

HOUSE BILL No. 5062

October 12, 2011, Introduced by Reps. Forlini and Kurtz and referred to the Committee on Redistricting and Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 31, 33, 679a, 811, 847, 931, and 942 (MCL 168.31, 168.33, 168.679a, 168.811, 168.847, 168.931, and 168.942), section 31 as amended by 2005 PA 71, section 33 as amended by 2002 PA 91, section 679a as added by 2004 PA 256, sections 847 and 942 as amended by 1995 PA 261, and section 931 as amended by 1996 PA 583, and by adding section 31a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) The secretary of state shall do all of the
2 following:

3 (a) Subject to subsection (2), issue instructions and
4 promulgate rules pursuant to the administrative procedures act of

1 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of
2 elections and registrations in accordance with the laws of this
3 state.

4 (b) Advise and direct local election officials as to the
5 proper methods of conducting elections.

6 (c) Publish and furnish for the use in each election precinct
7 before each state primary and election a manual of instructions
8 that includes specific instructions on assisting voters in casting
9 their ballots, directions on the location of voting stations in
10 polling places, procedures and forms for processing challenges, and
11 procedures on prohibiting campaigning in the polling places as
12 prescribed in this act.

13 (d) Publish indexed pamphlet copies of the registration,
14 primary, and election laws and furnish to the various county, city,
15 township, and village clerks a sufficient number of copies for
16 their own use and to enable them to include 1 copy with the
17 election supplies furnished each precinct board of election
18 inspectors under their respective jurisdictions. The secretary of
19 state may furnish single copies of the publications to
20 organizations or individuals who request the same for purposes of
21 instruction or public reference.

22 (e) Prescribe and require uniform forms, notices, and supplies
23 the secretary of state considers advisable for use in the conduct
24 of elections and registrations.

25 (f) Prepare the form of ballot for any proposed amendment to
26 the constitution or proposal under the initiative or referendum
27 provision of the constitution to be submitted to the voters of this

1 state.

2 (g) Require reports from the local election officials the
3 secretary of state considers necessary.

4 (h) Investigate, or cause to be investigated by local
5 authorities, the administration of election laws, and report
6 violations of the election laws and regulations to the attorney
7 general or prosecuting attorney, or both, for prosecution.

8 (i) Publish in the legislative manual the vote for governor
9 and secretary of state by townships and wards and the vote for
10 members of the state legislature cast at the preceding November
11 election, which shall be returned to the secretary of state by the
12 county clerks on or before the first day of December following the
13 election. All clerks shall furnish to the secretary of state,
14 promptly and without compensation, any further information
15 requested of them to be used in the compilation of the legislative
16 manual.

17 (j) Establish a curriculum for comprehensive training and
18 accreditation of all county, city, township, village, and school
19 elections officials.

20 **(K) ESTABLISH A CONTINUING ELECTION EDUCATION PROGRAM FOR ALL**
21 **COUNTY, CITY, TOWNSHIP, AND VILLAGE CLERKS.**

22 *(l)* ~~(k)~~—Establish and require attendance by all new appointed
23 or elected election officials at an initial course of instruction
24 within 6 months before the date of the election.

25 **(M)** ~~(l)~~—Establish a comprehensive training curriculum for all
26 precinct inspectors.

27 **(N)** ~~(m)~~—Create an election day dispute resolution team that

1 has regional representatives of the department of state, which team
2 shall appear on site, if necessary.

3 (2) Pursuant to the administrative procedures act of 1969,
4 1969 PA 306, MCL 24.201 to 24.328, the secretary of state shall
5 promulgate rules establishing uniform standards for state and local
6 nominating, recall, and ballot question petition signatures. The
7 standards for petition signatures may include, but need not be
8 limited to, standards for all of the following:

9 (a) Determining the validity of registration of a circulator
10 or individual signing a petition.

11 (b) Determining the genuineness of the signature of a
12 circulator or individual signing a petition, including digitized
13 signatures.

14 (c) Proper designation of the place of registration of a
15 circulator or individual signing a petition.

16 **SEC. 31A. (1) IN ORDER TO ENSURE COMPLIANCE WITH THE**
17 **PROVISIONS OF THIS ACT, AFTER EACH ELECTION THE SECRETARY OF STATE**
18 **MAY AUDIT ELECTION PRECINCTS.**

19 **(2) THE SECRETARY OF STATE SHALL DEVELOP AN ELECTION AUDIT**
20 **PROGRAM THAT DETAILS THE DOCUMENTS TO BE INSPECTED AND THE**
21 **PROCEDURES TO BE USED DURING AN ELECTION AUDIT CONDUCTED UNDER THIS**
22 **SECTION. THE SECRETARY OF STATE SHALL TRAIN AND CERTIFY COUNTY**
23 **CLERKS AND THEIR STAFFS FOR THE PURPOSE OF CONDUCTING ELECTION**
24 **AUDITS OF PRECINCTS RANDOMLY SELECTED IN THEIR COUNTIES. THE**
25 **SECRETARY OF STATE SHALL SUPERVISE EACH COUNTY CLERK IN THE**
26 **PERFORMANCE OF ELECTION AUDITS CONDUCTED UNDER THIS SECTION.**

