

SENATE BILL No. 5

January 12, 2005, Introduced by Senator BRATER and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 726 (MCL 168.726) and by adding sections 750a and 750b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 726. ~~No ballots~~ **A BALLOT** shall **NOT** be delivered to an
2 elector by ~~any~~ **A** person other than 1 of the inspectors of
3 election and only within the polling place, except as provided in
4 this act for absent ~~voters~~ **VOTER** ballots **AND ELECTION BY MAIL**
5 **BALLOTS.**

6 **SEC. 750A. (1) SUBJECT TO THIS SECTION AND SECTION 750B, A**
7 **CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF A SCHOOL**
8 **DISTRICT MAY CONDUCT A LOCAL ELECTION BY MAIL IN THE CITY,**

1 TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT, UNDER THE SUPERVISION OF THE
2 SECRETARY OF STATE. IN DECIDING TO CONDUCT A LOCAL ELECTION BY
3 MAIL, A CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF A
4 SCHOOL DISTRICT SHALL CONSIDER REQUESTS FROM THE GOVERNING BODY OF
5 THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT AND WHETHER
6 CONDUCTING THE ELECTION BY MAIL IS ECONOMICALLY AND
7 ADMINISTRATIVELY FEASIBLE.

8 (2) THE AUGUST PRIMARY HELD UNDER SECTION 534, THE GENERAL
9 NOVEMBER ELECTION, AND ANY OTHER ELECTION IN WHICH A CANDIDATE FOR
10 STATEWIDE OFFICE, JUDICIAL OFFICE, LEGISLATIVE OFFICE, OR
11 COUNTYWIDE OFFICE IS NOMINATED OR ELECTED SHALL BE CONDUCTED AS AN
12 ELECTION BY MAIL.

13 (3) NOT LATER THAN JANUARY 1, 2006, A CITY, TOWNSHIP, OR
14 VILLAGE CLERK OR THE SECRETARY OF A SCHOOL DISTRICT SHALL ADVISE
15 THE GOVERNING BODY OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL
16 DISTRICT FOR WHICH THE CLERK OR SECRETARY IS THE ELECTION OFFICIAL
17 AS TO EACH LOCAL ELECTION HELD IN THAT CITY, TOWNSHIP, VILLAGE, OR
18 SCHOOL DISTRICT THAT WILL BE CONDUCTED AS AN ELECTION BY MAIL.
19 PERIODICALLY, THE CLERK OR SECRETARY MAY REVIEW ITS DECISION OF
20 WHETHER A LOCAL ELECTION WILL BE CONDUCTED AS AN ELECTION BY MAIL.
21 IF AN EARLIER DECISION TO CONDUCT OR NOT CONDUCT A LOCAL ELECTION
22 AS AN ELECTION BY MAIL IS CHANGED, THE CLERK OR SECRETARY SHALL
23 NOTIFY THE GOVERNING BODY OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL
24 DISTRICT NOT LATER THAN THE THIRD TUESDAY IN JANUARY OF THE YEAR IN
25 WHICH THE ELECTION IS TO BE HELD OF THAT CHANGE. THIS SUBSECTION
26 DOES NOT APPLY TO AN ELECTION REQUIRED TO BE HELD AS AN ELECTION BY
27 MAIL UNDER SUBSECTION (2).

1 (4) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN THE
2 MANNER PRESCRIBED IN THIS ACT TO PROVIDE PROCEDURES FOR CONDUCTING
3 AN ELECTION BY MAIL.

4 SEC. 750B. (1) A CITY, TOWNSHIP, OR VILLAGE CLERK OR A
5 SECRETARY OF A SCHOOL DISTRICT THAT CONDUCTS AN ELECTION BY MAIL
6 UNDER SECTION 750A SHALL CONDUCT THE ELECTION BY MAIL AS PROVIDED
7 IN THIS SECTION.

