federal postcard application, then the officials would be required to notify the armed services or the overseas voter of the rejection.

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BACKGROUND INFORMATION:

Help American Vote Act (HAVA). Under Section 242 of HAVA, the results of a study to ensure greater ease in voting by those overseas had to be reported to the president

before March 29, 2004. That report considered the following issues, among others: the rights of residence of absent voters due to their military orders; the right to cast absentee ballots, and submit absentee ballot applications early during an election year; the appropriate pre-election mailing deadlines; the security and privacy of transmission, receipt, and processing of overseas ballots; the use of a single application by absent military voters and overseas voters for all federal elections occurring during the entire year, as well as a single application for voter registration and absentee ballots.

For more information about the Help America Vote Act, visit the website of the Federal Election Commission at www.fec.gov/hava/hava.htm

To review Michigan's Preliminary State Plan, visit the website of the Office of Secretary of State at www.michigan.gov/sos and click on HAVA.

HAVA amendments and recommendations. Other recommendations in HAVA suggest that states waive registration requirements for military and overseas voters who do not have an opportunity to register because of service or residence; send registration material, along with an absentee ballot to be returned simultaneously; expedite the processing of voting materials; permit any required oath to be administered by a commissioned officer in the military; assure the mailing of absentee ballots to military and overseas voters at the earliest opportunity; and provide for late registration for people recently separated from the military.

In addition, HAVA requires the Secretary of Defense to establish procedures to provide time and resources for voting action officers to perform voting assistance duties; requires each state to designate a single office to provide information to all absent uniformed services; requires states to report the number of ballots sent to uniformed services and overseas votes, the number returned, and the number cast in the election; and requires the Secretary of Defense to ensure that state officials are aware of the requirements of the law, and to prescribe a standard oath for voting materials to be used in states that require such an oath.

ARGUMENTS:

For:

This legislation should be passed to update the Michigan Election Law to ensure that it complies with the federal Help America Vote Act (HAVA) as signed into law in August 2002, and also the Uniformed and Overseas Citizens Absentee Voting Act of 1986, as that act has been amended by HAVA.

For:

Fairness, accessibility, and uniformity of procedures during elections are key watchwords of a participatory democracy. This legislation makes voting—a fundamental responsibility of citizenship—easier when an elector is overseas, and most especially easier for those overseas because of military assignments.

POSITIONS:

The Secretary of State supports the bill. (4-13-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.