27 **(3) EACH COUNTY CLERK WHO CONDUCTS AN ELECTION AUDIT UNDER**

1 THIS SECTION SHALL PROVIDE THE RESULTS OF THE ELECTION AUDIT TO THE
2 SECRETARY OF STATE WITHIN 20 DAYS AFTER THE ELECTION AUDIT.

3 Sec. 33. (1) The director of elections shall conduct training
4 schools throughout this state ~~preceding~~ **BEFORE** the general November
5 election, and ~~preceding such~~ **BEFORE** other elections as the director
6 considers advisable, for county clerks and their representatives
7 with respect to the conducting of elections in accordance with the
8 election laws. Included in this training shall be instruction on
9 the uniform voting system. ~~In case any~~ **IF A** county clerk ~~shall fail~~
10 **FAILS** to conduct in his or her county a training school for
11 election boards within the county, the director of elections shall
12 conduct ~~such~~ **THE** training school, the cost of the training school
13 to be charged as an obligation of the county.

14 (2) The director of elections shall train all county, city,
15 and township clerks who are involved in the training of precinct
16 inspectors. The training shall include team training and monitoring
17 of their performance as trainers.

18 (3) The director of elections shall conduct all precinct
19 inspector training in counties where the clerk has not been
20 accredited to conduct the training schools.

21 (4) **THE DIRECTOR OF ELECTIONS SHALL CONDUCT CONTINUING**
22 **ELECTION EDUCATION TRAINING COURSES FOR COUNTY, CITY, TOWNSHIP, AND**
23 **VILLAGE CLERKS TO ATTEND. EACH COUNTY, CITY, TOWNSHIP, AND VILLAGE**
24 **CLERK IS REQUIRED TO ATTEND AND COMPLETE CONTINUING ELECTION**
25 **EDUCATION TRAINING AT LEAST ONCE EVERY 2 YEARS TO MAINTAIN**
26 **ACCREDITATION AS A CLERK.**

27 Sec. 679a. (1) The ~~legislative body~~ **ELECTION COMMISSION** of a

1 city, township, or village ~~may,~~ **SHALL**, by resolution, provide that
2 at an election at which the ballots are counted and certified at
3 the precinct, 1 or more additional boards of election inspectors be
4 appointed to serve as receiving boards. For a precinct having
5 receiving boards, the board of election commissioners shall appoint
6 a receiving board consisting of 2 or more election inspectors, with
7 an equal number from each major political party, and shall appoint
8 an equal number of election inspectors from each major political
9 party.

10 (2) Not less than 2 election inspectors in a precinct,
11 representing each of the major political parties, shall deliver to
12 the receiving board for that precinct a sealed ballot container
13 containing the voted ballots, and, in a separate sealed envelope,
14 the poll book and statement of returns. The poll book and statement
15 of returns may be enclosed in a single sealed envelope.

16 (3) The receiving board shall open the sealed envelope and
17 review the poll book and statement of returns to determine both of
18 the following:

19 (a) That the ballot container is properly sealed and the seal
20 number is properly recorded in the poll book and the statement of
21 returns. If the ballot container is not properly sealed or there is
22 a discrepancy with the seal number recorded in the poll book or the
23 statement of returns, the election inspectors who delivered the
24 ballot container and the receiving board shall together take the
25 necessary steps to correct the discrepancy. The election inspectors
26 and the receiving board shall note the discrepancy and the
27 corrective action in the remarks section of the poll book and all

1 shall sign the notation.

2 (b) That the number of individuals voting recorded in the poll
3 book equals the number of ballots issued to electors, as shown by
4 the statement of returns. If the number of individuals voting as
5 shown by the poll book does not equal the number of ballots counted
6 as shown by the statement of returns, and if an explanation of the
7 discrepancy has not been noted in the poll book, the receiving
8 board shall ask the election inspectors about the discrepancy, note
9 the explanation in the poll book, and all shall sign the notation.

10 (4) If the poll book or statement of returns has been
11 erroneously sealed in the ballot container, the election inspectors
12 may open the ballot container and remove the poll book or statement
13 of returns. The elections inspectors and receiving board shall note
14 the corrective action in the remarks section of the poll book and
15 all shall sign the notation before placing the poll book or
16 statement of returns in a separate sealed envelope. If the
17 statement of returns was sealed in the ballot container and the
18 poll book was sealed in an envelope, the poll book shall be removed
19 from the sealed envelope for the notation of corrective action to
20 be recorded before placing the poll book and statement of returns
21 in a sealed envelope. The receiving board shall notify the clerk of
22 the board of canvassers responsible for canvassing all or a portion
23 of the election of the corrective action taken.