8 (2) THE CLERK OR SECRETARY SHALL DESIGNATE 1 OR MORE PLACES OF
9 DEPOSIT IN THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT FOR
10 VOTERS TO RETURN VOTED BALLOTS FOR THE ELECTION BY MAIL. THE CLERK
11 OR SECRETARY SHALL PROVIDE THAT THE PLACES DESIGNATED FOR THE
12 DEPOSIT OF VOTED BALLOTS IN THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL
13 DISTRICT BE OPEN ON THE DATE OF THE ELECTION FOR A PERIOD OF 13
14 HOURS OR MORE, BEGINNING NO LATER THAN 7 A.M. AND ENDING NO EARLIER
15 THAN 8 P.M., AS DETERMINED BY THE CLERK OR SECRETARY.

16 (3) THE CITY, TOWNSHIP, OR VILLAGE CLERK OR THE SECRETARY OF A
17 SCHOOL DISTRICT SHALL SEND BY NONFORWARDABLE MAIL AN OFFICIAL
18 BALLOT WITH A PRE-ADDRESSED, POSTAGE PAID RETURN IDENTIFICATION
19 ENVELOPE AND A SECRECY ENVELOPE TO EACH VOTER WHO IS REGISTERED IN
20 THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT AS OF THE THIRTIETH
21 DAY BEFORE THE DATE OF THE ELECTION BY MAIL. THE CLERK OR SECRETARY
22 SHALL ADDRESS THE BALLOT TO THE REGISTERED VOTER AS THAT VOTER'S
23 NAME APPEARS ON THE REGISTRATION RECORDS OF THAT VOTER. EXCEPT AS
24 OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBSECTION (8), THE CLERK
25 OR SECRETARY SHALL MAIL THE OFFICIAL BALLOTS AND ENVELOPES DURING
26 THE PERIOD BEGINNING ON THE TWENTIETH DAY BEFORE THE DATE OF THE
27 ELECTION BY MAIL AND ENDING ON THE FOURTEENTH DAY BEFORE THE DATE

1 OF THE ELECTION BY MAIL. FOR A STATEWIDE ELECTION BY MAIL, THE
2 SECRETARY OF STATE SHALL PRESCRIBE IN RULES PROMULGATED UNDER
3 SECTION 750A(4) THE DATE ON WHICH THE OFFICIAL BALLOTS AND
4 ENVELOPES FOR THE STATEWIDE ELECTION BY MAIL ARE TO BE MAILED BY A
5 CLERK OR SECRETARY UNDER THIS SUBSECTION. HOWEVER, THE SECRETARY OF
6 STATE SHALL PROVIDE IN THOSE RULES THAT ALL BALLOTS SHALL BE MAILED
7 BY THE FOURTEENTH DAY BEFORE THE DATE OF THE ELECTION BY MAIL.

8 (4) FOR A PRIMARY ELECTION, THE ELECTION BY MAIL BALLOT SHALL
9 CONTAIN A SECTION FOR THE SELECTION OF CANDIDATES FROM EACH
10 POLITICAL PARTY THAT IS PARTICIPATING IN THE PRIMARY ELECTION. THE
11 INSTRUCTIONS ACCOMPANYING THE PRIMARY ELECTION BY MAIL BALLOTS
12 SHALL STATE CLEARLY THAT THE VOTER MAY VOTE FOR THE APPROPRIATE
13 NUMBER OF CANDIDATES OF 1 PARTY ONLY AND THAT A PRIMARY BALLOT ON
14 WHICH CANDIDATES FROM MORE THAN 1 PARTY ARE SELECTED WILL NOT BE
15 COUNTED.

