

HOUSE BILL No. 4380

March 24, 2015, Introduced by Reps. Courser, Gamrat, Forlini, Howrylak, Goike, Chatfield and Kelly and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 736c, 782b, 795c, 803, and 804 (MCL 168.736c, 168.782b, 168.795c, 168.803, and 168.804), section 736c as added by 2012 PA 128, section 795c as amended by 1990 PA 109, and section 803 as amended by 2004 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 736c. Each ballot secrecy sleeve used at a general
2 election shall either contain the following ballot marking
3 instructions printed on the front of the ballot secrecy sleeve or
4 shall have a clear plastic pocket on the front of the ballot
5 secrecy sleeve that contains a printed copy of the following
6 ballot marking instructions:

GENERAL ELECTION

1
 2 **TO VOTE:** Completely darken the oval opposite each choice.
 3
 4 **TO VOTE:** Complete the arrow opposite each choice.
 5 **IMPORTANT:** To mark your ballot, use only a black or blue ink pen.
 6 **DO NOT USE ANY OTHER INK COLOR!**
 7 **PARTISAN SECTION:** To vote the partisan section of the ballot, you
 8 may cast a "~~straight ticket,~~" a "~~split ticket,~~" or a "~~mixed~~
 9 ticket."
 10 ~~**Straight Ticket:** Vote the party of your choice. Nothing further~~
 11 ~~need be done in the partisan section.~~
 12 ~~**Split Ticket:** You may vote a straight ticket AND vote for~~
 13 ~~individual candidates of your choice.~~
 14 **Mixed Ticket:** Vote for the individual candidates of your choice
 15 in each office.
 16 **NONPARTISAN** and **PROPOSAL SECTIONS** of the ballot (if any) must be
 17 voted separately.
 18 **DO NOT** vote for more candidates than indicated under each office
 19 title.
 20 **WRITE-IN CANDIDATES:** To vote for a candidate whose name is not
 21 printed on the ballot, write or place the name of that candidate
 22 in the blank space provided and (completely darken the oval) or
 23 (complete the arrow). ~~This must be done even if you cast a straight~~
 24 ~~party vote.~~ Do not cast a write-in vote for a candidate whose name
 25 is already printed on the ballot for that office.
 26 **CHECK BOTH SIDES OF BALLOT:** This ballot has two sides. Be certain
 27 to check the reverse side of the ballot.
 28 **WHEN YOU HAVE COMPLETED VOTING:** Place the ballot in the secrecy
 29 sleeve so that votes cannot be seen and the numbered stub is
 30 visible. Return the ballot to the election official stationed at
 31 the tabulator. (If voting by absentee ballot, follow the

1 instructions provided by the clerk for returning the ballot.)
2 **NOTE:** If you make a mistake, return your ballot to the election
3 official and obtain a new ballot. Do not attempt to erase or
4 correct any marks made in error.

5 Sec. 782b. If there is no reserve machine available,
6 emergency ballots may also be provided by the **COUNTY** board of
7 election commissioners. ~~of the county, having~~ **EMERGENCY BALLOTS**
8 **SHALL HAVE** suitable blank spaces to permit the voter to vote a
9 ~~straight party ticket, or if he desires to split his party~~
10 ~~ticket, to indicate the party ticket the majority of whose~~
11 ~~candidates he favors, together with the names of such other~~ **FOR**
12 **THE** candidates for whom ~~he~~ **THE ELECTOR** desires to vote. The
13 ballots shall be used only in emergency and upon special
14 permission of the board or official whose duty it is to provide
15 ballots for the election. ~~and who~~ **THE BOARD OR OFFICIAL** shall
16 prepare ~~such~~ **THE EMERGENCY** ballots ~~which~~ **THAT** shall be held by
17 the city, township, or village clerk, subject to the order of the
18 county clerk or other authorized person. It ~~shall~~ **IS** not be
19 necessary to provide emergency ballots for each election unless
20 ~~same shall~~ **PREVIOUSLY PROVIDED BALLOTS** have been used, destroyed,
21 or lost, in which case similar ballots shall again be provided.
22 If at any time during the election, the voting machine is
23 disabled and cannot be repaired and no other voting machine ~~can~~
24 ~~be had to supply its place,~~ **IS AVAILABLE**, an emergency shall be
25 declared to exist and the voting ~~thereafter~~ **AFTER AN EMERGENCY IS**
26 **DECLARED** at that election in that voting precinct shall be by
27 **EMERGENCY** ballot, in the manner provided in this section. The

1 board or official ~~having the~~ **THAT HAS** custody of the emergency
 2 ballots, when so directed, shall supply a sufficient number of
 3 ~~such~~ **EMERGENCY** ballots to the election board for use by the
 4 voters. One of the ballots shall be delivered by the election
 5 board to each voter who ~~may thereafter appear~~ **APPEARS** to vote and
 6 **AFTER AN EMERGENCY IS DECLARED. EMERGENCY BALLOTS** shall be voted
 7 and counted subject to the provisions relative to voting by
 8 ballot at general elections, except as ~~herein~~ otherwise provided
 9 **IN THIS SECTION.** The ballots shall be numbered consecutively from
 10 1 up, ~~which~~ **AND THE** number and identification shall be printed
 11 ~~upon~~ **ON** a perforated stub as in the case where only regular
 12 ballots are used at elections.