24 (5) When the receiving board has completed the review under
25 subsection (3), the receiving board shall place the poll book and
26 statement of returns in the appropriate envelope, sealed with a red
27 paper seal and initialed by the receiving board. If permitted by

1 the clerk of the board of canvassers, the poll books and statement
2 of returns from more than 1 precinct may be included and delivered
3 in a single envelope.

4 Sec. 811. All election returns, including ~~poll lists,~~
5 statements, tally sheets, absent voters' applications, absent
6 voters' return envelopes bearing the statement required by section
7 761, absent voters' records required by section 760, and other
8 returns made by the inspectors of election of the several precincts
9 shall be carefully preserved and may be destroyed after the
10 expiration of 2 years following the primary or election at which
11 the same were used. **ALL POLL LISTS SHALL BE CAREFULLY PRESERVED AND**
12 **MAY BE DESTROYED AFTER THE EXPIRATION OF 6 YEARS FOLLOWING THE**
13 **PRIMARY OR ELECTION AT WHICH THE POLL LISTS WERE USED.** All ballots
14 used at any primary or election may be destroyed after ~~7~~30 days
15 following the final determination of the board of canvassers with
16 respect to ~~such~~**THE** primary or election unless a petition for
17 recount has been filed and not completed or unless their
18 destruction is stayed by an order of a court.

19 Sec. 847. The secretary of state may authorize the release of
20 all ballots, ballot boxes, voting machines, and equipment after ~~10~~
21 30 days following certification of an election by the board of
22 state canvassers in a precinct other than a precinct in which 1 or
23 more of the following occur:

24 (a) A petition for recount has been filed with the board of
25 state canvassers.

26 (b) A petition has been filed pursuant to section 879.

27 (c) A court of competent jurisdiction has issued an order

1 restraining interference with ballots, ballot boxes, voting
2 machines, and equipment.

3 Sec. 931. (1) A person who violates 1 or more of the following
4 subdivisions is guilty of a misdemeanor:

5 (a) A person shall not, either directly or indirectly, give,
6 lend, or promise valuable consideration ~~to~~ or for any person ~~as~~
7 an inducement to influence the manner of voting by a person
8 relative to a candidate or ballot question ~~or~~ as a reward for
9 refraining from voting.

10 (b) A person shall not, either before, on, or after an
11 election, for the person's own benefit or on behalf of any other
12 person, receive, agree, or contract for valuable consideration for
13 1 or more of the following:

14 (i) Voting or agreeing to vote, or inducing or attempting to
15 induce another to vote, at an election.

16 (ii) Refraining or agreeing to refrain, or inducing or
17 attempting to induce another to refrain, from voting at an
18 election.

19 (iii) Doing anything prohibited by this act.

20 (iv) Both distributing absent voter ballot applications to
21 voters and receiving signed applications from voters for delivery
22 to the appropriate clerk or assistant of the clerk. This
23 subparagraph does not apply to an authorized election official.

24 (c) A person shall not solicit any valuable consideration from
25 a candidate for nomination for, or election to, an office described
26 in this act. This subdivision does not apply to requests for
27 contributions of money by or to an authorized representative of the

1 political party committee of the organization to which the
2 candidate belongs. This subdivision does not apply to a regular
3 business transaction between a candidate and any other person that
4 is not intended for, or connected with, the securing of votes or
5 the influencing of voters in connection with the nomination or
6 election.

7 (d) A person shall not, either directly or indirectly,
8 discharge or threaten to discharge an employee of the person for
9 the purpose of influencing the employee's vote at an election.

10 (e) A priest, pastor, curate, or other officer of a religious
11 society shall not, for the purpose of influencing a voter at an
12 election, impose or threaten to impose upon the voter a penalty of
13 excommunication, dismissal, or expulsion ~~or~~ command or advise the
14 voter ~~under~~ pain of religious disapproval.

15 (f) A person shall not hire a motor vehicle or other
16 conveyance or cause the same to be done, for conveying voters,
17 other than voters physically unable to walk, to an election.