16 (5) FOR AN ELECTOR WHO HAS APPLIED TO REGISTER TO VOTE ON OR
17 BEFORE THE CLOSE OF REGISTRATION AND IS NOT LISTED IN THE
18 REGISTRATION RECORDS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL
19 DISTRICT, THE CITY, TOWNSHIP, OR VILLAGE CLERK OR SECRETARY OF THE
20 SCHOOL DISTRICT SHALL PROCEED IN THE SAME MANNER AS PRESCRIBED IN
21 SECTION 523A FOR A PERSON WHO APPEARS AT A POLLING PLACE ON
22 ELECTION DAY. IF THE ELECTOR MEETS THE REQUIREMENTS OF SECTION
23 523A, THE CLERK OR SECRETARY SHALL MAKE THE REGULAR OR PROVISIONAL
24 OFFICIAL BALLOT, THE RETURN IDENTIFICATION ENVELOPE, AND THE
25 SECRECY ENVELOPE AVAILABLE AT THE CLERK'S OR SECRETARY'S OFFICE OR
26 OTHER PLACE DESIGNATED BY THE CLERK OR SECRETARY. THE ELECTOR WHO
27 RECEIVES THE OFFICIAL BALLOT AND ENVELOPES UNDER THIS SUBSECTION

1 SHALL DO ALL OF THE FOLLOWING:

2 (A) VOTE AT THE ELECTION IN THE CLERK'S OR SECRETARY'S OFFICE
3 OR OTHER PLACE DESIGNATED BY THE CLERK OR SECRETARY OR VOTE BY
4 MAIL.

5 (B) MARK THE BALLOT, SIGN THE RETURN IDENTIFICATION ENVELOPE,
6 AND COMPLY WITH THE INSTRUCTIONS PROVIDED WITH THE BALLOT.

7 (C) RETURN THE BALLOT IN THE RETURN IDENTIFICATION ENVELOPE TO
8 THE CLERK OR SECRETARY.

9 (6) A BALLOT OR BALLOT LABEL USED IN AN ELECTION BY MAIL SHALL
10 CONTAIN THE FOLLOWING WARNING:

11 "A PERSON WHO, BY USE OF FORCE OR OTHER MEANS, UNDULY
12 INFLUENCES AN ELECTOR TO VOTE IN A PARTICULAR MANNER OR TO REFRAIN
13 FROM VOTING IS SUBJECT TO IMPRISONMENT OR TO A FINE, OR BOTH."

14 (7) TO VOTE AN ELECTION BY MAIL BALLOT RECEIVED UNDER
15 SUBSECTION (3), A REGISTERED VOTER SHALL MARK THE BALLOT, SIGN THE
16 RETURN IDENTIFICATION ENVELOPE SUPPLIED WITH THE BALLOT, AND COMPLY
17 WITH THE INSTRUCTIONS PROVIDED WITH THE BALLOT. THE VOTER MAY
18 RETURN THE MARKED BALLOT TO THE APPROPRIATE CITY, TOWNSHIP, OR
19 VILLAGE CLERK OR SECRETARY OF A SCHOOL DISTRICT BY DEPOSITING IT IN
20 THE UNITED STATES MAIL OR WITH ANOTHER PUBLIC POSTAL SERVICE,
21 EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER. THE
22 VOTER MAY RETURN THE MARKED BALLOT TO THE APPROPRIATE CITY,
23 TOWNSHIP, OR VILLAGE CLERK OR SECRETARY OF A SCHOOL DISTRICT BY
24 DEPOSITING IT AT THE OFFICE OF THE CLERK OR SECRETARY OR OTHER
25 PLACE OF DEPOSIT DESIGNATED BY THE CLERK OR SECRETARY. THE VOTER
26 SHALL RETURN THE BALLOT IN THE RETURN IDENTIFICATION ENVELOPE
27 SUPPLIED WITH THE BALLOT OR THE BALLOT WILL NOT BE COUNTED. AN

1 ELECTION BY MAIL BALLOT MUST BE RECEIVED AT THE OFFICE OF THE
2 APPROPRIATE CLERK OR SECRETARY OR OTHER PLACE OF DEPOSIT DESIGNATED
3 BY THE CLERK OR SECRETARY NOT LATER THAN THE END OF THE PERIOD
4 DETERMINED UNDER SUBSECTION (2) ON THE DATE OF THE ELECTION.

