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BILL ANALYSIS

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House Bill 4481 (Substitute S-1 as reported)
Sponsor: Representative Edward Gaffney, Jr.
House Committee: House Oversight, Elections and Ethics
Senate Committee: Government Operations

Date Completed: 5-31-05

RATIONALE

The Help America Vote Act (HAVA) was signed into law on October 29, 2002, and requires state and local governments to upgrade elections processes and systems. Among the mandates of HAVA is a requirement that states facilitate voting by members of the armed services and other citizens residing overseas temporarily; measures to do so must include use of the Federal postcard application form (described in **BACKGROUND**, below) for voter registration and absentee ballot application. It has been suggested that this requirement be added to the Michigan Election Law to ensure compliance with HAVA and improve the accessibility of the voting process for Americans living overseas.

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Allow members of the armed services and overseas voters to register to vote by using the Federal postcard application.**
- **Require the Bureau of Elections to disseminate information on registration and voting procedures to absent armed services and overseas voters.**
- **Provide that qualified electors who applied to vote as absent voters by Federal postcard application, could vote as absent voters in any local or State election.**
- **Delete the requirement that certain individuals who are not registered voters and who live outside the**

country provide an affidavit with an application for an absent voter ballot.
-- **Repeal Section 504, which establishes registration procedures for a person who cannot register in person.**

Registration by Postcard Application

Under the bill, if a member of the armed forces or an overseas voter were not registered but possessed the qualifications of an elector under Section 492, the person could apply for registration by using the Federal postcard application. 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.

(Section 492 of the Election Law provides that a person who has the following qualifications, or will have them by the next election or primary election, may register as an elector in the city, village, or township in which he or she resides: The person is a United States citizen, at least 18 years old, a resident of the State for at least 30 days, and a resident of the city, village, or township on or before the 30th day before the next regular or special election or primary election.)

Absent Voting by Postcard Applicants

Under the bill, if a qualified elector, including a member of the armed services or an overseas voter who registered to vote by Federal postcard application, applied to vote

as an absent voter by Federal postcard application, the person would be eligible to vote as an absent voter in any local or State election, including any school election, occurring in the calendar year in which the city, village, or township clerk received the postcard application--unless the clerk received the application after 2 p.m. of the Saturday before the election.

A city or township clerk receiving a Federal postcard application would have to transmit to a village clerk and school district election coordinator, where applicable, the information necessary to enable the clerk and election coordinator to forward an absent voter ballot for each applicable election in that calendar year to the qualified elector submitting the application.

If the local elections official rejected a registration or absent voter ballot application submitted on a Federal postcard application by an absent armed services or overseas voter, the election official would have to notify the voter of the rejection.

Under Section 504 of the Election Law, if an elector cannot apply for registration in person because of physical disability or absence from the township, city, or village where his or her legal residence is located, the elector may register by obtaining duplicate registration cards from the local clerk, executing the registration affidavit in duplicate, and returning the cards to the clerk by the last day of registration before any election or primary election. The bill would repeal Section 504.

Absent Voter Ballots

Under the Election Law, each of the following individuals who is a qualified elector of a city or township in this State and who is not a registered voter, may apply for an absent voter ballot:

- A civilian employee of the armed services outside of the United States.
- A member of the armed services outside of the United States.
- A U.S. citizen temporarily residing outside the territorial limits of the United States.
- A U.S. citizen residing in the District of Columbia.
- A spouse or dependent of a person described above who is a U.S. citizen and is accompanying that person, even though the spouse or dependent is not a

qualified elector of a city or township of this State, if the spouse or dependent is not a qualified and registered elector anywhere else in the United States.

(The bill would refer to a registered elector of a city, township, or *village*.)

Currently, a citizen described above, other than a member of the armed forces or his or her spouse or dependent, must include an affidavit with an application for an absent voter ballot or registration. The affidavit must set forth either 1) the person's qualifications as an elector at the time he or she departed from the United States or began residing in the District of Columbia, and affirming that the person has not relinquished his or her citizenship or established residence for voting anywhere else; or 2) that the person is a spouse or dependent of someone described above (other than a member of the armed services), that he or she meets the qualifications as an elector other than residency in Michigan, and that he or she has not established a residence for voting anywhere else. The bill would delete the requirement that an applicant include an affidavit.

The bill also would delete provisions under which an employee or member of the armed forces is eligible to vote in a special primary or general election if he or she was registered as an absent voter in the preceding primary or general election.

MCL 168.759a

BACKGROUND

The Federal postcard application is a postage-free postcard printed and distributed by the Federal Voting Assistance Program for use by absent voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Under that Act, members of the military and U.S. citizens who live abroad are eligible to register and vote in Federal elections. The UOCAVA was amended by the National Defense Authorization Act for fiscal year 2002, and by HAVA.

The UOCAVA requires states to permit absent uniformed services voters, their spouses and dependents, and overseas voters who no longer maintain a residence in the United States, to vote by absentee ballot

in all elections for Federal office. The Act also requires states to accept and process, with respect to any election for Federal office, any valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the appropriate state election official receives the application at least 30 days before the election. States must permit overseas voters to use Federal write-in absentee ballots in general elections for Federal office.

In addition, the law requires states to use the postcard application form for simultaneous voter registration application and absentee ballot application. The postcard contains both applications for this purpose. Each state must designate a single office to provide information to all absent uniformed services voters and overseas voters who wish to register or vote in the state. If a state rejects the voter registration application or absentee ballot request of an absent uniformed services voter or overseas voter, the state must give the voter the reasons for the rejection.

The UOCAVA recommends that a state accept valid registration applications, absentee ballot applications, and absentee ballots from all absent uniformed services voters and overseas voters who wish to register to vote or to vote in any jurisdiction in the state.

Under the Act, "absent uniformed services voter" means 1) a member of a uniformed service on active duty who, because of the active duty, is absent from the place of residence where he or she is otherwise qualified to vote; 2) a member of the merchant marine who, because of that service, is absent from the place of residence where he or she is otherwise qualified to vote; or 3) a spouse or dependent of member of the uniformed service or merchant marine who, because of the member's active duty or service, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

"Overseas voter" means one of the following:

-- An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved.

-- A person who resides outside the United States and is qualified to vote in the last place where he or she was domiciled before leaving the U.S.

-- A person who resides outside the United States and, if not for that residence, would be qualified to vote in the last place in which he or she was domiciled before leaving the U.S.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The right to vote is a fundamental principal of a democratic society, and the State should act to ensure that voting is not overly burdensome for the men and women who serve to protect basic freedoms, and other Americans living overseas. The bill would streamline voting procedures for military personnel and their family members, and other Americans living abroad, in several ways. Currently, a Federal postcard application must be renewed for each election. Under the bill, an individual could use the application for the whole year. The bill also would eliminate the requirement that an overseas applicant for an absentee ballot include an affidavit. By making it easier for overseas citizens to fulfill their responsibility to vote, the bill would improve the fairness, uniformity, and accessibility of election procedures. Additionally, the bill would update Michigan's law to comply with HAVA and the UOCAVA as amended by HAVA.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The Department of State reports that the bill would not result in any costs to the State. The bill would have an indeterminate impact on local units of government to the extent that the bill would increase the number of voters who apply to vote as absent voters.

Fiscal Analyst: Bill Bowerman

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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.