13 Sec. 795c. The different parts of the ballot, such as
 14 partisan, nonpartisan, and questions, shall be prominently
 15 indicated on the ballot label, and, if practicable, each part may
 16 be placed on a separate page, column, or display. If 2 or more
 17 elections are held on the same day, the ballot label shall be
 18 clearly marked to indicate the ballot for each election. ~~In~~
 19 ~~partisan elections the ballot label shall include a position by~~
 20 ~~which the voter may by a single selection record a straight party~~
 21 ~~ticket vote for all the candidates of 1 party. The voter may vote~~
 22 ~~a split or mixed ticket.~~ **IN PARTISAN ELECTIONS, THE BALLOT LABEL**
 23 **SHALL NOT INCLUDE A POSITION BY WHICH A VOTER MAY BY A SINGLE**
 24 **SELECTION RECORD A STRAIGHT PARTY TICKET VOTE FOR ALL THE**
 25 **CANDIDATES OF 1 PARTY.**

26 Sec. 803. (1) Except as otherwise provided in this act, the
 27 following rules govern the counting and recounting of votes:

1 (a) If it is clearly evident from an examination of a ballot
2 that the ballot has been mutilated for the purpose of
3 distinguishing it or that there has been placed on the ballot
4 some mark, printing, or writing for the purpose of distinguishing
5 it, then that ballot is void and shall not be counted.

6 (b) A cross, the intersection of which is within or on the
7 line of the proper circle or square, or a check mark, the angle
8 of which is within a circle or square, is valid. Crosses or check
9 marks otherwise located on the ballot are void.

10 (c) Marks other than crosses or check marks used to
11 designate the intention of the voter shall not be counted.

12 (d) A cross is valid even though 1 or both lines of the
13 cross are duplicated, if the lines intersect within or on the
14 line of the square or circle.

15 (e) Two lines meeting within or on the line of the square or
16 circle, although not crossing each other, are valid if it is
17 apparent that the voter intended to make a cross.

18 (f) A failure to properly mark a ballot as to 1 or more
19 candidates does not alone invalidate the entire ballot if the
20 ballot has been properly marked as to other candidates, unless
21 the improper marking is determined to be a distinguishing mark as
22 described in this subsection.

23 (g) Erasures and corrections on a ballot made by the elector
24 in a manner frequently used for this purpose shall not be
25 considered distinguishing marks or mutilations.

26 (h) ~~Any~~ **A** ballot or part of a ballot from which it is
27 impossible to determine the elector's choice of candidate is void

1 as to the candidate or candidates affected by that determination.

2 (i) ~~Any votes~~ **A VOTE** cast for a deceased candidate ~~are~~ **IS**
3 void and shall not be counted, except that ~~votes~~ **A VOTE** cast for
4 a candidate for governor who has died, and for whom a replacement
5 has not been made, shall be counted for the candidate for
6 lieutenant governor of that party.

7 (j) ~~All ballots~~ **A BALLOT** cast that ~~are~~ **IS** not counted shall
8 be marked by the inspector "not counted", kept separate from the
9 others by being tied or held in 1 package, and placed in the
10 ballot box with the counted ballots.

11 (k) A vote shall not be counted for ~~any~~ **A** candidate unless a
12 ~~cross or a check mark has been placed by the voter in the circle~~
13 ~~at the head of the party ticket, if any, on which the name of the~~
14 ~~candidate has been printed, written, or placed or unless a cross~~
15 or a check mark has been placed by the voter in the square before
16 the space in which the name of the candidate has been printed,
17 written, or placed.

18 (2) If an electronic voting system requires that the elector
19 place a mark in a predefined area on the ballot in order to cast
20 a vote, the vote shall not be considered valid unless there is a
21 mark within the predefined area. A stray mark made within a
22 predefined area is not a valid vote. In determining whether a
23 mark within a predefined area is a stray mark, the board of
24 canvassers or election official shall compare the mark with other
25 marks appearing on the ballot. The secretary of state shall issue
26 instructions, subject to the approval of the board of state
27 canvassers, relevant to stray marks to ensure the fairness and

1 uniformity of determinations made under this subsection. A
2 secretary of state's instruction relevant to stray marks shall
3 not be applied to a ballot unless the secretary of state issued
4 the instruction not less than 63 days before the date of the
5 election.

6 Sec. 804. In the canvass of votes cast for candidates for
7 public office, the board shall ~~first select and count the~~
8 ~~straight tickets and shall cause to be credited on the tally~~
9 ~~sheets the number to each candidate voted for on a straight~~
10 ~~ticket. All other ballots shall be counted and tallied~~ **COUNT AND**
11 **TALLY EACH BALLOT** in ~~such~~ **THE** manner as will best ~~insure~~ **ENSURE**
12 accuracy and promptness in determining the result. ~~, and the~~ **THE**
13 inspectors of election shall see that proper credit is given on
14 the tally sheets to the candidates voted for on ~~such~~ **THE** ballots.
15 All computations and tallies shall be made upon the tally sheets
16 used at ~~such~~ **THE** election.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.