18 (g) In a city, township, village, or school district that has
19 a board of election commissioners authorized to appoint **ELECTION**
20 inspectors, ~~of election,~~ an **ELECTION** inspector, ~~of election,~~ a
21 clerk, or other election official who accepts an appointment as an
22 **ELECTION** inspector ~~of election~~ shall not fail to report at the
23 polling place designated on election morning at the time specified
24 by the board of election commissioners, unless excused as provided
25 in this subdivision. A person who violates this subdivision is
26 guilty of a misdemeanor ~~or~~ punishable by a fine of not more than
27 \$10.00 or imprisonment for not more than 10 days, or both. An

1 **ELECTION** inspector, ~~of election,~~ clerk, or other election official
2 who accepts an appointment as an **ELECTION** inspector ~~of election~~ is
3 excused for failing to report at the polling place on election day
4 and is not subject to a fine or imprisonment under this subdivision
5 if 1 or more of the following requirements are met:

6 (i) The **ELECTION** inspector, ~~of election,~~ clerk, or other
7 election official notifies the board of election commissioners or
8 other officers in charge of elections of his or her inability to
9 serve at the time and place specified, 3 days or more before the
10 election.

11 (ii) The **ELECTION** inspector, ~~of election,~~ clerk, or other
12 election official is excused from duty by the board of election
13 commissioners or other officers in charge of elections for cause
14 shown.

15 (h) A person shall not willfully fail to perform a duty
16 imposed upon that person by this act, ~~or~~ disobey a lawful
17 instruction or order of the secretary of state as chief state
18 election officer or of a board of county election commissioners,
19 board of city election commissioners, or board of **ELECTION**
20 inspectors. ~~of election.~~

21 (i) A delegate or member of a convention shall not solicit a
22 candidate for nomination before the convention for money, reward,
23 position, place, preferment, or other valuable consideration in
24 return for support by the delegate or member in the convention. A
25 candidate or other person shall not promise or give to a delegate
26 money, reward, position, place, preferment, or other valuable
27 consideration in return for support by or vote of the delegate in

1 the convention.

2 (j) A person elected to the office of delegate to a convention
3 shall not accept or receive any money or other valuable
4 consideration for his or her vote as a delegate.

5 (k) A person shall not, while the polls are open on an
6 election day, solicit votes in a polling place or within 100 feet
7 from an entrance to the building in which a polling place is
8 located.

9 (l) A person shall not keep a room or building for the purpose,
10 in whole or in part, of recording or registering bets or wagers ~~7~~
11 or of selling pools upon the result of a political nomination,
12 appointment, or election. A person shall not wager property, money,
13 or thing of value, or be the custodian of money, property, or thing
14 of value ~~7~~—staked, wagered, or pledged, upon the result of a
15 political nomination, appointment, or election.

16 (m) A person shall not participate in a meeting or a portion
17 of a meeting of more than 2 persons, other than the person's
18 immediate family, at which an absent voter ballot is voted.

19 (n) A person, other than an authorized election official,
20 shall not, either directly or indirectly, give, lend, or promise
21 any valuable consideration to or for a person to induce that person
22 to both distribute absent voter ballot applications to voters and
23 receive signed absent voter ballot applications from voters for
24 delivery to the appropriate clerk.

25 **(O) A PERSON SHALL NOT THREATEN OR INTIMIDATE AN ELECTOR WHILE**
26 **THE ELECTOR IS ENTERING A POLLING PLACE, APPLYING TO VOTE, ENTERING**
27 **A VOTING COMPARTMENT, VOTING, OR LEAVING A POLLING PLACE.**

1 (P) A PERSON SHALL NOT PROVIDE MISINFORMATION REGARDING AN
2 ELECTION TO AN ELECTOR.

3 (2) A person who violates a provision of this act for which a
4 penalty is not otherwise specifically provided in this act ~~is~~
5 guilty of a misdemeanor.

6 (3) A person or a person's agent who knowingly makes,
7 publishes, disseminates, circulates, or places before the public,
8 or knowingly causes directly or indirectly to be made, published,
9 disseminated, circulated, or placed before the public, in this
10 state, either orally or in writing, an assertion, representation,
11 or statement of fact concerning a candidate for public office at an
12 election in this state, that is false, deceptive, scurrilous, or
13 malicious, without the true name of the author being subscribed to
14 the assertion, representation, or statement if written, or
15 announced if unwritten, is guilty of a misdemeanor.

16 (4) As used in this section, "valuable consideration"
17 includes, but is not limited to, money, property, a gift, a prize
18 or chance for a prize, a fee, a loan, an office, a position, an
19 appointment, or employment.

20 Sec. 942. An offense under this act ~~other than fraudulent~~
21 ~~registration~~ shall not be prosecuted unless the prosecution is
22 commenced within ~~2 years after the date of the registration,~~
23 ~~primary, or election in connection with which the offense is~~
24 ~~alleged to have been committed. Fraudulent registration under this~~
25 ~~act shall not be prosecuted unless the prosecution is commenced~~
26 ~~within 3 years after the time the offense is discovered. The~~
27 complaining witness or any other person who is called to testify in

1 behalf of the people in a proceeding under this section shall not
2 be liable to criminal prosecution under this act for an offense in
3 respect to which he or she is examined or to which his or her
4 testimony relates, except to prosecution for perjury committed in
5 the testimony.