5 (8) A VOTER MAY OBTAIN A REPLACEMENT ELECTION BY MAIL BALLOT
6 IF THE BALLOT IS DESTROYED, SPOILED, LOST, OR NOT RECEIVED BY THE
7 VOTER. A VOTER WHO SEEKS A REPLACEMENT BALLOT SHALL SIGN A SWORN
8 STATEMENT THAT THE BALLOT WAS DESTROYED, SPOILED, LOST, OR NOT
9 RECEIVED BY THE VOTER AND SUBMIT THE STATEMENT TO THE APPROPRIATE
10 CLERK OR SECRETARY BEFORE THE END OF THE PERIOD DETERMINED UNDER
11 SUBSECTION (2). THE CLERK OR SECRETARY SHALL KEEP A RECORD OF EACH
12 REPLACEMENT ELECTION BY MAIL BALLOT PROVIDED UNDER THIS SUBSECTION.
13 THE CLERK OR SECRETARY SHALL DESIGNATE THE CLERK'S OR SECRETARY'S
14 OFFICE OR A CENTRAL LOCATION IN THE CITY, TOWNSHIP, VILLAGE, OR
15 SCHOOL DISTRICT IN WHICH THE ELECTION IS HELD AS THE SINGLE PLACE
16 TO OBTAIN A REPLACEMENT ELECTION BY MAIL BALLOT UNDER THIS
17 SUBSECTION. A CLERK OR SECRETARY MAY MAIL REPLACEMENT BALLOTS 5
18 DAYS OR MORE BEFORE THE DATE OF THE ELECTION BY MAIL. THE CLERK OR
19 SECRETARY MAY DELIVER IN PERSON TO A REGISTERED VOTER A REPLACEMENT
20 BALLOT UP UNTIL AND INCLUDING THE DATE OF THE ELECTION BY MAIL.

21 (9) ELECTION OFFICIALS SHALL COUNT AN ELECTION BY MAIL BALLOT
22 ONLY IF THAT BALLOT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

23 (A) THE BALLOT IS RETURNED IN THE RETURN IDENTIFICATION
24 ENVELOPE.

25 (B) THE RETURN IDENTIFICATION ENVELOPE IS SIGNED BY THE VOTER
26 TO WHOM THE BALLOT WAS ISSUED.

27 (C) THE SIGNATURE IS VERIFIED AS PROVIDED IN SUBSECTION (10).

1 (10) THE CITY, TOWNSHIP, OR VILLAGE CLERK OR SECRETARY OF A
2 SCHOOL DISTRICT SHALL VERIFY THE SIGNATURE OF EACH VOTER ON THE
3 RETURN IDENTIFICATION ENVELOPE WITH THE SIGNATURE OF THE VOTER ON
4 THE VOTER'S REGISTRATION CARD, ACCORDING TO THE PROCEDURES
5 PRESCRIBED IN THIS ACT AND RULES PROMULGATED BY THE SECRETARY OF
6 STATE.

7 (11) IF THE CLERK, SECRETARY, OR OTHER ELECTION OFFICIAL
8 DETERMINES THAT A VOTER TO WHOM A REPLACEMENT ELECTION BY MAIL
9 BALLOT HAS BEEN ISSUED HAS VOTED MORE THAN ONCE, AN ELECTION
10 OFFICIAL SHALL NOT COUNT ANY BALLOT CAST BY THAT VOTER. A CLERK,
11 SECRETARY, OR OTHER ELECTION OFFICIAL WHO BECOMES AWARE OF A PERSON
12 WHO VOTES OR ATTEMPTS TO VOTE BY MEANS OF BOTH AN ORIGINAL BALLOT
13 AND A REPLACEMENT BALLOT SHALL REPORT THAT INFORMATION TO THE
14 PROSECUTING ATTORNEY FOR THAT COUNTY AND TO THE SECRETARY OF STATE.

15 (12) AN ELECTION BY MAIL BALLOT OR A VOTER CASTING A BALLOT AT
16 AN ELECTION BY MAIL, OR BOTH, IS SUBJECT TO CHALLENGE AS PRESCRIBED
17 IN THIS ACT.